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Authorised Version No. 017

Offshore Petroleum and Greenhouse Gas Storage Act 2010

No. 10 of 2010

Authorised Version incorporating amendments as at 30 March 2022

Preamble

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 exploiting it and exploiting its natural resources.

The Seas and Submerged Lands Act 1973 of the Commonwealth declared and enacted that the sovereignty in respect of the territorial sea of Australia, its seabed and subsoil, certain internal waters of Australia, the airspace over those waters and the seabed and subsoil beneath those waters, is vested in and exercisable by the Crown in right of the Commonwealth.

The Parliaments of the States and the Legislative Assembly of the Northern Territory have certain legislative powers in respect of the seabed and subsoil referred to in the preceding recital 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 seabed and subsoil.

It has been agreed between the Commonwealth, the States and the Northern Territory that—

(a) Commonwealth offshore petroleum legislation should be limited to the area that is outside the coastal waters of the States and the Northern Territory; and

(b) for this purpose, the outer limits of State and Northern Territory coastal waters should start 3 nautical miles from the baseline of the territorial sea; and

(c) the States and the Northern Territory should share, in the manner provided by this Act, in the administration of the Commonwealth offshore petroleum legislation; and

(d) State and Northern Territory offshore petroleum legislation should apply to State and Northern Territory coastal waters; and

(e) the Commonwealth, the States and the Northern Territory should try to maintain, as far as practicable, common principles, rules and practices in regulating and controlling the exploration for, and exploitation of, offshore petroleum beyond the baseline of Australia's territorial sea.

This agreement is known as the Offshore Constitutional Settlement. Various Acts of the Commonwealth affect the Offshore Constitutional Settlement.

Arrangements for offshore petroleum beyond the outer limits of State and Northern Territory coastal waters are set out in the Offshore Petroleum and Greenhouse Gas Storage Act 2006 of the Commonwealth. Arrangements for offshore petroleum within the outer limits of Victorian coastal waters are set out in the **Petroleum (Submerged Lands) Act 1982**. It is expedient to amend the law relating to Victorian coastal waters.

The Parliament of Victoria therefore enacts:

Chapter 1—Introduction

Part 1.1—Legislative formalities and background

1 Purpose

The purpose of this Act is to—

(a) re-enact (with modifications) provisions regulating petroleum exploration and recovery activities and petroleum facilities; and

(b) provide for the regulation of geological storage of carbon dioxide—

in the Victorian offshore area.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation before 1 January 2012, it comes into operation on that day.

3 Object

The object of this Act is to provide an effective regulatory framework for—

(a) petroleum exploration and recovery; and

(b) the injection and storage of greenhouse gas substances—

in the Victorian offshore area.

4 Simplified outline

(1) This section sets out a simplified outline of this Act.

(2) This Act sets up a system for regulating the following activities in the offshore area—

(a) exploration for petroleum;

(b) recovery of petroleum;

(c) construction and operation of infrastructure facilities relating to petroleum or greenhouse gas substances;

(d) construction and operation of pipelines for conveying petroleum or greenhouse gas substances;

(e) exploration for potential greenhouse gas storage formations;

(f) injection and storage of greenhouse gas substances.

(3) The offshore area—

(a) starts from the baseline from which the breadth of the territorial sea is measured off Victoria; and

(b) extends to 3 nautical miles from the baseline from which the breadth of the territorial sea is measured off Victoria.

(4) This Act provides for the grant of the following titles—

(a) a petroleum exploration permit (see Part 2.2);

(b) a petroleum retention lease (see Part 2.3);

(c) a petroleum production licence (see Part 2.4);

(d) an infrastructure licence (see Part 2.5);

(e) a pipeline licence (see Part 2.6);

(f) a petroleum special prospecting authority (see Part 2.7);

(g) a petroleum access authority (see Part 2.8);

(h) a greenhouse gas assessment permit (see Part 3.2);

(i) a greenhouse gas holding lease (see Part 3.3);

(j) a greenhouse gas injection licence (see Part 3.4);

(k) a greenhouse gas search authority (see Part 3.5);

(l) a greenhouse gas special authority (see Part 3.6).

S. 4(5) amended by No. 74/2012 s. 4(1).

(5) The Minister is generally responsible for the administration of this Act, other than the provisions of this Act for which the National Offshore Petroleum Safety and Environmental Management Authority is responsible.

S. 4(6) substituted by No. 74/2012 s. 4(2).

(6) The National Offshore Petroleum Safety and Environmental Management Authority is responsible for the administration of—

(a) the occupational health and safety provisions in Schedule 3; and

(b) the provisions relating to petroleum safety zones and the area to be avoided in Part 6.6; and

(c) the regulations to the extent that they relate to occupational health and safety for offshore petroleum operations and offshore greenhouse gas storage operations within the meaning of Part 6.9; and

(d) the regulations to the extent that they relate to the structural integrity of—

(i) facilities within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule;

(ii) wells or well-related equipment used for the purposes of offshore petroleum operations within the meaning of Part 6.9.

(7) This section is intended only as a guide to readers as to the general scheme and effect of this Act.

Note

Generally, the ***baseline*** is the line of lowest astronomical tide along the coast, but it also encompasses straight lines across bays (bay closing lines), rivers (river closing lines) and between islands, as well as along heavily indented areas of coastline (straight baselines) under certain circumstances.

5 Simplified map

(1) This section sets out simplified maps illustrating areas off the coast of Victoria that are relevant to this Act.

(2) In the interests of simplification—

(a) coastlines and boundaries have been smoothed; and

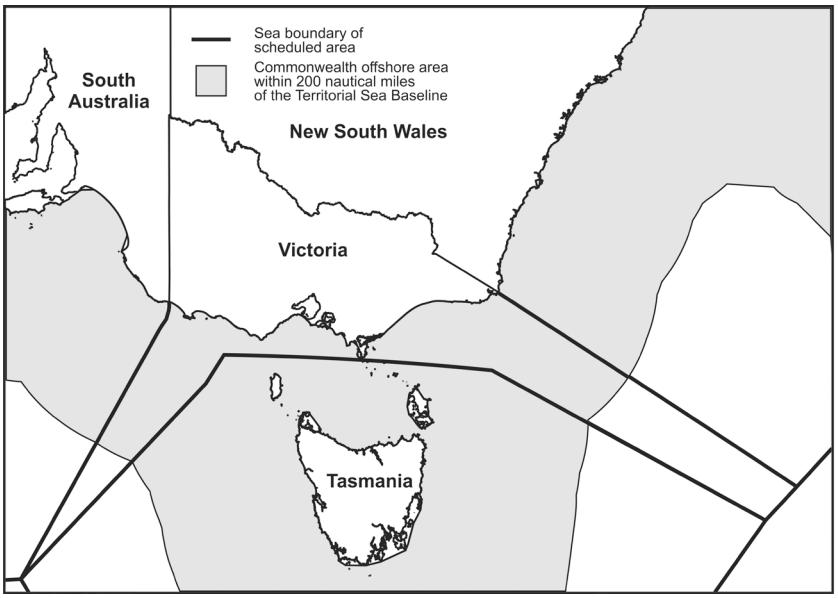
(b) the maps do not show certain waters within the limits of the State; and

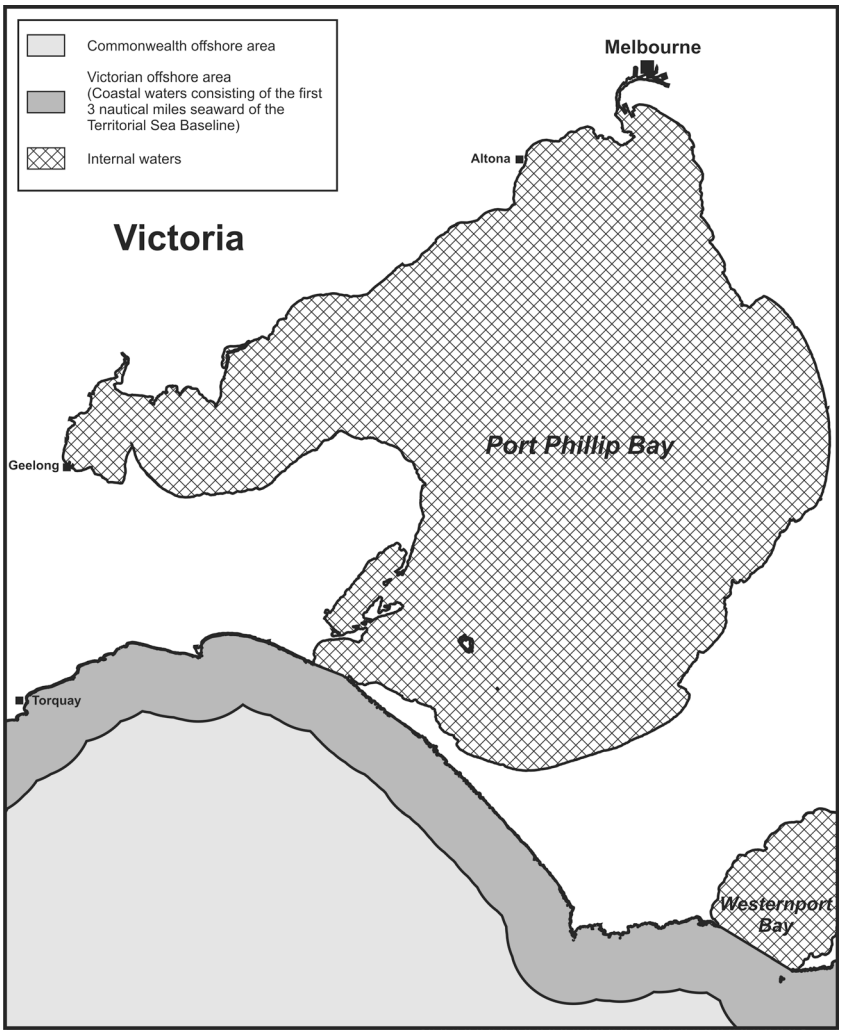
(c) the line marking the outer limits of the coastal waters of the State appears to be further out to sea than it actually is.

(3) The maps illustrate the offshore area, the Commonwealth defined offshore area, and the scheduled area for Victoria.

Note

Generally, the territorial sea baseline is the line of lowest astronomical tide along the coast, but it also encompasses straight lines across bays (bay closing lines), rivers (river closing lines) and between islands, as well as along heavily indented areas of coastline (straight baselines) under certain circumstances.


Sea boundary of scheduled area
Commonwealth offshore area within 200 nautical miles of the Territorial Sea Baseline
South Australia
New South Wales
Victoria
Tasmania


Commonwealth offshore area
Victorian offshore area
(Coastal waters consisting of the first 3 nautical miles seaward of the Territorial Sea Baseline)
Internal waters
Melbourne
Altona
Victoria
Port Phillip Bay
Geelong
Torquay
Westernport Bay

Part 1.2—Interpretation

Division 1—General

6 Definitions

(1) In this Act—

***approved*—**

(a) when used in any of the following provisions—

(i) Chapter 3;

(ii) Chapter 5;

(iii) Chapter 8;

(iv) section 791—

means approved in writing by the Minister; or

(b) in any other case—means approved in writing by the Minister—

but does not apply to the expression ***approved site plan***;

approved site plan means a site plan in respect of which an approval is in force under the regulations;

Note

See section 492.

***authority area*—**

(a) when used in relation to a petroleum special prospecting authority—means the area constituted by the block or blocks that are the subject of the petroleum special prospecting authority; or

(b) when used in relation to a petroleum access authority—means the area to which the petroleum access authority relates; or

(c) when used in relation to a greenhouse gas search authority—means the area constituted by the block or blocks that are the subject of the greenhouse gas search authority; or

(d) when used in relation to a greenhouse gas special authority—means the area to which the greenhouse gas special authority relates;

S. 6(1) def. of *block* amended by No. 26/2021 s. 4(1).

block means a block constituted as provided by sections 37 and 498;

S. 6(1) def. of *boundary-change petroleum exploration permit* inserted by No. 16/2018 s. 4(1), substituted by No. 26/2021 s. 37(3).

boundary-change petroleum exploration permit means—

(a) a petroleum exploration permit granted under Division 4A of Part 2.2; or

(b) a petroleum exploration permit granted under Division 5 of Part 2.2 by way of renewal of a permit referred to in paragraph (a);

S. 6(1) def. of *cash-bid greenhouse gas assessment permit* substituted by No. 26/2021 s. 37(4).

cash-bid greenhouse gas assessment permit means—

(a) a greenhouse gas assessment permit granted under Division 3 of Part 3.2; or

(b) a greenhouse gas assessment permit granted under Division 4 of Part 3.2 by way of renewal of a permit referred to in paragraph (a);

cash-bid petroleum exploration permit means—

(a) a petroleum exploration permit granted under Division 3 of Part 2.2 of this Act; or

(b) a petroleum exploration permit granted under Division 5 of Part 2.2 of this Act by way of the renewal of a permit referred to in paragraph (a);

charge, when used in relation to the assets of a body corporate, has the same meaning as in section 263 of the Corporations Act;

* * * * *

S. 6(1) def. of *COAG Reform Fund* repealed by No. 13/2022 s. 62.

Commonwealth Act means the Offshore Petroleum and Greenhouse Gas Storage Act 2006 of the Commonwealth;

Commonwealth defined offshore area means the offshore area of Victoria as defined by section 8 of the Commonwealth Act;

S. 6(1) def. of *Commonwealth defined offshore area* amended by No. 26/2021 s. 4(2).

Notes

1 See also section 296B (permit area of a cross-boundary greenhouse gas assessment permit is taken to be included in the Commonwealth defined offshore area).

2 See also section 333A (lease area of a cross-boundary greenhouse gas holding lease is taken to be included in the Commonwealth defined offshore area).

3 See also section 378A (licence area of a cross-boundary greenhouse gas injection licence is taken to be included in the Commonwealth defined offshore area).

S. 6(1) def. of *Commonwealth petroleum exploration title* inserted by No. 16/2018 s. 4(1).

Commonwealth petroleum exploration title means an instrument under a law of the Commonwealth that confers, in relation to the Commonwealth defined offshore area, rights that correspond to the rights that a petroleum exploration permit confers in relation to the offshore area;

S. 6(1) def. of *Commonwealth petroleum production title* inserted by No. 16/2018 s. 4(1).

Commonwealth petroleum production title means an instrument under a law of the Commonwealth that confers, in relation to the Commonwealth defined offshore area, rights that correspond to the rights that a petroleum production licence confers in relation to the offshore area;

S. 6(1) def. of *Commonwealth petroleum retention title* inserted by No. 16/2018 s. 4(1).

Commonwealth petroleum retention title means an instrument under a law of the Commonwealth that confers, in relation to the Commonwealth defined offshore area, rights that correspond to the rights that a petroleum retention lease confers in relation to the offshore area;

S. 6(1) def. of *consolidated work-bid greenhouse gas assessment permit* inserted by No. 26/2021 s. 4(3).

consolidated work-bid greenhouse gas assessment permit means—

(a) a greenhouse gas assessment permit granted under Division 2A of Part 3.2; or

(b) a greenhouse gas assessment permit granted under Division 4 of Part 3.2 by way of the renewal of a permit referred to in paragraph (a);

construct includes place;

corresponding State law means an Act of another State giving effect to the agreement between the Commonwealth, the States and the Northern Territory referred to in the preamble to this Act;

Cross-boundary Authority means the Commonwealth-Victoria Greenhouse Gas Storage Cross-boundary Authority as constituted by section 76A of the Commonwealth Act;

S. 6(1) def. of *Cross-boundary Authority* inserted by No. 26/2021 s. 4(3).

cross-boundary greenhouse gas assessment permit has the same meaning as in the Commonwealth Act;

S. 6(1) def. of *cross-boundary greenhouse gas assessment permit* inserted by No. 26/2021 s. 4(3).

cross-boundary greenhouse gas holding lease has the same meaning as in the Commonwealth Act;

S. 6(1) def. of *cross-boundary greenhouse gas holding lease* inserted by No. 26/2021 s. 4(3).

cross-boundary greenhouse gas injection licence has the same meaning as in the Commonwealth Act;

S. 6(1) def. of *cross-boundary greenhouse gas injection licence* inserted by No. 26/2021 s. 4(3).

cross-boundary greenhouse gas title means—

(a) a cross-boundary greenhouse gas assessment permit; or

(b) a cross-boundary greenhouse gas holding lease; or

(c) a cross-boundary greenhouse gas injection licence;

S. 6(1) def. of *cross-boundary greenhouse gas title* inserted by No. 26/2021 s. 4(3).

datum means a reference frame for defining geographic coordinates;

Note

If the position on the surface of the Earth of a particular point is identified by a coordinate that is determined by reference to a particular datum, the use of a different datum will result in the same point being identified by a different coordinate.

debenture has the same meaning as in section 263 of the Corporations Act;

declared greenhouse gas facility has the meaning given by section 20;

declared petroleum exploration permit has the meaning given by section 83;

declared petroleum production licence has the meaning given by section 161;

declared petroleum retention lease has the meaning given by section 127;

designated agreement has the meaning given by section 33;

Designated Authority has the meaning given to that term for Victoria by section 70 of the Commonwealth Act;

detection agent means a substance, whether in a gaseous or liquid state, that—

(a) when added to—

(i) another substance; or

(ii) a mixture of other substances—

facilitates the monitoring of the behaviour of that other substance or that mixture, as the case may be; and

(b) is specified in the regulations;

eligible greenhouse gas storage formation has the meaning given by section 23;

engage in conduct means—

(a) do an act; or

(b) omit to perform an act;

expert advisory committee means a committee established under section 767;

expert advisory committee member means a member of an expert advisory committee, and includes the Chair of an expert advisory committee;

expiry date—

(a) when used in relation to a petroleum exploration permit, petroleum retention lease or petroleum production licence—has the meaning given by section 9; or

(b) when used in relation to a greenhouse gas assessment permit or a greenhouse gas holding lease (other than a special greenhouse gas holding lease)—has the meaning given by section 10;

explore—

(a) when used in relation to petroleum—has a meaning affected by section 21(1); or

(b) when used in relation to a potential greenhouse gas storage formation—has a meaning affected by section 21(2) and (3); or

(c) when used in relation to a potential greenhouse gas injection site—has a meaning affected by section 21(4);

S. 6(1) def. of *fixed-term Common-wealth petroleum production* inserted by No. 16/2018 s. 4(1).

fixed-term Commonwealth petroleum production title means a Commonwealth petroleum production title that is granted for a term of years;

fundamental suitability determinants—

(a) when used in relation to an eligible greenhouse gas storage formation—has the meaning given by section 23(8); or

(b) when used in relation to an identified greenhouse gas storage formation—has the meaning given by section 318(1);

geographic coordinate includes—

(a) a meridian of longitude by itself; and

(b) a parallel of latitude by itself;

geological formation includes—

(a) any seal or reservoir of a geological formation; and

(b) any associated geological attributes or features of a geological formation;

good oilfield practice means all those things that are generally accepted as good and safe in—

(a) the carrying on of exploration for petroleum; or

(b) petroleum recovery operations;

good processing and transport practice means all those things that are generally accepted as good and safe in—

(a) the processing, conveyance, transport and storage of petroleum; and

(b) the preparation of petroleum for transport;

graticular section has the meaning given by section 37;

greenhouse gas assessment permit means a greenhouse gas assessment permit granted under Part 3.2;

greenhouse gas assessment permit area means the permit area of a greenhouse gas assessment permit;

greenhouse gas assessment permittee means the registered holder of a greenhouse gas assessment permit;

greenhouse gas facility line means a pipe, or system of pipes, that is—

(a) for conveying a greenhouse gas substance; and

(b) part of a declared greenhouse gas facility;

greenhouse gas holding lease means a greenhouse gas holding lease granted under Part 3.3;

greenhouse gas holding lease area means the lease area of a greenhouse gas holding lease;

greenhouse gas holding lessee means the registered holder of a greenhouse gas holding lease;

greenhouse gas infrastructure line means a pipe, or system of pipes, that is—

(a) for conveying a greenhouse gas substance; and

(b) part of an infrastructure facility;

greenhouse gas injection licence means a greenhouse gas injection licence granted under Part 3.4;

greenhouse gas injection licence area means the licence area of a greenhouse gas injection licence;

greenhouse gas injection licensee means the registered holder of a greenhouse gas injection licence;

greenhouse gas injection line means a pipe, or system of pipes, for—

(a) conveying a greenhouse gas substance to be compressed, processed or otherwise prepared for injection into an identified greenhouse gas storage formation; or

(b) conveying a greenhouse gas substance for storage prior to being injected into an identified greenhouse gas storage formation; or

(c) conveying a greenhouse gas substance for injection into an identified greenhouse gas storage formation—

so long as the greenhouse gas substance does not pass through a terminal point on the pipe, or system of pipes, as the case may be, before it is injected into the identified greenhouse gas storage formation;

greenhouse gas pipeline means—

(a) a pipe, or system of pipes, in the offshore area for conveying a greenhouse gas substance, other than—

(i) a greenhouse gas injection line; or

(ii) a greenhouse gas infrastructure line; or

(iii) a greenhouse gas facility line; or

(iv) a pipe, or a system of pipes, that is specified in the regulations; or

(b) a part of a pipe covered by paragraph (a); or

(c) a part of a system of pipes covered by paragraph (a);

greenhouse gas project inspector means a person appointed as a greenhouse gas project inspector under section 656;

greenhouse gas pumping station means equipment for pumping a greenhouse gas substance or water, and includes any structure associated with that equipment;

greenhouse gas research consent means a greenhouse gas research consent granted under Part 3.7;

greenhouse gas search authority means a greenhouse gas search authority granted under Part 3.5;

greenhouse gas special authority means a greenhouse gas special authority granted under Part 3.6;

greenhouse gas substance means—

(a) carbon dioxide, whether in a gaseous or liquid state; or

(b) a prescribed greenhouse gas, whether in a gaseous or liquid state; or

(c) a mixture of any or all of the following substances—

(i) carbon dioxide, whether in a gaseous or liquid state;

(ii) one or more prescribed greenhouse gases, whether in a gaseous or liquid state;

(iii) one or more incidental greenhouse gas-related substances, whether in a gaseous or liquid state, that relate to either or both of the substances mentioned in subparagraphs (i) and (ii);

(iv) a prescribed detection agent, whether in a gaseous or liquid state—

so long as—

(v) the mixture consists overwhelmingly of either or both of the substances mentioned in subparagraphs (i) and (ii); and

(vi) if the mixture includes a prescribed detection agent—the concentration of the prescribed detection agent in the mixture is not more than the concentration prescribed in relation to that detection agent;

greenhouse gas tank station means a tank, or system of tanks, for holding or storing a greenhouse gas substance, and includes any structure associated with that tank or system of tanks;

greenhouse gas valve station means equipment for regulating the flow of a greenhouse gas substance, and includes any structure associated with that equipment;

identified greenhouse gas storage formation has the meaning given by section 315;

incidental greenhouse gas-related substance has the meaning given by section 25;

infrastructure facility has the meaning given by section 17;

infrastructure licence means an infrastructure licence granted under Part 2.5 of this Act;

infrastructure licence area means the licence area of an infrastructure licence;

infrastructure licensee means the registered holder of an infrastructure licence;

Joint Authority has the meaning given to that term for Victoria by section 56 of the Commonwealth Act;

key greenhouse gas operation means—

(a) an operation to make a well; or

(b) an operation to inject, on an appraisal basis, a greenhouse gas substance into a part of a geological formation; or

(c) an operation to store, on an appraisal basis, a greenhouse gas substance in a part of a geological formation; or

(d) an operation to inject, on an appraisal basis, air, petroleum or water into a part of a geological formation; or

(e) an operation to store, on an appraisal basis, air, petroleum or water in a part of a geological formation; or

(f) an operation to carry out a seismic survey or any other kind of survey; or

(g) an operation to monitor the behaviour of—

(i) a greenhouse gas substance; or

(ii) air; or

(iii) petroleum; or

(iv) water—

stored in a part of a geological formation; or

(h) an operation to carry out baseline investigations relating to the storage of a greenhouse gas substance in a part of the geological formation; or

(i) an operation to take samples of the seabed or subsoil of the offshore area; or

(j) an operation specified in the regulations;

key petroleum operation means—

(a) an operation to make a well; or

(b) an operation to inject a substance into a part of a geological formation; or

(c) an operation to store a substance in a part of a geological formation; or

(d) an operation to carry out a seismic survey or any other kind of survey; or

(e) an operation to monitor the behaviour of a substance stored in a part of a geological formation; or

(f) an operation to take samples of the seabed or subsoil of the offshore area; or

(g) an operation specified in the regulations;

lease area—

(a) when used in relation to a petroleum retention lease—means the area constituted by the block or blocks that are the subject of the petroleum retention lease; or

(b) when used in relation to a greenhouse gas holding lease—means the area constituted by the block or blocks that are the subject of the greenhouse gas holding lease;

lessee—

(a) when used in relation to a petroleum retention lease—means the registered holder of the petroleum retention lease; or

(b) when used in relation to a greenhouse gas holding lease—means the registered holder of the greenhouse gas holding lease;

licence area—

(a) when used in relation to an infrastructure licence—means the place in relation to which the infrastructure licence is in force; or

(b) when used in relation to a petroleum production licence—means the area constituted by the block or blocks that are the subject of the petroleum production licence; or

(c) when used in relation to a greenhouse gas injection licence—means the area constituted by the block or blocks that are the subject of the greenhouse gas injection licence;

Note

The place in relation to which an infrastructure licence is in force must be a place in the offshore area—see section 193(2) and section 194.

licensee—

(a) when used in relation to a petroleum production licence—means the registered holder of the petroleum production licence; or

(b) when used in relation to an infrastructure licence—means the registered holder of the infrastructure licence; or

(c) when used in relation to a pipeline licence—means the registered holder of the pipeline licence; or

(d) when used in relation to a greenhouse gas injection licence—means the registered holder of the greenhouse gas injection licence;

life-of-field petroleum production licence means a petroleum production licence;

listed OHS laws has the meaning given by section 700;

location means a block or blocks in relation to which a declaration under section 114 is in force;

marine national park has the same meaning as in the **National Parks Act 1975**;

marine sanctuary has the same meaning as in the **National Parks Act 1975**;

Ministerial Council means a body (however described) that consists of the Minister of the Commonwealth, and the Minister of each State and Territory, who is responsible, or principally responsible, for matters relating to energy or resources (or both);

S. 6(1) def. of *Ministerial Council* inserted by No. 13/2022 s. 70(1).

natural resources has the same meaning as in the Commonwealth Act;

NOPSEMA means the National Offshore Petroleum Safety and Environmental Management Authority continued in existence under section 645 of the Commonwealth Act;

S. 6(1) def. of *NOPSEMA* inserted by No. 74/2012 s. 5(2).

NOPSEMA inspector has the same meaning as in the Commonwealth Act;

S. 6(1) def. of *NOPSEMA inspector* inserted by No. 26/2021 s. 37(1).

offshore area means—

(a) that part of the scheduled area for Victoria that consists of the territorial sea; and

(b) any waters that are—

(i) on the landward side of the territorial sea; and

(ii) not within the limits of Victoria; and

(c) if at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, the offshore area continues to have effect as if the breadth of the

territorial sea of Australia had continued to be 3 nautical miles;

Note

The offshore area corresponds to the term ***the adjacent area*** under the repealed **Petroleum (Submerged Lands) Act 1982**.

S. 6(1) def. of *OHS inspector* repealed by No. 26/2021 s. 37(2).

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S. 6(1) def. of *original consolidated work-bid greenhouse gas assessment permit* inserted by No. 26/2021 s. 4(3).

original consolidated work-bid greenhouse gas assessment permit means a consolidated work-bid greenhouse gas assessment permit that was granted otherwise than by way of renewal;

original greenhouse gas assessment permit means a greenhouse gas assessment permit that was granted otherwise than by way of renewal;

original petroleum exploration permit means a petroleum exploration permit granted otherwise than by way of renewal;

original petroleum production licence means a petroleum production licence granted otherwise than by way of renewal;

original petroleum retention lease means a petroleum retention lease granted otherwise than by way of renewal;

part of a geological formation includes a part of a combination of geological formations;

partly cancelled means—

(a) in relation to a petroleum exploration permit or petroleum production 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 revoked, in relation to a petroleum exploration permit or petroleum retention lease, means revoked as to one or more, but not all, of the blocks the subject of the permit or lease;

partly surrendered, in relation to a petroleum exploration permit, petroleum production licence or greenhouse gas injection licence, means surrendered as to one or more, but not all, of the blocks the subject of the permit or licence;

partly terminated, in relation to a pipeline licence, means terminated as to a part of the pipeline the subject of the licence;

permit area—

(a) when used in relation to a petroleum exploration permit—means the area constituted by the block or blocks that are the subject of the petroleum exploration permit; or

(b) when used in relation to a greenhouse gas assessment permit—means the area constituted by the block or blocks that are the subject of the greenhouse gas assessment permit;

permittee—

(a) when used in relation to a petroleum exploration permit—means the registered holder of the petroleum exploration permit; or

(b) when used in relation to a greenhouse gas assessment permit—means the registered holder of the greenhouse gas assessment 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—

(i) one or more hydrocarbons, whether in a gaseous, liquid or solid state; and

(ii) one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide—

and—

(d) includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir; and

(e) for the purposes of the pipeline provisions, also includes any petroleum as defined by paragraph (a), (b), (c) or (d), where—

(i) one or more things have been added; or

(ii) one or more things have been wholly or partly removed—

or both; and

(f) for the purposes of the pipeline provisions, also includes any mixture that—

(i) has been recovered from a well; and

(ii) includes petroleum as defined by paragraph (a), (b), (c) or (d)—

whether or not—

(iii) one or more things have been added; or

(iv) one or more things have been wholly or partly removed—

or both;

petroleum access authority means a petroleum access authority granted under Part 2.8 of this Act;

petroleum exploration permit means—

S. 6(1) def. of *petroleum exploration permit* amended by No. 16/2018 s. 4(2).

(a) a work-bid petroleum exploration permit; or

(b) a cash-bid petroleum exploration permit; or

(c) a special petroleum exploration permit; or

(d) a boundary-change petroleum exploration permit;

petroleum exploration permit area means the permit area of a petroleum exploration permit;

petroleum exploration permittee means the registered holder of a petroleum exploration permit;

petroleum pipeline means—

(a) a pipe, or system of pipes, in the offshore area for conveying petroleum (whether or not the petroleum is recovered from the offshore area), other than a secondary line; or

(b) a part of a pipe covered by paragraph (a); or

(c) a part of a system of pipes covered by paragraph (a);

petroleum pool means a naturally occurring discrete accumulation of petroleum;

petroleum production licence means a petroleum production licence granted under Part 2.4 of this Act;

petroleum production licence area means the licence area of a petroleum production licence;

petroleum production licensee means the registered holder of a petroleum production licence;

S. 6(1) def. of *petroleum project inspector* amended by No. 74/2012 s. 5(3).

petroleum project inspector means a person appointed as a petroleum project inspector under section 647(1) or (2);

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

petroleum retention lease means a petroleum retention lease granted under Part 2.3 of this Act;

petroleum retention lease area means the lease area of a petroleum retention lease;

petroleum retention lessee means the registered holder of a petroleum retention lease;

petroleum scientific investigation consent means a petroleum scientific investigation consent granted under Part 2.9 of this Act;

petroleum special prospecting authority means a petroleum special prospecting authority granted under Part 2.7 of this Act;

petroleum 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;

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

pipeline means—

(a) a petroleum pipeline; or

(b) a greenhouse gas pipeline;

pipeline licence means a pipeline licence granted under Part 2.6 of this Act;

pipeline licensee means the registered holder of a pipeline licence;

pipeline provisions means the following—

(a) Part 2.6;

(b) the definition of ***greenhouse gas pipeline*** in this section;

(c) the definition of ***greenhouse gas pumping station*** in this section;

(d) the definition of ***greenhouse gas tank station*** in this section;

(e) the definition of ***greenhouse gas valve station*** in this section;

(f) the definition of ***petroleum pipeline*** in this section;

(g) the definition of ***petroleum pumping station*** in this section;

(h) the definition of ***petroleum tank station*** in this section;

(i) the definition of ***petroleum valve station*** in this section;

(j) the definition of ***pipeline*** in this section;

(k) item 3 of the table in section 616(1);

post-commencement petroleum exploration permit means—

(a) an original petroleum exploration permit that was granted after the commencement of this section; or

(b) a petroleum exploration permit that was granted by way of renewal, where the original petroleum exploration permit was granted after the commencement of this section;

S. 6(1) def. of *post-commencement petroleum production licence* amended by No. 16/2018 s. 4(3).

post-commencement petroleum production licence means—

(a) a petroleum production licence that was granted to the registered holder of—

(i) a post-commencement petroleum exploration permit; or

(ii) a post-commencement petroleum retention lease—

that was in force over the block or blocks to which the petroleum production licence relates; or

(b) a petroleum production licence granted under section 177; or

(c) a petroleum production licence granted under section 179, where the initial petroleum production licence mentioned in section 178 was a post-commencement petroleum production licence; or

(d) a petroleum production licence granted under section 179A; or

(e) a petroleum production licence that was granted by way of renewal, where the original petroleum production licence was granted under section 179A;

post-commencement petroleum retention lease means—

S. 6(1) def. of *post-commencement petroleum retention lease* amended by No. 16/2018 s. 4(4).

(a) an original petroleum retention lease that was granted to the registered holder of—

(i) a post-commencement petroleum exploration permit; or

(ii) a post-commencement petroleum production licence—

that was in force over the block or blocks to which the original petroleum retention lease relates; or

(b) a petroleum retention lease that was granted by way of renewal, where the original petroleum retention lease was granted to the registered holder of—

(i) a post-commencement petroleum exploration permit; or

(ii) a post-commencement petroleum production licence—

that was in force over the block or blocks to which the original petroleum retention lease related; or

(c) a petroleum retention lease granted under section 141A; or

(d) a petroleum retention lease that was granted by way of renewal, where the original petroleum retention lease was granted under section 141A;

post-commencement petroleum title means—

(a) a post-commencement petroleum exploration permit; or

(b) a post-commencement petroleum retention lease; or

(c) a post-commencement petroleum production licence;

potential greenhouse gas injection site has the meaning given by section 24;

potential greenhouse gas storage formation has the meaning given by section 22;

pre-commencement petroleum exploration permit means a petroleum exploration permit other than a post-commencement petroleum exploration permit;

pre-commencement petroleum production licence means a petroleum production licence other than a post-commencement petroleum production licence;

pre-commencement petroleum retention lease means a petroleum retention lease other than a post-commencement petroleum retention lease;

pre-commencement petroleum title means—

(a) a pre-commencement petroleum exploration permit; or

(b) a pre-commencement petroleum retention lease; or

(c) a pre-commencement petroleum production licence;

pumping station means—

(a) a greenhouse gas pumping station; or

(b) a petroleum pumping station;

Register—

(a) when used in Chapter 4—has the meaning given by section 503; or

(b) when used in Chapter 5—has the meaning given by section 561;

registered holder, in relation to a title, means the person whose name is shown in the Register kept under section 505 or 563 as the holder of the title;

regulated operation means—

(a) an activity to which Chapter 2 applies; or

(b) an activity to which Chapter 3 applies;

Note

See also subsection (2).

renewal—

(a) when used in relation to a petroleum exploration permit, petroleum retention lease or petroleum production licence—has the meaning given by section 11; or

(b) when used in relation to a greenhouse gas assessment permit or greenhouse gas holding lease—has the meaning given by section 12;

S. 6(1) def. of *Safety Authority* repealed by No. 74/2012 s. 5(1).

* * * * *

scheduled area for Victoria means the area set out in Schedule 1;

secondary line means a pipe, or system of pipes, for—

(a) returning petroleum to a natural reservoir; or

(b) conveying petroleum for use for petroleum exploration operations; or

(c) conveying petroleum for use for petroleum recovery operations; or

(d) conveying petroleum that is to be flared or vented; or

(e) conveying petroleum from a well, wherever located, to a terminal station in the offshore area without passing through another terminal station;

serious situation, in relation to an identified greenhouse gas storage formation, has the meaning given by section 405;

significant risk has a meaning affected by section 27, 28, 29, 30 or 31;

site closing certificate means a certificate issued under section 427;

site plan, in relation to an identified greenhouse gas storage formation, has the meaning given by section 26;

spatial extent of an eligible greenhouse gas storage formation has the meaning given by section 23(3);

special greenhouse gas holding lease means a greenhouse gas holding lease granted under section 352;

special petroleum exploration permit means—

(a) a petroleum exploration permit granted under Division 4 of Part 2.2 of this Act; or

(b) a petroleum exploration permit granted under Division 5 of Part 2.2 of this Act by way of the renewal of a permit referred to in paragraph (a);

S. 6(1) def. of *structural integrity* inserted by No. 74/2012 s. 5(2).

structural integrity includes—

(a) structural soundness;

(b) structural strength;

(c) stability;

(d) fitness for purpose;

(e) mechanical integrity;

(f) systems integrity, including the integrity of—

(i) electrical systems;

(ii) electronic systems;

(iii) hydraulic systems;

(iv) chemical systems;

(v) dynamic positioning systems;

(vi) other systems—

in connection with—

(g) the containment of petroleum, a greenhouse gas substance or any other substance; or

(h) the health and safety of persons engaged in—

(i) offshore petroleum operations within the meaning of Part 6.9;

(ii) offshore greenhouse gas storage operations within the meaning of Part 6.9;

S. 6(1) def. of *structural integrity law* inserted by No. 74/2012 s. 5(2).

structural integrity law means the provisions of this Act or the regulations to the extent that they relate to the structural integrity of—

(a) facilities within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(b) wells or well-related equipment used for the purposes of offshore petroleum operations within the meaning of Part 6.9;

tank station means—

(a) a greenhouse gas tank station; or

(b) a petroleum tank station;

term—

(a) when used in relation to a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence, pipeline licence, petroleum special prospecting authority or petroleum access authority—has the meaning given by section 9; or

(b) when used in relation to a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority—has the meaning given by section 10;

terminal point has the meaning given by section 19;

terminal station has the meaning given by section 18;

tied, in relation to a greenhouse gas holding lease or greenhouse gas injection licence, has the meaning given by section 15;

title—

(a) when used in the definition of ***registered holder***—means a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence, pipeline licence, petroleum special prospecting authority, petroleum access authority, greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority; or

(b) when used in Division 2 of Part 1.2—has the meaning given by section 39; or

(c) when used in Division 3 of Part 1.2—has the meaning given by section 49; or

(d) when used in section 498—has the meaning given by section 498(6); or

(e) when used in Chapter 4—has the meaning given by section 503; or

(f) when used in section 623—has the meaning given by section 623(1); or

(g) when used in Chapter 5—has the meaning given by section 561; or

(h) when used in section 629—has the meaning given by section 629(1);

title area—

(a) when used in Division 3 of Part 1.2—has the meaning given by section 50; or

(b) when used in section 621—has the meaning given by section 621(1); or

(c) when used in section 635—has the meaning given by section 635(6);

titleholder—

(a) when used in Division 3 of Part 1.2—has the meaning given by section 50; or

(b) when used in section 621—has the meaning given by section 621(1);

vacated area has the meaning given by section 16;

valve station means—

(a) a greenhouse gas valve station; or

(b) a petroleum valve station;

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

Victorian Minister means a Minister of the Crown in right of the State;

water line means a pipe, or system of pipes, for conveying water in connection with—

(a) petroleum exploration operations; or

(b) petroleum recovery operations; or

(c) exploration for potential greenhouse gas storage formations; or

(d) exploration for potential greenhouse gas injection sites; or

(e) the injection of a greenhouse gas substance into an identified greenhouse gas storage formation; or

(f) the injection, on an appraisal basis, of a greenhouse gas substance into a part of a geological formation; or

(g) the injection, on an appraisal basis, of air, petroleum or water into a part of a geological formation;

well means a hole in the seabed or subsoil made by drilling, boring or any other means in connection with—

(a) exploration for petroleum; or

(b) petroleum recovery operations; or

(c) exploration for potential greenhouse gas storage formations; or

(d) exploration for potential greenhouse gas injection sites; or

(e) the injection of a greenhouse gas substance into an identified greenhouse gas storage formation; or

(f) the injection, on an appraisal basis, of a greenhouse gas substance into a part of a geological formation; or

(g) the injection, on an appraisal basis, of air, petroleum or water into a part of a geological formation—

but does not include a seismic shot hole;

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

wholly revoked, in relation to a petroleum exploration permit or petroleum retention lease, means revoked as to all the blocks the subject of the permit or lease;

S. 6(1) def. of *work-bid greenhouse gas assessment permit* substituted by No. 26/2021 s. 37(5).

work-bid greenhouse gas assessment permit means—

(a) a greenhouse gas assessment permit granted under Division 2 of Part 3.2; or

(b) a greenhouse gas assessment permit granted under Division 4 of Part 3.2 by way of renewal of a permit referred to in paragraph (a);

work-bid petroleum exploration permit means—

(a) a petroleum exploration permit granted under Division 2 of Part 2.2 of this Act; or

(b) a petroleum exploration permit granted under Division 5 of Part 2.2 of this Act by way of the renewal of a permit referred to in paragraph (a).

(2) For the purposes of paragraph (b) of the definition of ***regulated operation***, assume that each reference in section 371 to a substance were a reference to a greenhouse gas substance.

7 References to Parts

Unless the context otherwise requires, a reference in this Act to a Part by a number must be construed as a reference to the Part, designated by that number, of this Act.

8 Spaces above and below offshore area

For the purposes of this Act—

(a) the space above or below the offshore area is taken to be in that area; and

(b) the space above or below an area that is part of the offshore area is taken to be in that part.

9 Term of petroleum titles

For the purposes of this Act, the table has effect—

Term of title etc.

Item	*A reference in this Act to...*	*is a reference to...*
1	the term of— (a) a petroleum exploration permit; or (b) a petroleum retention lease; or (c) a petroleum production licence; or (d) an infrastructure licence; or (e) a pipeline licence; or (f) a petroleum special prospecting authority; or	the period during which the permit, lease, licence or authority remains in force.

Term of title etc.		
Item	*A reference in this Act to...*	*is a reference to...*
	(g) a petroleum access authority—	
2	a year of the term of— (a) a petroleum exploration permit; or (b) a petroleum retention lease; or (c) a petroleum production licence; or (d) an infrastructure licence; or (e)a pipeline licence—	a period of one year beginning on— (a) the day on which the permit, lease or licence comes into force; or (b) any anniversary of that day.
3	the expiry date of— (a) a petroleum exploration permit; or (b) a petroleum retention lease; or (c) a petroleum production licence—	the day on which the permit, lease or licence ceases to be in force.

10 Term of greenhouse gas titles

For the purposes of this Act, the table has effect—

Term of title etc.		
Item	*A reference in this Act to...*	*is a reference to...*
1	the term of— (a) greenhouse gas assessment permit; or (b) a greenhouse gas holding lease; or (c) a greenhouse gas injection licence; or (d) a greenhouse gas search authority; or (e) a greenhouse gas special authority—	the period during which the permit, lease, licence or authority remains in force.
2	a year of the term of—	a period of one year

Term of title etc.		
Item	*A reference in this Act to...*	*is a reference to...*
	(a) a greenhouse gas assessment permit; or (b) a greenhouse gas holding lease; or (c) a greenhouse gas injection licence—	beginning on— (a) the day on which the permit, lease or licence comes into force; or (b) any anniversary of that day.
3	the expiry date of— (a) a greenhouse gas assessment permit; or (b) a greenhouse gas holding lease (other than a special greenhouse gas holding lease)—	the day on which the permit or lease ceases to be in force.

11 Renewal of petroleum titles

S. 11 amended by No. 16/2018 s. 5 (ILA s. 39B(1)).

(1) For the purposes of this Act, the table has effect—

Renewal of titles		
Item	*Column 1* *A reference in this Act to...*	*Column 2* *is a reference to...*
1	the renewal, or the grant of a renewal, of a petroleum exploration permit	the grant of a petroleum exploration permit over some or all of the blocks specified in the permit mentioned in column 1, to begin on— (a) the day after the expiry date of the permit mentioned in column 1; or (b) the day after the expiry date of the petroleum exploration permit granted on a previous renewal of the permit mentioned in column 1.
2	the renewal, or the grant of a renewal, of a petroleum retention lease	the grant of a petroleum retention lease over all of the blocks in relation to which

Renewal of titles		
Item	*Column 1* *A reference in this Act to...*	*Column 2* *is a reference to...*
		the lease mentioned in column 1 was in force, to begin on— (a) the day after the expiry date of the lease mentioned in column 1; or (b) the day after the expiry date of the petroleum retention lease granted on a previous renewal of the lease mentioned in column 1.
3	the renewal, or the grant of a renewal, of a petroleum production licence	the grant of a petroleum production licence over the block or blocks specified in the licence mentioned in column 1, to begin on— (a) the day after the expiry date of the licence mentioned in column 1; or (b) the day after the expiry date of the petroleum production licence granted on a previous renewal of the licence mentioned in column 1.

S. 11(2) inserted by No. 16/2018 s. 5.

(2) If—

(a) a petroleum exploration permit has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the permit area—

then, in determining what constitutes the renewal, or the grant of a renewal, of the permit, item 1 of the table in subsection (1) has effect as if—

(d) the permit had been varied to exclude from the permit area any area that is not within the offshore area; and

(e) the variation had taken effect immediately after the change.

Note

This means that an application for renewal of the permit may be made, and the permit may be renewed, as if the permit had been so varied.

S. 11(3) inserted by No. 16/2018 s. 5.

(3) If—

(a) a petroleum retention lease has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the lease area—

then, in determining what constitutes the renewal, or the grant of a renewal, of the lease, item 2 of the table in subsection (1) has effect as if—

(d) the lease had been varied to exclude from the lease area any area that is not within the offshore area; and

(e) the variation had taken effect immediately after the change.

Note

This means that an application for renewal of the lease may be made, and the lease may be renewed, as if the lease had been so varied.

S. 11(4) inserted by No. 16/2018 s. 5.

(4) For the purposes of subsections (2) and (3)—

(a) disregard section 278; and

(b) it is immaterial whether the change occurred before, at or after the commencement of this subsection.

S. 12 amended by No. 16/2018 s. 6 (ILA s. 39B(1)).

12 Renewal of greenhouse gas titles

(1) For the purposes of this Act, the table has effect—

Renewal of titles

Item	*Column 1* *A reference in this Act to...*	*Column 2* *is a reference to...*
1	the renewal, or the grant of a renewal, of a greenhouse gas assessment permit	the grant of a greenhouse gas assessment permit over all of the blocks in relation to which the permit mentioned in column 1 was in force, to begin on the day after the expiry date of the permit mentioned in column 1.
2	the renewal, or the grant of a renewal, of a greenhouse gas holding lease	the grant of a greenhouse gas holding lease over all of the blocks in relation to which

Renewal of titles		
Item	*Column 1* *A reference in this Act to...*	*Column 2* *is a reference to...*
		the lease mentioned in column 1 was in force, to begin on the day after the expiry date of the lease mentioned in column 1.

S. 12(2) inserted by No. 16/2018 s. 6.

(2) If—

(a) a greenhouse gas assessment permit has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the permit area—

then, in determining what constitutes the renewal, or the grant of a renewal, of the permit, item 1 of the table in subsection (1) has effect as if—

(d) the permit had been varied to exclude from the permit area any area that is not within the offshore area; and

(e) the variation had taken effect immediately after the change.

S. 12(3) inserted by No. 16/2018 s. 6.

(3) If—

(a) a greenhouse gas holding lease has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the lease area—

then, in determining what constitutes the renewal, or the grant of a renewal, of the lease, item 2 of the table in subsection (1) has effect as if—

(d) the lease had been varied to exclude from the lease area any area that is not within the offshore area; and

(e) the variation had taken effect immediately after the change.

S. 12(4) inserted by No. 16/2018 s. 6.

(4) For the purposes of subsections (2) and (3)—

(a) disregard section 499; and

(b) it is immaterial whether the change occurred before, at or after the commencement of this subsection.

13 Variation of petroleum titles

If a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence, pipeline licence, petroleum special prospecting authority or petroleum access authority is varied, a reference in this Act to the permit, lease, licence or authority is a reference to the permit, lease, licence or authority as varied.

14 Variation of greenhouse gas titles

If—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority—

is varied, a reference in this Act to the permit, lease, licence or authority is a reference to the permit, lease, licence or authority as varied.

15 Tied titles

(1) This section applies if a greenhouse gas holding lease (the ***greenhouse gas lease***) is granted under section 360 to the registered holder of a petroleum retention lease (the ***petroleum lease***).

(2) For the purposes of this Act, each of the following—

(a) the greenhouse gas lease;

(b) a greenhouse gas holding lease granted by way of renewal of the greenhouse gas lease;

(c) a greenhouse gas injection licence derived from a lease referred to in paragraph (a) or (b)—

is ***tied*** to each of the following—

(d) the petroleum lease;

(e) a petroleum retention lease granted by way of renewal of the petroleum lease;

(f) a petroleum production licence derived from a lease referred to in paragraph (d) or (e).

16 Vacated area

For the purposes of this Act, the table has effect—

S. 16 (Table) amended by No. 70/2013 s. 3(Sch. 1 item 39 1).

Vacated area		
Item	*In the case of...*	*the **vacated area** is...*
1	a petroleum exploration permit, petroleum retention lease or petroleum production licence that has expired	the area constituted by the blocks over which the permit, lease or licence was in force but has not been renewed.
2	a petroleum exploration permit, petroleum retention lease or petroleum production licence that has been wholly revoked or partly revoked	the area constituted by the blocks as to which the permit, lease or licence was so revoked.
3	a petroleum exploration permit or petroleum production licence that has been wholly cancelled or partly cancelled	the area constituted by the blocks as to which the permit or licence was so cancelled.
4	a petroleum retention lease that has been cancelled	the lease area.
5	a petroleum production licence that has been terminated	the licence area.
6	an infrastructure licence that has been cancelled or terminated	the licence area.
7	a pipeline licence that has been wholly or partly terminated	the part of the offshore area in which the pipeline or the part of the pipeline was constructed.
8	a pipeline licence that has been wholly cancelled or partly cancelled	the part of the offshore area in which the pipeline or the part of the pipeline was constructed.
9	a petroleum special prospecting authority that— (a) has been surrendered or cancelled; or (b) has expired	the authority area.

Vacated area		
Item	*In the case of...*	*the **vacated area** is...*
10	a petroleum access authority that— (a) has been revoked or surrendered; or (b) has expired	the authority area.
11	a greenhouse gas assessment permit that has expired	the area constituted by the blocks over which the permit was in force but has not been renewed.
12	a greenhouse gas holding lease (other than a special greenhouse gas holding licence) that has expired	the area constituted by the blocks over which the lease was in force but has not been renewed.
13	a greenhouse gas assessment permit that has been cancelled	the permit area.
14	a greenhouse gas holding lease that has been cancelled	the lease area.
15	a greenhouse gas injection licence that has been cancelled	the licence area.
16	a greenhouse gas search authority that— (a) has been surrendered or cancelled; or (b) has expired	the authority area.
17	a greenhouse gas special authority that— (a) has been revoked or surrendered; or (b) has expired	the authority area.

17 Infrastructure facilities

(1) For the purposes of this Act, an ***infrastructure facility*** is a facility, structure or installation for engaging in any of the activities to which subsection (2) or (3) applies, so long as—

(a) the facility, structure or installation rests on the seabed; or

(b) the facility, structure or installation is fixed or connected to the seabed (whether or not the facility is floating); or

(c) the facility, structure or installation is attached or tethered to a facility, structure or installation referred to in paragraph (a) or (b).

(2) This subsection applies to the following activities—

(a) remote control of facilities, structures or installations used to recover petroleum in a petroleum production licence area;

(b) processing petroleum recovered in any place, including—

(i) converting petroleum into another form by physical or chemical means, or both (for example, converting it into liquefied natural gas or methanol); and

(ii) partial processing of petroleum (for example, by removing water);

(c) storing petroleum before it is transported to another place;

(d) preparing petroleum for transport to another place (for example, pumping or compressing);

(e) activities related to any of the above—

but, except as mentioned in paragraph (a), this subsection does not apply to exploring for, or recovering, petroleum.

(3) This subsection applies to the following activities—

(a) activities preparatory to injecting a greenhouse gas substance into an identified greenhouse gas storage formation (for example, controlling the flow of a greenhouse gas substance into the relevant well);

(b) preparing a greenhouse gas substance for injection into an identified greenhouse gas storage formation (for example, pumping, processing or compressing);

(c) preparing a greenhouse gas substance for transport to another place (for example, pumping or compressing);

(d) storing a greenhouse gas substance before it is—

(i) transported to another place; or

(ii) injected into an identified greenhouse gas storage formation; or

(iii) subjected to any other activity at a facility, structure or installation;

(e) monitoring the behaviour of a greenhouse gas substance stored in an identified greenhouse gas storage formation;

(f) remote control of facilities, structures or installations used to—

(i) inject a greenhouse gas substance into an identified greenhouse gas storage formation; or

(ii) store a greenhouse gas substance in an identified greenhouse gas storage formation; or

(iii) do anything mentioned in any of the above paragraphs;

(g) activities related to any of the above.

(4) For the purposes of subsection (3), the injection of a greenhouse gas substance into an identified greenhouse gas storage formation is taken to take place at the top of the relevant well.

18 Terminal station

(1) The Minister may, by notice published in the Government Gazette, declare any of the following to be a terminal station for the purposes of this Act—

(a) a specified petroleum pumping station in the offshore area;

(b) a specified petroleum tank station in the offshore area;

(c) a specified petroleum valve station in the offshore area.

(2) A declaration under subsection (1) has effect accordingly.

(3) To avoid doubt, a declaration may be made under subsection (1) whether or not a person has applied for a pipeline licence.

19 Terminal point

(1) The Minister may, by notice published in the Government Gazette, declare that a specified point on a pipe, or system of pipes, for conveying a greenhouse gas substance is a ***terminal point*** for the purposes of this Act.

(2) A declaration under subsection (1) has effect accordingly.

(3) To avoid doubt, a declaration may be made under subsection (1) whether or not a person has applied for a pipeline licence.

20 Declared greenhouse gas facility

(1) The Minister may, by notice published in the Government Gazette, declare that a specified facility, structure or installation in a greenhouse gas injection licence area is a ***declared greenhouse gas facility*** for the purposes of this Act.

(2) A declaration under subsection (1) has effect accordingly.

21 Extended meaning of *explore*

(1) For the purposes of this Act, if—

(a) a person—

(i) carries out a seismic survey, or any other kind of survey, in the offshore area; or

(ii) takes samples of the seabed or subsoil of the offshore area; and

(b) the person does so with the intention that the person or another could use the survey data, or information derived from the samples, as the case may be, for the purpose of discovering petroleum—

the person is taken to ***explore*** for petroleum.

(2) For the purposes of this Act, if—

(a) a person—

(i) carries out a seismic survey, or any other kind of survey, in the offshore area; or

(ii) takes samples of the seabed or subsoil of the offshore area; and

(b) the person does so with the intention that the person or another could use the survey data, or information derived from the samples, as the case may be, for the purpose of discovering one or more potential greenhouse gas storage formations—

the person is taken to ***explore*** for those potential greenhouse gas storage formations.

(3) For the purposes of this Act, if—

(a) a person has reasonable grounds to suspect that a part of a geological formation could be an eligible greenhouse gas storage formation; and

(b) the person carries out an activity for the purposes of ascertaining either or both of the following—

(i) the spatial extent of the eligible greenhouse gas storage formation;

(ii) any of the fundamental suitability determinants of the eligible greenhouse gas storage formation—

the person is taken to ***explore*** for a potential greenhouse gas storage formation.

(4) For the purposes of this Act, if—

(a) a person—

(i) carries out a seismic survey, or any other kind of survey, in the offshore area; or

(ii) takes samples of the seabed or subsoil of the offshore area; and

(b) the person does so with the intention that the person or another could use the survey data, or information derived from the samples, as the case may be, for the purpose of

discovering one or more potential greenhouse gas injection sites—

the person is taken to ***explore*** for those potential greenhouse gas injection sites.

22 Potential greenhouse gas storage formation

(1) For the purposes of this Act, a ***potential greenhouse gas storage formation*** is a part of a geological formation, where that part is suitable, with or without engineering enhancements, for the permanent storage of a greenhouse gas substance injected into that part.

(2) For the purposes of subsection (1), it is not necessary to identify the greenhouse gas substance.

(3) For the purposes of subsection (1), in determining whether a part of a geological formation is suitable, with or without engineering enhancements, for the permanent storage of a greenhouse gas substance injected into that part, regard may be had to reasonably foreseeable technological developments.

23 Eligible greenhouse gas storage formation

(1) For the purposes of this Act, an ***eligible greenhouse gas storage formation*** is a part of a geological formation, where that part—

(a) is suitable, without engineering enhancements, for the permanent storage of a particular amount of a particular greenhouse gas substance injected at a particular point or points into that part over a particular period; or

(b) is suitable, with engineering enhancements, for the permanent storage of a particular amount of a particular greenhouse gas

substance injected at a particular point or points into that part over a particular period.

(2) An amount referred to in subsection (1)(a) or (b) must be at least 100 000 tonnes.

(3) For the purposes of this Act, the ***spatial extent*** of an eligible greenhouse gas storage formation is the expected migration pathway or pathways, over the period—

(a) beginning at the start of the particular period referred to in whichever of subsection (1)(a) or (b) is applicable; and

(b) ending at the notional site closing certificate time—

of the particular amount of the particular greenhouse gas substance injected as mentioned in whichever of subsection (1)(a) or (b) is applicable.

(4) In determining the spatial extent of an eligible greenhouse gas storage formation, regard must be had to—

(a) the fundamental suitability determinants; and

(b) such other matters as are relevant.

(5) The regulations may provide that the expected migration pathway or pathways are to be ascertained on the basis of—

(a) one or more assumptions (if any) specified in the regulations; and

(b) a level of probability specified in the regulations; and

(c) a methodology (if any) specified in the regulations.

(6) For the purposes of the application of this section to a part of a geological formation covered by subsection (1)(a), the ***notional site closing certificate time*** is worked out as follows—

(a) assume that the particular amount of the particular greenhouse gas substance referred to in that paragraph was injected at the particular point or points referred to in that paragraph over the particular period referred to in that paragraph;

(b) assume that, throughout that period, that part was an identified greenhouse gas storage formation;

(c) assume that, throughout that period, operations for the injection of the greenhouse gas substance into that part—

(i) were authorised by a greenhouse gas injection licence; and

(ii) complied with the requirements of this Act and the regulations;

(d) assume that, at the end of that period, operations for the injection of the greenhouse gas substance into that part ceased;

(e) estimate the earliest time after the end of that period when the Minister would be in a position to issue a site closing certificate in relation to the identified greenhouse gas storage formation;

(f) that time is the ***notional site closing certificate time***.

(7) For the purposes of the application of this section to a part of a geological formation covered by subsection (1)(b), the ***notional site closing certificate time*** is worked out as follows—

(a) assume that the engineering enhancements referred to in that paragraph had been made;

(b) assume that the particular amount of the particular greenhouse gas substance referred to in that paragraph was injected at the particular point or points referred to in that paragraph over the particular period referred to in that paragraph;

(c) assume that, throughout that period, that part was an identified greenhouse gas storage formation;

(d) assume that, throughout that period, operations for the injection of the greenhouse gas substance into that part—

(i) were authorised by a greenhouse gas injection licence; and

(ii) complied with the requirements of this Act and the regulations;

(e) assume that, at the end of that period, operations for the injection of the greenhouse gas substance into that part ceased;

(f) estimate the earliest time after the end of that period when the Minister would be in a position to issue a site closing certificate in relation to the identified greenhouse gas storage formation;

(g) that time is the ***notional site closing certificate time***.

(8) For the purposes of this Act, the following are the ***fundamental suitability determinants*** of an eligible greenhouse gas storage formation—

(a) the particular amount referred to in whichever of subsection (1)(a) or (b) is applicable;

(b) the particular greenhouse gas substance referred to in whichever of subsection (1)(a) or (b) is applicable;

(c) the particular point or points referred to in whichever of subsection (1)(a) or (b) is applicable;

(d) the particular period referred to in whichever of subsection (1)(a) or (b) is applicable;

(e) if subsection (1)(b) is applicable—the engineering enhancements referred to in that paragraph;

(f) the effective sealing feature, attribute or mechanism that enables the permanent storage referred to in whichever of subsection (1)(a) or (b) is applicable.

24 Potential greenhouse gas injection site

For the purposes of this Act, a ***potential greenhouse gas injection site*** is a place that—

(a) is a suitable place to make a well or wells to inject a greenhouse gas substance into a part of a geological formation; and

(b) is wholly situated in the offshore area.

25 Incidental greenhouse gas-related substance

(1) This section applies if either or both of the following substances (***primary greenhouse gas substances***) are captured from a particular source material—

(a) carbon dioxide;

(b) one or more prescribed greenhouse gases.

(2) For the purposes of this Act, the following are ***incidental greenhouse gas-related substances*** in relation to a primary greenhouse gas substance—

(a) any substance that is incidentally derived from the source material;

(b) any substance that is incidentally derived from the capture;

(c) if the primary greenhouse gas substance, whether in a pure form or in a mixture with other substances, is transported—any substance that is incidentally derived from the transportation;

(d) if the primary greenhouse gas substance, whether in a pure form or in a mixture with other substances, is injected into a part of a geological formation—any substance that is incidentally derived from the injection;

(e) if the primary greenhouse gas substance, whether in a pure form or in a mixture with other substances, is stored in a part of a geological formation—any substance that is incidentally derived from the storage.

26 Site plan—identified greenhouse gas storage formation

For the purposes of this Act, a ***site plan***, in relation to an identified greenhouse gas storage formation, is a document that—

(a) relates to the identified greenhouse gas storage formation; and

(b) complies with such requirements as are specified in the regulations; and

(c) is divided into the following parts—

(i) Part A, which sets out predictions for the behaviour of a greenhouse gas substance stored in the identified greenhouse gas storage formation;

(ii) Part B, which deals with other matters.

27 Significant risk of a significant adverse impact—approval of key petroleum operations

(1) For the purposes of sections 79, 80, 83, 123, 124, 127, 157, 158, 161 and 768(2)(a), the question of whether there is a significant risk that a key petroleum operation will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance; or

S. 27(1)(b) amended by No. 26/2021 s. 5(1)(a).

(c) operations for the injection of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title; or

S. 27(1)(c) inserted by No. 26/2021 s. 5(1)(b).

(d) operations for the storage of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title—

S. 27(1)(d) inserted by No. 26/2021 s. 5(1)(b).

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account—

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and

(c) the economic consequences of the adverse impact relative to the potential economic value of the operations referred to in whichever of subsection (1)(a) or (b) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 79, 80, 83, 123, 124, 127, 157, 158, 161 and 768(2)(a), a key petroleum operation will have an adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

S. 27(5)(b) amended by No. 26/2021 s. 5(2)(a).

(b) operations for the storage of a greenhouse gas substance; or

S. 27(5)(ba) inserted by No. 26/2021 s. 5(2)(b).

(ba) operations for the injection of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title; or

S. 27(5)(bb) inserted by No. 26/2021 s. 5(2)(b).

(bb) operations for the storage of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title—

(the ***relevant greenhouse gas operations***) if, and only if, the key petroleum operation will result in—

(c) an increase in the capital costs (other than prescribed costs) of the relevant greenhouse gas operations; or

(d) an increase in the operating costs (other than prescribed costs) of the relevant greenhouse gas operations; or

(e) a reduction in the rate of injection of the greenhouse gas substance; or

(f) a reduction in the quantity of the greenhouse gas substance that will be able to be stored.

(6) For the purposes of sections 79, 80, 83, 123, 124, 127, 157, 158, 161 and 768(2)(a), if there is a risk that a key petroleum operation will have an adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance; or

S. 27(6)(b) amended by No. 26/2021 s. 5(3)(a).

(c) operations for the injection of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title; or

S. 27(6)(c) inserted by No. 26/2021 s. 5(3)(b).

(d) operations for the storage of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title—

S. 27(6)(d) inserted by No. 26/2021 s. 5(3)(b).

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the key petroleum operation is less than the amount that, under the regulations, is taken to be the threshold amount.

28 Significant risk of a significant adverse impact—grant of petroleum production licence

(1) For the purposes of sections 151A, 167 and 168, the question of whether there is a significant risk that any of the operations that could be carried on under a petroleum production licence will have a significant adverse impact on operations that are being, or could be, carried on under—

S. 28(1) amended by No. 26/2021 s. 6(1)(a).

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

S. 28(1)(c) amended by No. 26/2021 s. 6(1)(b).

(c) a greenhouse gas injection licence; or

S. 28(1)(d) inserted by No. 26/2021 s. 6(1)(c).

(d) a cross-boundary greenhouse gas title—

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account—

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and

S. 28(2)(c) amended by No. 26/2021 s. 6(2).

(c) the economic consequences of the adverse impact relative to the potential economic value of the operations that are being, or could be, carried on under the permit, lease, licence or title referred to in whichever of subsection (1)(a), (b), (c) or (d) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

S. 28(5) amended by No. 26/2021 s. 6(3)(a).

(5) For the purposes of sections 151A, 167 and 168, an operation that could be carried on under a petroleum production licence (the ***petroleum production licence operation***) will have an adverse impact on operations (the ***relevant greenhouse gas operations***) that are being, or could be, carried on under—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

S. 28(5)(c) amended by No. 26/2021 s. 6(3)(b).

(ca) a cross-boundary greenhouse gas title—

S. 28(5)(ca) inserted by No. 26/2021 s. 6(3)(c).

if, and only if, the petroleum production licence operation will result in—

(d) an increase in the capital costs (other than prescribed costs) of the relevant greenhouse gas operations; or

(e) an increase in the operating costs (other than prescribed costs) of the relevant greenhouse gas operations; or

(f) a reduction in the rate of injection of the greenhouse gas substance; or

(g) a reduction in the quantity of the greenhouse gas substance that will be able to be stored.

(6) For the purposes of sections 151A, 167 and 168, if there is a risk that an operation that could be carried on under a petroleum production licence (the ***petroleum production licence operation***) will have an adverse impact on operations that are being, or could be, carried on under—

S. 28(6) amended by No. 26/2021 s. 6(4)(a).

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

S. 28(6)(c) amended by No. 26/2021 s. 6(4)(b).

S. 28(6)(d) inserted by No. 26/2021 s. 6(4)(c).

(d) a cross-boundary greenhouse gas title—

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the petroleum production licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.

29 Significant risk of a significant adverse impact—approval of key greenhouse gas operations

(1) For the purposes of sections 292, 293, 330, 331 and 768(2)(b), the question of whether there is a significant risk that a key greenhouse gas operation will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account—

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and

(c) the economic consequences of the adverse impact relative to the potential economic value of the petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under the permit, lease or licence referred to in whichever of subsection (1)(a), (b), (c), (d), (e) or (f) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 292, 293, 330, 331 and 768(2)(b), a key greenhouse gas operation will have an adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

if, and only if, the key greenhouse gas operation will result in—

(g) an increase in the capital costs (other than prescribed costs) of the petroleum exploration operations or petroleum recovery operations; or

(h) an increase in the operating costs (other than prescribed costs) of the petroleum exploration operations or petroleum recovery operations; or

(i) a reduction in the rate of recovery of the petroleum; or

(j) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of sections 292, 293, 330, 331 and 768(2)(b), if there is a risk that a key greenhouse gas operation will have an adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the key greenhouse gas operation is less than the amount that, under the regulations, is taken to be the threshold amount.

30 Significant risk of a significant adverse impact—grant of greenhouse gas injection licence

(1) For the purposes of sections 382, 383, 395 and 768(2)(c), the question of whether there is a significant risk that any of the operations that could be carried on under a greenhouse gas injection licence will have a significant adverse

impact on operations that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account—

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and

(c) the economic consequences of the adverse impact relative to the potential economic value of the operations that are being, or could be, carried on under the permit, lease or licence referred to in whichever of subsection (1)(a), (b), (c), (d), (e) or (f) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 382, 383, 395 and 768(2)(c), an operation that could be carried on under a greenhouse gas injection licence (the ***injection licence operation***) will have an adverse impact on operations (the ***relevant petroleum***

operations) that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

if, and only if, the injection licence operation will result in—

(g) an increase in the capital costs (other than prescribed costs) of the relevant petroleum operations; or

(h) an increase in the operating costs (other than prescribed costs) of the relevant petroleum operations; or

(i) a reduction in the rate of recovery of the petroleum; or

(j) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of sections 382, 383, 395 and 768(2)(c), if there is a risk that an operation that could be carried on under a greenhouse gas injection licence (the ***injection licence operation***) will have an adverse impact on operations that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence—

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the injection licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.

31 Significant risk of a significant adverse impact—power of Minister to protect petroleum

(1) For the purposes of sections 410 and 768(2)(d), the question of whether there is a significant risk that any of the operations that are being, or could be, carried on under a greenhouse gas injection licence will have a significant adverse impact on—

(a) operations to recover petroleum; or

(b) the commercial viability of the recovery of petroleum—

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account—

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and

(c) the economic consequences of the adverse impact relative to the potential economic value of the operations or recovery referred to in whichever of subsection (1)(a) or (b) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 410 and 768(2)(d), an operation that could be carried on under a greenhouse gas injection licence (the ***injection licence operation***) will have an adverse impact on—

(a) operations to recover petroleum; or

(b) the commercial viability of the recovery of petroleum—

if, and only if, the injection licence operation will result in—

(c) an increase in the capital costs (other than prescribed costs) of the recovery of the petroleum; or

(d) an increase in the operating costs (other than prescribed costs) of the recovery of the petroleum; or

(e) a reduction in the rate of recovery of the petroleum; or

(f) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of sections 410 and 768(2)(d), if there is a risk that an operation that is being, or could be, carried on under a greenhouse gas injection licence (the ***injection licence operation***) will have an adverse impact on—

(a) operations to recover petroleum; or

(b) the commercial viability of the recovery of petroleum—

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the injection licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.

32 Securities

(1) For the purposes of this Act, if—

(a) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force; and

(b) either—

(i) the successful applicant for the permit, lease or licence lodged a security with the Minister in response to the offer document for the permit, lease or licence; or

(ii) the registered holder, or a former registered holder, of the permit, lease or licence lodged a security with the Minister in response to a notice under section 489; and

(c) the security has not been wholly discharged—

the security is taken to be in force in relation to the permit, lease or licence.

(2) For the purposes of this Act, if—

(a) a site closing certificate is in force; and

(b) the successful applicant for the certificate lodged a security with the Minister in response to the pre-certificate notice for the site closing certificate; and

(c) the security has not been wholly discharged—

the security is taken to be in force in relation to the site closing certificate.

Note

For ***pre-certificate notice***, see sections 420, 421, 422 and 423.

33 Designated agreements

For the purposes of this Act, a ***designated agreement*** is an agreement of the kind referred to in any of the following provisions—

(a) section 79(2)(f);

(b) section 79(3)(d);

S. 33(ba) inserted by No. 26/2021 s. 7(a).

(ba) section 79(3A)(d);

(c) section 80;

(d) section 123(2)(f);

(e) section 123(3)(d);

S. 33(ea) inserted by No. 26/2021 s. 7(b).

(ea) section 123(3A)(d);

(f) section 124;

S. 33(fa) inserted by No. 26/2021 s. 7(c).

(fa) section 151A(3)(c);

(g) section 157(2)(f);

(h) section 157(3)(d);

(ha) section 157(3A)(d);

S. 33(ha) inserted by No. 26/2021 s. 7(d).

(i) section 158;

(j) section 292(2)(d);

(k) section 292(3)(d);

(l) section 293(1);

(m) section 293(2);

(n) section 330(2)(d);

(o) section 330(3)(d);

(p) section 331(1);

(q) section 331(2);

(r) section 382(1)(d)(iii);

(s) section 382(1)(e)(iii);

(t) section 383(1)(d)(iii);

(u) section 383(1)(e)(iii);

(v) section 384(1)(a);

(w) section 395(d)(v);

(x) section 395(e);

(y) section 395(f);

(z) section 395(g);

(za) section 410(1)(e).

34 Ascertainment of wellhead for purposes of Act

For the purposes of this Act, the wellhead, in relation to any petroleum, is—

(a) the valve station that is agreed between a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee and the Minister; or

(b) if there is no agreement as to the valve station within the period allowed by the Minister for agreement to be reached—the valve station determined by the Minister.

35 Ascertainment of value of petroleum at wellhead

For the purposes of this Act, the value at the wellhead of any petroleum is—

(a) the amount that is agreed between a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee and the Minister; or

(b) if there is no agreement as to the amount within the period allowed by the Minister for agreement to be reached—the amount determined by the Minister.

36 Ascertainment of quantity of petroleum recovered

For the purposes of this Act, the quantity of petroleum recovered by a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee from a well during a period is taken to be—

(a) the quantity measured during that period by a measuring device approved by the Minister and installed at the wellhead or at any other place the Minister approves; or

(b) if a measuring device is not 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 a measuring device referred to in paragraph (a)—the quantity determined by the Minister as being the quantity recovered by the permittee, lessee or licensee from that well during that period.

37 Graticulation of Earth's surface and constitution of blocks

(1) For the purposes of this Act, the surface of the Earth is taken to be divided—

(a) by the meridian of Greenwich and by meridians that are at an angular 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 an angular distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude—

into sections called ***graticular sections***, each of which is bounded—

(c) by portions of 2 of those meridians that are at an angular distance from each other of 5 minutes of longitude; and

(d) by portions of 2 of those parallels of latitude that are at an angular 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 offshore 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 offshore area, the area of that part, or of those parts, constitutes a ***block***.

Notes

Notes to s. 37(2) inserted by No. 26/2021 s. 8.

1 See section 296B (permit area of a cross-boundary greenhouse gas assessment permit is taken to be included in the Commonwealth defined offshore area).

2 See section 333A (lease area of a cross-boundary greenhouse gas holding lease is taken to be included in the Commonwealth defined offshore area).

3 See section 378A (licence area of a cross-boundary greenhouse gas injection licence is taken to be included in the Commonwealth defined offshore area).

(3) A reference in this Act 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.

(4) A reference in this Act to a ***graticular section that constitutes a block*** includes a reference to—

(a) a graticular section only part of which constitutes a block; or

(b) a graticular section only parts of which constitute a block.

Note

For datum, see section 40.

Division 2—Datum provisions

38 Objects

The objects of this Division are—

(a) to use the Australian Geodetic Datum to determine the position of graticular sections or blocks; and

(b) to use the Geocentric Datum of Australia to determine the position of certain other areas; and

(c) to enable the position of a point, line or area to be described, in a title or other instrument under this Act, using—

(i) the Geocentric Datum of Australia; or

(ii) another datum identified in the regulations—

(but not so as to change the position of a point, line or area).

39 Definitions

In this Division—

Australian Geodetic Datum means the Australian Geodetic Datum as defined in Commonwealth of Australia Gazette No. 84 of 6 October 1966 (AGD66 geodetic data set);

Geocentric Datum of Australia means the Geocentric Datum of Australia as defined in Commonwealth of Australia Gazette No. 35 of 6 September 1995 (GDA94 geocentric data set);

greenhouse gas title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority;

instrument under this Act does not include the regulations;

petroleum title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) a petroleum special prospecting authority; or

(g) a petroleum access authority;

this Act includes the regulations;

title means—

(a) a greenhouse gas title; or

(b) a petroleum title.

40 Australian Geodetic Datum

(1) For the purposes of this Act, the position on the surface of the Earth of a graticular section or block is to be determined by reference to the Australian Geodetic Datum.

Note

Australian Geodetic Datum is defined in section 39.

(2) Subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

41 Geocentric Datum of Australia

(1) For the purposes of this Act, the position on the surface of the Earth of—

(a) an area described in Schedule 1; or

(b) the area described in Schedule 2—

is to be determined by reference to the Geocentric Datum of Australia.

Note

1 Schedule 1 describes the scheduled area for Victoria.

2 Schedule 2 describes the area that includes the area to be avoided.

3 ***Geocentric Datum of Australia*** is defined in section 39.

(2) Subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

42 Current datum, previous datum and changeover time

(1) The regulations may declare that, for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area—

(a) a specified datum is the ***current datum***; and

(b) that datum replaces the previous datum.

(2) The ***previous datum*** is—

(a) if a datum is the first datum declared to be the current datum under subsection (1)—the Geocentric Datum of Australia; or

(b) in any other case—the datum that was the current datum immediately before the changeover time.

(3) The ***changeover time*** is the time when the declaration takes effect.

(4) Before the first declaration under subsection (1) takes effect, the Geocentric Datum of Australia applies for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

43 Use of current datum

For the purposes of this Act, after the changeover time, for a title or instrument set out in the table, the position on the surface of the Earth of a point, line or area set out in the table is to be described by reference to the current datum, and the relevant title or instrument may be annotated accordingly—

Points, lines and areas		
Item	*Title or instrument*	*Point, line or area*
1	a petroleum exploration permit	the permit area of a petroleum exploration permit granted after the changeover time
2	a petroleum retention lease	the lease area of a petroleum retention lease granted after the changeover time
3	a petroleum production licence	the licence area of a petroleum production licence granted after the changeover time
4	an infrastructure licence	the licence area of an infrastructure licence granted after the changeover time
5	a petroleum special prospecting authority	the authority area of a petroleum special prospecting authority granted after the changeover time
6	a petroleum access authority	the authority area of a petroleum access authority granted after the changeover time
7	a pipeline licence	the route of a pipeline authorised by a pipeline licence granted after the changeover time
8	any other instrument under this Act	a point, line or area set out in any other instrument under this Act made after the changeover time

Note

A grant of a petroleum exploration permit, a petroleum retention lease or a petroleum production licence may be a grant by way of renewal—see section 11.

44 Use of previous datum

(1) For the purposes of this Act, after the changeover time, for a title or instrument set out in the table, the position on the surface of the Earth of a point, line or area set out in the table is to be described by reference to the previous datum—

Points, lines and areas		
Item	*Title or instrument*	*Point, line or area*
1	a petroleum exploration permit	the permit area of a petroleum exploration permit that was in force immediately before the changeover time
2	a petroleum retention lease	the lease area of a petroleum retention lease that was in force immediately before the changeover time
3	a petroleum production licence	the licence area of a petroleum production licence that was in force immediately before the changeover time
4	an infrastructure licence	the licence area of an infrastructure licence that was in force immediately before the changeover time
5	a petroleum special prospecting authority	the authority area of a petroleum special prospecting authority that was in force immediately before the changeover time
6	a petroleum access authority	the authority area of a petroleum access authority that was in force immediately before the changeover time
7	a pipeline licence	the route of a pipeline authorised by a pipeline licence that was in force immediately before the changeover time
8	any other instrument under this Act	a point, line or area set out in any other instrument under this Act that was in force immediately before the changeover time

(2) Subsection (1) has effect subject to section 45 (which deals with variation of titles and instruments).

45 Variation of titles and instruments

The table has effect—

Variation of titles and instruments		
Item	*The regulations may authorise the Minister to issue an instrument varying...*	*for the sole purpose of...*
1	a petroleum exploration permit that was in force immediately before the changeover time	relabelling the permit area using geographic coordinates based on the current datum.
2	a petroleum retention lease that was in force immediately before the changeover time	relabelling the lease area using geographic coordinates based on the current datum.
3	a petroleum production licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
4	an infrastructure licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
5	a petroleum special prospecting authority or a petroleum access authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
6	a pipeline licence that was in force immediately before the changeover time	relabelling the route of the pipeline using geographic coordinates based on the current datum.
7	any other instrument under this Act that— (a) sets out a point, line or area; and (b) was in force immediately before the changeover time	relabelling the point, line or area using geographic coordinates based on the current datum.

Variation of titles and instruments		
Item	*The regulations may authorise the Minister to issue an instrument varying...*	*for the sole purpose of...*
8	a title or other instrument under this Act	inserting an annotation about the applicable datum.

Note

For publication in the Government Gazette of notice of the variation, see section 731.

46 Variation of applications for titles

The regulations may authorise the Minister to issue an instrument varying an application for a title for the sole purpose of relabelling a point, line or area by reference to geographic coordinates based on the current datum.

47 No change to actual position of point, line or area

This Division does not authorise any change to the position on the surface of the Earth of a point, line or area.

48 Transitional regulations

The regulations may make provision for matters of a transitional nature arising from the change from the previous datum to the current datum.

Division 3—Apportionment of petroleum recovered from adjoining title areas

49 Title

In this Division—

title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence.

50 Titleholder and title area

For the purposes of this Division, the table has effect—

Titleholder and title area

Item	*In the case of...*	*the titleholder is...*	*and the title area is...*
1	a petroleum exploration permit	the permittee	the permit area.
2	a petroleum retention lease	the lessee	the lease area.
3	a petroleum production licence	the licensee	the licence area.

51 Petroleum recovered through inclined well

For the purposes of this Act, if—

(a) a wellhead is situated in the title area of a title (the ***first title***); and

(b) the well from that wellhead is inclined so as to enter a petroleum pool at a place within an adjoining title area of a title (the ***second title***) of the same titleholder; and

(c) the pool does not extend to the title area of the first title—

any petroleum recovered through that well is taken to have been recovered in the adjoining title area under the second title.

52 Petroleum pool straddling 2 title areas etc.

For the purposes of this Act, if—

(a) a petroleum pool is partly in the title area of a title and partly in an adjoining title area of a title of the same titleholder (whether in the offshore area or not); and

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

then—

(c) there is taken to have been recovered in each of the title areas, under the title in relation to the title 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

(d) the respective proportions are to be determined by agreement between—

(i) the titleholder; and

(ii) the Minister—

or, in the absence of agreement, by the Supreme Court on the application of the titleholder or the Minister.

53 Petroleum pool straddling State title area and Commonwealth title area

For the purposes of this Act, if—

(a) a petroleum pool is partly in the title area of a title and partly in an area (the ***Commonwealth title area***) in which the titleholder 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 title area of the title, the Commonwealth title area, or both—

then—

(c) there is taken to have been recovered in the title area of the title 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

(d) that proportion is to be determined by agreement between—

(i) the titleholder of the title; and

(ii) the Joint Authority; and

(iii) the Minister—

or, in the absence of agreement, by the Supreme Court on the application of—

(iv) the titleholder of the title; or

(v) the Joint Authority; or

(vi) the Minister.

54 Petroleum pool straddling State title area and another State title area

For the purposes of this Act, if—

(a) a petroleum pool is partly in the title area of a title and partly in an area (the ***other State title area***) in which the titleholder has authority under a corresponding State law to explore for, or recover, petroleum; and

(b) petroleum is recovered from that pool through a well or wells in the title area of the title, the other State title area, or both—

then—

(c) there is taken to have been recovered in the title area of the title 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

(d) that proportion is to be determined by agreement between—

(i) the titleholder of the title; and

(ii) the Minister; and

(iii) the Minister of the Crown in right of the other State who is administering the corresponding State law—

or, in the absence of agreement, by the Supreme Court on the application of—

(iv) the titleholder of the title; or

(v) either of those Ministers.

55 Unit development

For the purposes of this Act, if—

(a) a petroleum pool is—

(i) partly in a petroleum production licence area; and

(ii) partly in another area (whether in the offshore area or not) in relation to which another person has authority (whether under this Act, the Commonwealth Act or under the law of another State or a Territory) to explore for or recover petroleum; and

(b) a unit development agreement in accordance with section 184 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 is taken to have been recovered in that licence area such proportion of all petroleum so recovered as is specified in, or determined in accordance with, the agreement.

56 Supreme Court determinations for purposes of this Division

(1) This section applies if—

(a) a petroleum pool is—

(i) partly in a title area of a title; and

(ii) partly in another area outside the offshore area in which the titleholder has, under the Commonwealth Act or a corresponding State 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 State law, of the proportion of the petroleum recovered from that pool that is, for the purposes of the Commonwealth Act or the corresponding State law, to be taken to have been recovered from the other area.

(2) The Supreme Court must not make a determination under this Division that is inconsistent with the determination of the Supreme Court of the other State.

Part 1.3—Joint Authority and Designated Authority for offshore petroleum

Pt 1.3 (Heading) substituted by No. 26/2021 s. 9.

57 Minister as member of Joint Authority

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

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

58 Minister as Designated Authority

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

59 Delegations under Commonwealth Act

If, in the exercise of a power which the Commonwealth Act is expressed to confer upon the Designated Authority in respect of the Commonwealth defined offshore area, the Minister delegates a power to a person who is an employee in the public service or who holds any office in the service of the State of Victoria, the person may exercise the power.

60 Public servants performing functions under Commonwealth Act

An employee in the public service of Victoria must perform any function which the Minister, as the Designated Authority in respect of the Commonwealth defined offshore area, or as a member of the Joint Authority, requires the employee to perform in relation to the Commonwealth Act.

Part 1.3A—Cross-boundary Authority for offshore greenhouse gas storage

Pt 1.3A (Heading and ss 60A–60G) inserted by No. 26/2021 s. 10.

60A Minister as member of Cross-boundary Authority

S. 60A inserted by No. 26/2021 s. 10.

(1) The Minister may exercise any power which the Commonwealth Act is expressed to authorise the Minister to exercise as a member of the Cross-boundary Authority.

(2) The Minister must perform any function which the Commonwealth Act is expressed to require the Minister to perform as a member of the Cross-boundary Authority.

60B Minister as responsible State Minister

S. 60B inserted by No. 26/2021 s. 10.

(1) The Minister may exercise any power which the Commonwealth Act is expressed to authorise the Minister to exercise as the responsible State Minister in relation to Victoria within the meaning of that Act.

(2) The Minister must perform any function which the Commonwealth Act is expressed to require the Minister to perform as the responsible State Minister in relation to Victoria within the meaning of that Act.

60C Delegations under Commonwealth Act—Cross-boundary Authority and responsible State Minister

S. 60C inserted by No. 26/2021 s. 10.

If, in the exercise of a power which the Commonwealth Act is expressed to confer upon the Cross-boundary Authority or the responsible State Minister in relation to Victoria (within the meaning of that Act) in respect of the Commonwealth defined offshore area, the Minister delegates a power to a person who is an

employee in the public service or who holds any office in the service of the State of Victoria, the person may exercise the power.

S. 60D inserted by No. 26/2021 s. 10.

60D Public servants performing functions under Commonwealth Act—Cross-boundary Authority and responsible State Minister

(1) An employee in the public service of Victoria must perform any function which the Minister, as a member of the Cross-boundary Authority, requires the employee to perform in relation to the Commonwealth Act.

(2) An employee in the public service of Victoria must perform any function which the Minister, as the responsible State Minister in relation to Victoria within the meaning of the Commonwealth Act, requires the employee to perform in relation to that Act.

S. 60E inserted by No. 26/2021 s. 10.

60E Minister's consent to grant of cross-boundary greenhouse gas holding lease

(1) This section applies if—

(a) an application has been made—

(i) under section 329A of the Commonwealth Act for a cross-boundary greenhouse gas holding lease; or

(ii) under section 335A of the Commonwealth Act for a cross-boundary greenhouse gas holding lease; or

(iii) under section 342A of the Commonwealth Act for a special cross-boundary greenhouse gas holding lease; and

(b) section 329B, 335B or 342B of the Commonwealth Act requires the Cross-boundary Authority to give the applicant an offer document if the State consents; and

(c) part of the lease area would be in the offshore area.

(2) The Minister, for the purposes of section 329B(1)(c) or (2)(c), 335B(c) or 342B(2)(a) of the Commonwealth Act—

(a) must consider that offer document; and

(b) may consent to the giving of the offer document.

60F Minister's consent to grant of cross-boundary greenhouse gas injection licence

S. 60F inserted by No. 26/2021 s. 10.

(1) This section applies if—

(a) an application has been made under section 368A of the Commonwealth Act for a cross-boundary greenhouse gas injection licence; and

(b) section 368B of the Commonwealth Act requires the Cross-boundary Authority to give the applicant an offer document if the State consents; and

(c) part of the licence area would be in the offshore area.

(2) The Minister, for the purposes of section 368B(1)(k) or (2)(k) of the Commonwealth Act—

(a) must consider that offer document; and

(b) may consent to the giving of the offer document.

S. 60G inserted by No. 26/2021 s. 10.

60G Minister's consent to renewal of cross-boundary greenhouse gas assessment permit or cross-boundary greenhouse gas holding lease

(1) This section applies if—

(a) an application has been made—

(i) under section 311A of the Commonwealth Act to renew a cross-boundary greenhouse gas assessment permit; or

(ii) under section 350A of the Commonwealth Act to renew a cross-boundary greenhouse gas holding lease; and

(b) section 311B or 350B of the Commonwealth Act requires the Cross-boundary Authority to give the applicant an offer document if the State consents; and

(c) part of the permit area or lease area is in the offshore area.

(2) The Minister, for the purposes of section 311B(2)(d) or 350B(2)(c) of the Commonwealth Act—

(a) must consider that offer document; and

(b) may consent to the giving of the offer document.

Part 1.4—Sustainability principles

61 Principles of sustainable development

(1) It is the intention of Parliament that in the administration of this Act regard should be given to the principles of sustainable development.

(2) For the purposes of this Act, the principles of sustainable development are that—

(a) individual and community wellbeing and welfare should be enhanced by following a path of economic development that safeguards the welfare of future generations;

(b) there should be equity within and between generations;

(c) biological diversity should be protected and ecological integrity maintained;

(d) there should be recognition of the need to develop a strong, growing, diversified and internationally competitive economy that can enhance the capacity for environmental protection;

(e) measures to be adopted should be cost-effective and flexible, not disproportionate to the issues being addressed, including improved valuation, pricing and incentive mechanisms;

(f) both long-term and short-term economic, environmental, social and equity considerations should be effectively integrated into decision-making;

(g) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

(h) decision-making should be guided by—

(i) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and

(ii) an assessment of the risk-weighted consequences of various options;

(i) key petroleum operations and key greenhouse gas operations should make a positive contribution to regional development and respect the aspirations of the community and of Indigenous peoples;

(j) decisions and actions should provide for community involvement in issues that affect them.

Part 1.5—Application provisions

62 Application of Act

This Act applies to the offshore area that—

(a) starts from the baseline from which the breadth of the territorial sea is measured off Victoria; and

(b) extends to 3 nautical miles from the baseline from which the breadth of the territorial sea is measured off Victoria.

63 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 offshore area by virtue of section 57 of the **Interpretation of Legislation Act 1984** 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 3;

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 section 57 of the **Interpretation of Legislation Act 1984** or the **Crimes at Sea Act 1999**.

64 Relationship with other Acts

(1) This Act is not intended to exclude or limit the concurrent operation of any of the following Acts—

(a) the **Dangerous Goods Act 1985**;

S. 64(1)(b) amended by No. 39/2018 s. 45.

(b) the **Environment Protection Act 2017**;

(c) the **Water Act 1989**.

(2) If a provision of this Act is inconsistent with a provision of an Act referred to in subsection (1), the provision of the Act referred to in that subsection prevails.

(3) Nothing in this Act affects the operation of any of the following Acts—

(a) the **Aboriginal Heritage Act 2006**;

S. 64(3)(b) amended by No. 26/2018 s. 95.

(b) the **Marine and Coastal Act 2018**;

(c) the **Flora and Fauna Guarantee Act 1988**;

S. 64(3)(d) amended by No. 26/2021 s. 38(a).

(d) the **National Parks Act 1975**;

(e) the **Environment Effects Act 1978**.

S. 64(3)(e) inserted by No. 26/2021 s. 38(b).

65 Underground geological storage formation is the property of the Crown

(1) The Crown owns all underground geological storage formations below the surface of any submerged land in the offshore area.

(2) The Crown is not liable to pay any compensation in respect of a loss caused by the operation of this section.

66 Crown retains Crown land rights

In conferring any grant, lease, licence or other tenure of any Crown land after the commencement of this section on any person, the Crown retains all rights that it has in relation to any underground geological storage formation below the surface of that land, unless otherwise stated in the document by which the grant, lease, licence or other tenure is conferred.

67 Ownership of greenhouse gas substance

If a greenhouse gas injection licence is cancelled or surrendered, the Crown becomes the owner of any greenhouse gas substance that has been injected into an underground geological formation under that licence.

68 Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

69 Act applies subject to international obligations

The provisions of this Act have effect subject to the obligations of Australia under international law, including obligations under any agreement between Australia and any other country or countries.

Chapter 2—Regulation of activities relating to petroleum

Part 2.1—Introduction

70 Simplified outline

(1) This section sets out a simplified outline of this Chapter.

(2) This Chapter provides for the grant of the following titles—

(a) a petroleum exploration permit (see Part 2.2);

(b) a petroleum retention lease (see Part 2.3);

(c) a petroleum production licence (see Part 2.4);

(d) an infrastructure licence (see Part 2.5);

(e) a pipeline licence (see Part 2.6);

(f) a petroleum special prospecting authority (see Part 2.7);

(g) a petroleum access authority (see Part 2.8).

(3) A petroleum exploration permit authorises the permittee to explore for petroleum in the permit area.

(4) If a petroleum pool is identified in a petroleum exploration permit area, the Minister may declare a location over the blocks to which the petroleum pool extends.

(5) After the declaration of a location, the permittee may apply for a petroleum retention lease or a petroleum production licence.

(6) A petroleum retention lease is granted if the recovery of petroleum is not currently commercially viable, but is likely to become

commercially viable within 15 years. The lessee may apply for a petroleum production licence.

(7) A petroleum production licence authorises the licensee to carry out petroleum recovery operations in the licence area.

(8) An infrastructure licence authorises the licensee to construct and operate an infrastructure facility in the licence area. An infrastructure facility may relate to petroleum or a greenhouse gas substance.

(9) A pipeline licence authorises the licensee to construct and operate a pipeline. A pipeline may be used to convey petroleum or a greenhouse gas substance.

(10) A petroleum special prospecting authority authorises the holder to carry on petroleum exploration operations in the authority area (but not to make a well).

S. 70(11) amended by No. 64/2012 s. 62.

(11) A petroleum access authority authorises the holder to carry on certain petroleum exploration operations, and certain operations relating to the recovery of petroleum, in the authority area (but not to make a well, other than a deviation well that enters an adjacent permit area, lease area or licence area that is the subject of a permit, licence or lease held by that holder).

(12) Part 2.9 provides for the grant of petroleum scientific investigation consents. A petroleum scientific investigation consent authorises the holder to carry on petroleum exploration operations in the course of a scientific investigation.

(13) This section is intended only as a guide to readers as to the general scheme and effect of this Chapter.

Part 2.2—Petroleum exploration permits

Division 1—General provisions

71 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to explore for petroleum in the offshore area except—

(a) under a petroleum exploration permit; or

(b) as otherwise authorised or required by or under this Act.

(3) This Part provides for the grant of petroleum exploration permits over blocks in the offshore area.

(4) A petroleum exploration permit authorises the permittee to explore for petroleum in the permit area.

(5) There are 4 types of petroleum exploration permits—

S. 71(5) amended by No. 16/2018 s. 7(a).

(a) a petroleum exploration permit granted on the basis of work program bidding (a ***work-bid petroleum exploration permit***);

(b) a petroleum exploration permit granted on the basis of cash bidding (a ***cash-bid petroleum exploration permit***);

(c) a petroleum exploration permit granted over a surrendered block or certain other blocks (a ***special petroleum exploration permit***);

S. 71(5)(c) amended by No. 16/2018 s. 7(b).

(d) a petroleum exploration permit granted as a result of a change in the boundary of the offshore area (a ***boundary-change petroleum exploration permit***).

S. 71(5)(d) inserted by No. 16/2018 s. 7(c).

(6) If a petroleum pool is identified in a petroleum exploration permit area, the Minister may declare a location over the blocks to which the petroleum pool extends.

(7) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

72 Prohibition of unauthorised exploration for petroleum in offshore area

A person must not intentionally explore for petroleum in the offshore area unless that exploration is—

(a) authorised by a petroleum exploration permit; or

(b) otherwise authorised or required by or under this Act.

Penalty: Imprisonment for 5 years.

73 Rights conferred by petroleum exploration permit

(1) A petroleum exploration permit authorises the permittee, in accordance with the conditions (if any) to which the permit is subject—

(a) to explore for petroleum in the permit area; and

(b) to recover petroleum on an appraisal basis in the permit area; and

(c) to carry on such operations, and execute such works, in the permit area as are necessary for those purposes.

(2) Express references in this Act to the injection or storage of a substance do not imply that subsection (1) does not operate so as to authorise the permittee—

(a) to carry on operations to inject a substance into the seabed or subsoil of the offshore area; or

(b) to carry on operations to store (whether on a permanent basis or otherwise) a substance in the seabed or subsoil of the offshore area.

(3) The regulations may provide that a petroleum exploration permit authorises the permittee, in accordance with the conditions (if any) to which the permit is subject—

(a) to explore in the permit area for a potential greenhouse gas storage formation; and

(b) to explore in the permit area for a potential greenhouse gas injection site; and

(c) to carry on such operations, and execute such works, in the permit area as are necessary for those purposes.

(4) The rights conferred on the permittee by or under subsection (1) or (3) are subject to this Act and the regulations.

74 Conditions of petroleum exploration permits

(1) The Minister may grant a petroleum exploration permit subject to whatever conditions the Minister thinks appropriate.

Note

A grant of a permit may be a grant by way of renewal—see section 11.

(2) The conditions (if any) must be specified in the permit.

(3) Subsection (1) does not apply to a boundary-change petroleum exploration permit.

S. 74(3) inserted by No. 16/2018 s. 8.

75 Standard conditions of work-bid petroleum exploration permits and special petroleum exploration permits

(1) Any or all of the following conditions may be specified in a work-bid petroleum exploration permit or a special petroleum exploration permit—

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area (including conditions requiring the permittee to carry out the work during a period of 12 months or longer, or during periods each of which is 12 months or longer);

(b) conditions relating to the amounts that the permittee must spend in carrying out such work;

(c) conditions requiring the permittee to comply with directions that—

(i) relate to the matters covered by paragraphs (a) and (b); and

(ii) are given in accordance with the permit.

(2) Subsection (1) does not limit sections 74(1) or 77(3).

76 Restrictions on conditions of cash-bid petroleum exploration permits

Despite section 74(1), a cash-bid petroleum exploration permit must not be granted subject to conditions requiring the permittee to—

(a) carry out work in, or in relation to, the permit area; or

(b) spend particular amounts on the carrying out of work in, or in relation to, the permit area.

Note

A grant of a permit may be a grant by way of renewal—see section 11.

77 Conditions of declared petroleum exploration permits—approval of key petroleum operations

(1) A declared petroleum exploration permit is subject to the condition that the permittee will not carry on key petroleum operations under the permit unless the Minister has approved the operations under section 78.

(2) Despite section 74(2), the condition mentioned in subsection (1) does not need to be specified in the permit.

(3) If, under section 78, the Minister approves the carrying on of one or more key petroleum operations under a declared petroleum exploration permit, the Minister may, by written notice given to the permittee, vary the permit by imposing one or more conditions to which the permit is subject.

(4) A variation of a declared petroleum exploration permit under subsection (3) takes effect on the day on which notice of the variation is given to the permittee.

(5) A condition imposed under subsection (3) may require the permittee to ensure that—

(a) all wells; or

(b) one or more specified wells—

made in the permit area by any person engaged or concerned in operations authorised by the permit are made in a manner, and to a standard, that will facilitate the plugging or closing off of the wells in a way that restores or maintains the suitability

of a part of a geological formation for the permanent storage of greenhouse gas substances.

(6) Subsection (5) does not limit—

(a) subsection (3); or

(b) Part 6.2; or

(c) Part 6.4.

(7) If—

(a) a declared petroleum exploration permit is subject to a condition; and

(b) the condition was imposed under subsection (3)—

the Minister may, by written notice given to the permittee, vary or revoke the condition.

(8) A variation of a declared petroleum exploration permit under subsection (7) takes effect on the day on which notice of the variation is given to the permittee.

(9) Subsection (7) does not limit section 260.

S. 77A inserted by No. 16/2018 s. 9.

77A Conditions of boundary-change petroleum exploration permits

(1) The Minister may, by written notice given to the permittee of a boundary-change petroleum exploration permit, vary the permit by imposing one or more conditions to which the permit is subject.

(2) A notice under subsection (1) must be given within 14 days after the grant of the permit.

(3) A variation under subsection (1) takes effect on the day on which notice of the variation is given to the permittee.

(4) If—

(a) the grant of a boundary-change petroleum exploration permit is consequential on a Commonwealth petroleum exploration title ceasing to be in force as mentioned in section 101A(2)(b) or (3)(b); and

(b) the Commonwealth petroleum exploration title is of a kind that corresponds to a work-bid petroleum exploration permit or a special petroleum exploration permit—

any or all of the conditions mentioned in subsection (5) may be specified in—

(c) the boundary-change petroleum exploration permit; or

(d) a petroleum exploration permit granted under Division 5 by way of the renewal of the boundary-change petroleum exploration permit.

(5) The following conditions are specified for the purposes of subsection (4)—

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area (including conditions requiring the permittee to carry out the work during a period of 12 months or longer or during periods each of which is 12 months or longer);

(b) conditions relating to the amounts that the permittee must spend in carrying out such work;

(c) conditions requiring the permittee to comply with directions that—

(i) relate to the matters covered by paragraphs (a) and (b); and

(ii) are given in accordance with the permit.

(6) Subsection (4) does not limit subsection (1) or section 77(3).

(7) If—

(a) the grant of a boundary-change petroleum exploration permit is consequential on a Commonwealth petroleum exploration title ceasing to be in force as mentioned in section 101A(2)(b) or (3)(b); and

(b) the Commonwealth petroleum exploration title is of a kind that corresponds to a cash-bid petroleum exploration permit—

the conditions mentioned in subsection (8) must not be specified in—

(c) the boundary-change petroleum exploration permit; or

(d) a petroleum exploration permit granted under Division 5 by way of the renewal of the boundary-change petroleum exploration permit.

(8) The following conditions are specified for the purposes of subsection (7)—

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area;

(b) conditions requiring the permittee to spend particular amounts on the carrying out of work in, or in relation to, the permit area.

78 Declared petroleum exploration permit—approval by Minister of key petroleum operations

(1) The registered holder of a declared petroleum exploration permit may apply to the Minister for approval to carry on one or more key petroleum operations under the permit.

(2) If an application for approval is made under subsection (1), the Minister may—

(a) give the approval; or

(b) by written notice given to the applicant, refuse to give the approval.

(3) In deciding whether to give the approval, the Minister must comply with sections 79 and 80.

79 Minister must have regard to certain matters before approving key petroleum operations

(1) The Minister must have regard to the impact (if any) that any of the key petroleum operations to which an application under section 78 relates could have on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit; or

(d) an existing greenhouse gas holding lease; or

(e) an existing greenhouse gas injection licence; or

(f) if a greenhouse gas assessment permit or a greenhouse gas holding lease is in force over a block or blocks—

(i) a future greenhouse gas holding lease over the block or any of the blocks; or

S. 79(1)(f)(ii) amended by No. 26/2021 s. 11(1)(a).

(ii) a future greenhouse gas injection licence over the block or any of the blocks; or

S. 79(1)(g) inserted by No. 26/2021 s. 11(1)(b).

(g) an existing cross-boundary greenhouse gas title; or

S. 79(1)(h) inserted by No. 26/2021 s. 11(1)(b).

(h) if a cross-boundary greenhouse gas assessment permit or cross-boundary greenhouse gas holding lease is in force over a block or blocks—

(i) a future cross-boundary greenhouse gas holding lease over the block or any of the blocks; or

(ii) a future cross-boundary greenhouse gas injection licence over the block or any of the blocks.

(2) If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 78 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit held by a person other than the applicant; or

(d) an existing greenhouse gas holding lease held by a person other than the applicant; or

(e) an existing greenhouse gas injection licence held by a person other than the applicant; or

S. 79(2)(e) amended by No. 26/2021 s. 11(2)(a).

(ea) an existing cross-boundary greenhouse gas title held by a person other than the applicant—

S. 79(2)(ea) inserted by No. 26/2021 s. 11(2)(b).

the Minister must have regard to—

(f) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease , greenhouse gas injection licence or cross-boundary greenhouse gas title, as the case may be, has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

S. 79(2)(f) amended by No. 26/2021 s. 11(2)(c).

(g) if so—the terms of that agreement.

(3) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 78 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future greenhouse gas holding lease over a block or blocks; or

(iv) a future greenhouse gas injection licence over a block or blocks; and

(b) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

S. 79(3A) inserted by No. 26/2021 s. 11(3).

(3A) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 78 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future cross-boundary greenhouse gas holding lease over a block or blocks; or

(iv) a future cross-boundary greenhouse gas injection licence over a block or blocks; and

(b) a cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(4) The Minister must have regard to the public interest.

(5) Subsections (1), (2), (3) and (3A) do not limit subsection (4).

S. 79(5) amended by No. 26/2021 s. 11(4).

(6) This section does not limit the matters to which the Minister may have regard to in deciding whether to give an approval under section 78.

80 Minister must not give approval in certain circumstances

S. 80 amended by No. 26/2021 s. 12.

If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application for approval

under section 78 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under an existing greenhouse gas injection licence or an existing cross-boundary greenhouse gas injection licence, the Minister must not give the approval under section 78 unless the registered holder of the greenhouse gas injection licence or cross-boundary greenhouse injection licence has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied.

81 No right to an approval

To avoid doubt, section 73 does not imply that a petroleum exploration permittee who applies for approval under section 78(1) is entitled to be given the approval.

82 Suspension of rights to be disregarded

For the purposes of sections 78, 79 and 80, disregard a suspension of rights under section 470.

83 Declared petroleum exploration permits

(1) If—

(a) a post-commencement petroleum exploration permit is in force; and

(b) the Minister is satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the permit will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

(viii) a future greenhouse gas injection licence; or

S. 83(1)(b)(viii) amended by No. 26/2021 s. 13(1)(a).

(ix) an existing cross-boundary greenhouse gas title; or

S. 83(1)(b)(ix) inserted by No. 26/2021 s. 13(1)(b).

(x) a future cross-boundary greenhouse gas title—

S. 83(1)(b)(x) inserted by No. 26/2021 s. 13(1)(b).

the Minister may, by written notice given to the petroleum exploration permittee, determine that the petroleum exploration permit is a ***declared petroleum exploration permit*** for the purposes of this Act.

(2) If—

(a) a determination is in force under subsection (1) in relation to a post-commencement petroleum exploration permit; and

(b) the Minister is not satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the permit will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

S. 83(2)(b)(viii) amended by No. 26/2021 s. 13(2)(a).

(viii) a future greenhouse gas injection licence; or

S. 83(2)(b)(ix) inserted by No. 26/2021 s. 13(2)(b).

(ix) an existing cross-boundary greenhouse gas title; or

(x) a future cross-boundary greenhouse gas title—

S. 83(2)(b)(x) inserted by No. 26/2021 s. 13(2)(b).

the Minister must, by written notice given to the petroleum exploration permittee, revoke the determination.

84 Duration of petroleum exploration permit

(1) The duration of a petroleum exploration permit is worked out using the table—

S. 84(1) amended by No. 16/2018 s. 10.

Duration of petroleum exploration permits

Item	*This kind of permit...*	*remains in force...*
1	an original petroleum exploration permit (other than a boundary-change petroleum exploration permit)	for the period of 6 years beginning on— (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.
2	a petroleum exploration permit granted by way of renewal	for the period of 5 years beginning on— (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.
3	a boundary-change petroleum exploration permit granted under section 101A(4)	for the period of 5 years beginning on the day on which the permit is granted.
4	a boundary-change petroleum exploration permit granted under section 101A(5)	for the period of 12 months beginning on the day on which the permit is granted.

(2) Subsection (1) has effect subject to this Chapter.

Notes

1 For a special rule about the extension of the duration of a petroleum exploration permit if the permittee applies for a petroleum retention lease or petroleum production licence, see section 85.

2 For a special rule about the extension of the duration of petroleum exploration permits pending decisions on renewal applications, see section 102(5).

3 For a special rule about the extension of the duration of cash-bid petroleum exploration permits, see section 97.

4 For special rules about the extension of the duration of a petroleum exploration permit following a suspension or exemption decision, see sections 261 and 263.

5 For the revocation of a petroleum exploration permit, see section 180.

6 For special rules about when a petroleum exploration permit ceases to be in force following the grant of a petroleum retention lease or petroleum production licence, see sections 134 and 171.

7 For the surrender of a petroleum exploration permit, see Part 2.12.

8 For the cancellation of a petroleum exploration permit, see Part 2.13.

85 Extension of petroleum exploration permit if permittee applies for petroleum retention lease or petroleum production licence

(1) If—

(a) a petroleum exploration permit over a block or blocks cannot be renewed or further renewed; and

(b) before the time when the permit would, apart from this subsection, expire, the permittee applies to the Minister for the grant by the Minister of a petroleum retention lease or petroleum production licence over the block or one or more of the blocks; and

(c) the block or blocks covered by the application are included in a location—

the table has effect—

Extension of permit		
Item	*In this case...*	*the permit continues in force over the block or blocks covered by the application until...*
1	the Minister gives the permittee an offer document relating to a petroleum retention lease or petroleum production licence over the block or one or more of the blocks	the lease or licence is granted, the permittee withdraws the application or the application lapses.
2	the application is for a petroleum retention lease and the Minister decides not to grant the lease to the permittee	the end of the period of one year after the day on which the notice of refusal was given to the permittee.
3	the application is for a petroleum production licence and the Minister decides not to grant the licence to the permittee	notice of the decision is given to the permittee.

(2) Subsection (1) has effect subject to this Chapter but despite section 84.

Note

See the notes at the end of section 84.

Division 2—Obtaining a work-bid petroleum exploration permit

86 Application for work-bid petroleum exploration permit—advertising of blocks

(1) The Minister may, by notice published in the Government Gazette—

(a) invite applications for the grant by the Minister of a petroleum exploration permit over the block, or any or all of the blocks, specified in the notice; and

(b) specify a period within which applications may be made.

(2) If the Minister has published a notice under section 93(1) inviting applications for the grant of a petroleum exploration permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the section 93(1) notice.

Note

Section 93(1) deals with cash-bid petroleum exploration permits.

(3) An application under this section must be accompanied by details of—

(a) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and

(b) the technical qualifications of the applicant and of the applicant's employees; and

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

(d) the financial resources available to the applicant.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(4) The number of blocks specified in an application under this section must not be more than 400.

(5) If 16 or more blocks are available, the number of blocks specified in an application under this section must not be less than 16.

(6) If less than 16 blocks are available, the number of blocks specified in an application under this section must be the number available.

(7) Subsections (5) and (6) do not apply to applications if the Minister, for reasons that the Minister thinks sufficient, includes in the subsection (1) notice a direction that subsections (5) and (6) do not apply to those applications.

(8) The blocks specified in an application under this section must 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.

(9) Subsection (8) does not apply to applications if the Minister, for reasons that the Minister thinks sufficient, includes in the subsection (1) notice a direction that subsection (8) does not apply to those applications.

87 Grant of work-bid petroleum exploration permit—offer document

(1) This section applies if an application for the grant of a petroleum exploration permit has been made under section 86.

(2) The Minister may—

(a) give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum exploration permit over the block or blocks specified in the offer document; or

(b) by written notice given to the applicant, refuse to grant a petroleum exploration permit to the applicant.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

88 Granting of offer document for work-bid petroleum exploration permit

(1) This section applies if—

(a) the Minister publishes a notice under section 86(1) inviting applications for the grant of a petroleum exploration permit; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 86 for the grant of a petroleum exploration permit over the same block or blocks.

(2) The Minister may give an offer document under section 87 to whichever applicant, in the Minister's opinion, is most deserving of the grant of the petroleum exploration permit.

(3) In determining which of the applicants is most deserving of the grant of the petroleum exploration permit, the Minister—

(a) must have regard to criteria made publicly available by the Minister; and

(b) may rank the applications in accordance with section 89.

89 Ranking of applications for work-bid petroleum exploration permit

(1) For the purposes of section 88, the Minister may rank the applicants for a petroleum exploration permit in the order in which, in the Minister's opinion, they are deserving of the grant of the petroleum exploration permit, with the most deserving applicant being ranked highest.

(2) The Minister may exclude from the ranking any applicant who, in the Minister's opinion, is not deserving of the grant of the petroleum exploration permit.

(3) If the Minister—

(a) has considered the information accompanying the applications; and

(b) is of the opinion that 2 or more of the applicants are equally deserving of the grant of the petroleum exploration permit—

the Minister may, by written notice given to each of those applicants, invite them to give the Minister details (the ***work/expenditure details***) of their proposals for additional work and expenditure in relation to the block or blocks concerned.

(4) A notice under subsection (3) must—

(a) specify the kinds of work/expenditure details that the Minister considers to be relevant in determining which of the applicants is most deserving of the grant of the petroleum exploration permit; and

(b) specify the period within which the work/expenditure details must be given to the Minister.

(5) If an applicant gives work/expenditure details to the Minister, and those details are—

(a) of a kind specified in the notice; and

(b) given within the period specified in the notice—

the Minister must have regard to the details in determining which of the applicants is most deserving of the grant of the petroleum exploration permit.

Note

See also section 92, which deals with the effect of the withdrawal or lapse of an application.

90 Grant of work-bid petroleum exploration permit

If—

(a) an applicant has been given an offer document under section 87; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant a petroleum exploration permit over the block or blocks specified in the offer document.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

91 Withdrawal of application

(1) This section applies if the Minister publishes a notice under section 86(1) inviting applications for the grant of a petroleum exploration permit.

(2) If a person has made an application, the person may, by written notice given to the Minister, withdraw the application at any time before a petroleum exploration permit is granted as a result of the application.

(3) If 2 or more persons have made a joint application, all of those persons may, by written notice given to the Minister, withdraw the application at any time before a petroleum exploration permit is granted as a result of the application.

(4) If—

(a) a joint application was made under section 86 for the grant of a petroleum exploration permit; and

(b) all of the joint applicants, by written notice given to the Minister, tell the Minister that one or more, but not all, of them, as specified in the notice, withdraw from the application—

then—

(c) the application continues in force as if it had been made by the remaining applicant or applicants; and

(d) if the Minister had given the joint applicants an offer document in relation to the application—the Minister is taken not to have given the offer document to the joint applicants.

92 Effect of withdrawal or lapse of application

(1) This section applies if—

(a) 2 or more applications have been made under section 86 for the grant of a petroleum exploration permit over the same block or blocks; and

(b) one or more, but not all, of the applications are withdrawn or have lapsed.

(2) A withdrawn or lapsed application is taken not to have been made.

(3) If the Minister gave an offer document in relation to a withdrawn or lapsed application, the Minister is taken not to have given an offer document in relation to the withdrawn or lapsed application.

(4) If the applicant, or one of the applicants, whose application had been withdrawn had requested the Minister under section 256 to grant a petroleum exploration permit to the applicant concerned, the request is taken not to have been made.

(5) If the following conditions are satisfied in relation to a remaining applicant—

(a) the Minister had refused to grant a petroleum exploration permit to the remaining applicant;

(b) the Minister did not exclude the remaining applicant from the ranking under section 89(2)—

the refusal is taken not to have occurred.

Division 3—Obtaining a cash-bid petroleum exploration permit

93 Application for cash-bid petroleum exploration permit

(1) The Minister may, by notice published in the Government Gazette—

(a) invite applications by way of cash bidding for the grant by the Minister of a petroleum exploration permit over the block or blocks specified in the notice; and

(b) specify a period within which applications may be made.

(2) If the Minister has published a notice under section 86(1) inviting applications for the grant of a petroleum exploration permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the section 86(1) notice.

Note

Section 86(1) deals with work-bid petroleum exploration permits.

(3) A notice under subsection (1) must—

(a) state whether the permit is able to be renewed; and

(b) contain a summary of the conditions to which the permit will be subject; and

(c) specify the matters that the Minister will take into account in deciding whether to reject an application.

(4) If a notice under subsection (1) specifies more than one block, those blocks must be 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.

(5) If a notice under subsection (1) specifies more than one block, an application under this section must be for a petroleum exploration permit over all of the specified blocks.

(6) An application under this section must—

(a) be accompanied by details of—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(b) specify the amount that the applicant would be prepared to pay for the grant of the permit.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

94 Grant of cash-bid petroleum exploration permit—only one application

(1) This section applies if—

(a) the Minister publishes a notice under section 93(1) inviting applications for the grant of a petroleum exploration permit over a block or blocks; and

(b) at the end of the period specified in the notice, only one application has been made under section 93 in relation to the block or blocks.

(2) The Minister may—

(a) give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum exploration permit over that block or those blocks; or

(b) by written notice given to the applicant, reject the application.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

95 Grant of cash-bid petroleum exploration permit—2 or more applications

(1) This section applies if—

(a) the Minister publishes a notice under section 93(1) inviting applications for the grant of a petroleum exploration permit over a block or blocks; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 93 in relation to the block or blocks.

(2) The Minister may reject any or all of the applications.

(3) If the Minister does not reject all of the applications, the table has effect—

Unrejected applications

Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 93(6)(b) are equal	one of those applicants.
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 93(6)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under section 93(6)(b) are— (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

(4) An offer document given to an applicant must tell the applicant that the Minister is prepared to grant the applicant a petroleum exploration permit over the block or blocks.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If an applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

(5) If—

(a) an applicant is given an offer document under this section; and

(b) the application lapses as provided by section 256 or 257; and

(c) there are one or more remaining unrejected applications—

subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

(6) If the Minister does not give an offer document to an applicant, the Minister must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

96 Grant of cash-bid petroleum exploration permit

(1) If—

(a) an applicant has been given an offer document under section 94 or 95; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section; and

(c) the applicant has paid the specified amount within the period applicable under section 257—

the Minister must grant the applicant a petroleum exploration permit over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

2 If the applicant has not paid the specified amount within the period applicable under section 257, the application lapses at the end of that period—see section 257(1).

(2) For the purposes of this section, the ***specified amount*** is the amount specified in the offer document as the amount that the applicant must pay for the grant of the petroleum exploration permit.

97 Extension of cash-bid petroleum exploration permit

(1) This section applies if—

(a) a cash-bid petroleum exploration permit expires; and

(b) the permit cannot be renewed.

Note

See section 103 (non-renewable permits) and section 104 (limit on renewal of permits).

(2) If, before the expiry of the permit—

(a) the Minister had required the permittee to nominate, under section 113, a block or blocks in relation to which the permit was in force; and

(b) the permittee had not complied with the requirement—

the permit continues in force over that block or those blocks until the end of the period the permittee has to comply with the requirement.

(3) If, before the expiry of the permit—

(a) a block or blocks in relation to which the permit was in force had been nominated under section 112; or

(b) both—

(i) a declaration under section 114 had been made in relation to a block or blocks in relation to which the permit was in force; and

(ii) the permittee had not requested that the declaration be revoked—

the permit continues in force over that block or those blocks until whichever of the following events happens first—

(c) a declaration under section 114 in relation to the block or blocks is revoked;

(d) a petroleum retention lease or a petroleum production licence is granted in relation to the block or blocks;

(e) the application period referred to in section 114 in relation to the block or blocks ends without the permittee making an application under that section for a petroleum retention lease in relation to the block or blocks.

(4) This section has effect subject to this Chapter but despite section 84.

Note

See the notes at the end of section 84.

Division 4—Obtaining a special petroleum exploration permit over a surrendered block or certain other blocks

98 Application for a special petroleum exploration permit over a surrendered block or certain other blocks

(1) If—

(a) a petroleum retention lease is surrendered, cancelled or revoked to the extent to which it relates to a block or blocks; or

(b) a petroleum production licence is surrendered or cancelled to the extent to which it relates to a block or blocks; or

(c) a petroleum production licence that relates to a block or blocks is terminated; or

(d) both—

(i) a petroleum exploration permit is surrendered, cancelled or revoked to the extent to which it relates to a block or blocks; and

(ii) at the time of the surrender, cancellation or revocation, the block or blocks were, or were included in, a location—

the Minister may, at any later time, by notice published in the Government Gazette—

(e) invite applications for the grant by the Minister of a petroleum exploration permit over that block or such of those blocks as are specified in the notice; and

(f) specify a period within which applications may be made.

(2) A notice under subsection (1) must state that an applicant must specify an amount that the applicant would be prepared to pay for the grant of the permit.

(3) If a notice under subsection (1) specifies more than one block, an application under this section must be for a petroleum exploration permit over all of the specified blocks.

(4) An application under this section must—

(a) be accompanied by details of—

(i) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and

(ii) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(b) specify the amount that the applicant would be prepared to pay for the grant of the permit.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(5) An application under this section must be accompanied by a deposit of 10% of the amount that the applicant has specified under subsection (4)(b).

(6) If the permit is not granted, the deposit must be refunded to the applicant.

(7) Subsection (6) does not apply if—

(a) the applicant has been given an offer document under section 99 or 100 in relation to the application; and

(b) the applicant does not, under section 256, request the grant of the permit.

99 Grant of special petroleum exploration permit—only one application

(1) This section applies if—

(a) the Minister publishes a notice under section 98(1) inviting applications for the grant of a petroleum exploration permit over a block or blocks; and

(b) at the end of the period specified in the notice, only one application has been made under section 98 in relation to the block or blocks.

(2) The Minister may—

(a) give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum exploration permit over that block or those blocks; or

(b) by written notice given to the applicant, reject the application.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

100 Grant of special petroleum exploration permit—2 or more applications

(1) This section applies if—

(a) the Minister publishes a notice under section 98(1) inviting applications for the grant of a petroleum exploration permit over a block or blocks; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 98 in relation to the block or blocks.

(2) The Minister may reject any or all of the applications.

(3) If the Minister does not reject all of the applications, the table has effect—

Unrejected applications

Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 98(4)(b) are equal	one of those applicants.
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 98(4)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.

Unrejected applications		
Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under section 98(4)(b) are— (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

(4) An offer document given to an applicant must tell the applicant that the Minister is prepared to grant the applicant a petroleum exploration permit over the block or blocks.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If an applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

(5) If—

(a) an applicant is given an offer document under this section; and

(b) the application lapses as provided by section 256 or 257; and

(c) there are one or more remaining unrejected applications—

subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

(6) If the Minister does not give an offer document to an applicant, the Minister must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

101 Grant of special petroleum exploration permit

(1) If—

(a) an applicant has been given an offer document under section 99 or 100; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section; and

(c) the applicant has paid the specified balance within the period applicable under section 257—

the Minister must grant the applicant a petroleum exploration permit over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

2 If the applicant has not paid the specified balance within the period applicable under section 257, the application lapses at the end of that period—see section 257(2).

(2) For the purposes of this section, the ***specified balance*** is the balance specified in the offer document as the balance of the amount that the applicant must pay for the grant of the petroleum exploration permit.

Pt 2.2 Div. 4A (Heading and s. 101A) inserted by No. 16/2018 s. 11.

Division 4A—Obtaining a boundary-change petroleum exploration permit

S. 101A inserted by No. 16/2018 s. 11.

101A Grant of boundary-change petroleum exploration permit

(1) This section applies if—

(a) a Commonwealth petroleum exploration title has been granted on the basis that an area (the ***relevant area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area; and

(c) either—

(i) the conditions set out in subsection (2) are satisfied; or

(ii) the conditions set out in subsection (3) are satisfied.

(2) The conditions mentioned in subsection (1)(c)(i) are—

(a) one or more, but not all, of the section 37 blocks that were covered by the Commonwealth petroleum exploration title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change and that are in the Commonwealth defined offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(3) The conditions mentioned in subsection (1)(c)(ii) are—

(a) all of the section 37 blocks that were covered by the Commonwealth petroleum exploration title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(4) If—

(a) assuming that—

(i) the change to the boundary of the offshore area had not occurred; and

(ii) the relevant area had remained in the Commonwealth defined offshore area—

the holder of the Commonwealth petroleum exploration title would have been entitled to apply under the Commonwealth Act for the renewal of the title in relation to all of the section 37 blocks that are—

(iii) covered by the title; and

(iv) in the relevant area; and

(b) there are one or more section 37 blocks (the ***relevant section 37 blocks***) that—

(i) correspond to the section 37 blocks covered by paragraph (a); and

(ii) are in the offshore area; and

(iii) are not the subject of a variation under section 263A—

the Minister is taken—

(c) to have granted the holder a petroleum exploration permit over those relevant section 37 blocks; and

(d) to have done so immediately after the relevant time mentioned in whichever of subsection (2) or (3) is applicable.

Note

For the duration of the petroleum exploration permit, see item 3 of the table in section 84(1).

(5) If—

(a) assuming that—

(i) the change to the boundary of the offshore area had not occurred; and

(ii) the relevant area had remained in the Commonwealth defined offshore area—

the holder of the Commonwealth petroleum exploration title would not have been entitled to apply under the Commonwealth Act for the renewal of the title in relation to all of the section 37 blocks that are—

(iii) covered by the title; and

(iv) in the relevant area; and

(b) there are one or more section 37 blocks (the ***relevant section 37 blocks***) that—

(i) correspond to the section 37 blocks that were covered by the Commonwealth petroleum exploration title immediately before the change; and

(ii) are in the offshore area; and

(iii) are not the subject of a variation under section 263A—

the Minister is taken—

(c) to have granted the holder a petroleum exploration permit over those relevant section 37 blocks; and

(d) to have done so immediately after the relevant time mentioned in whichever of subsection (2) or (3) is applicable.

Note

For the duration of the petroleum exploration permit, see item 4 of the table in section 84(1).

(6) For the purposes of subsections (4) and (5), disregard any of the following provisions of the Commonwealth Act—

(a) standard halving rules;

(b) modified halving rules;

(c) a provision of a kind specified in the regulations.

(7) If, after the change to the boundary of the offshore area—

(a) a part of a section 37 block that was covered by the Commonwealth petroleum exploration title immediately before the

change is in the Commonwealth defined offshore area; and

(b) the remaining part of the section 37 block is in the offshore area—

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 37 block.

(8) An assumption in subsection (4)(a) or (5)(a) does not affect subsection (7).

(9) In this section—

section 37 block means—

(a) a block constituted as provided by section 37; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth petroleum exploration title—the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth petroleum exploration title—that part of the graticular section.

Note

See also subsection (7).

Division 5—Renewal of petroleum exploration permits

102 Application for renewal of petroleum exploration permit

(1) A petroleum exploration permittee may apply to the Minister for the renewal by the Minister of the permit in relation to such of the blocks the subject of the permit as are specified in the application.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

(2) Subsection (1) has effect subject to the following provisions—

(a) section 103 (non-renewable cash-bid petroleum exploration permits);

(b) section 104 (limit on renewal of cash-bid petroleum exploration permits);

(c) section 105 (limits on renewal of work-bid petroleum exploration permits and special petroleum exploration permits);

(ca) section 105A (limits on renewal of boundary-change petroleum exploration permits);

S. 102(2)(ca) inserted by No. 16/2018 s. 12.

(d) section 106 (standard halving rules);

(e) section 107 (modified halving rules).

(3) An application to renew a petroleum exploration permit must be made at least 90 days before the expiry date of the permit.

(4) Despite subsection (3), the Minister may accept an application to renew a petroleum exploration permit if the application is made—

(a) later than 90 days before the expiry date of the permit; and

(b) before the expiry date of the permit.

(5) If—

(a) a petroleum exploration permittee makes an application to renew the permit; and

(b) the permit would, apart from this subsection, expire—

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

(ii) before the application lapses as provided by section 256—

the permit continues in force—

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

(d) until the application so lapses—

whichever happens first.

(6) Subsection (5) has effect subject to this Chapter but despite section 84.

Note

See the notes at the end of section 84.

103 Non-renewable cash-bid petroleum exploration permits

A petroleum exploration permittee must not apply to renew a cash-bid petroleum exploration permit if the notice under section 93(1) relating to the grant of the permit stated that the permit was not able to be renewed.

104 Limit on renewal of cash-bid petroleum exploration permits

A petroleum exploration permittee must not apply to renew a cash-bid petroleum exploration permit if the Minister has previously granted a renewal of the permit.

105 Limits on renewal of work-bid petroleum exploration permits and special petroleum exploration permits

(1) This section applies to an application for renewal of a work-bid petroleum exploration permit or a special petroleum exploration permit.

(2) The table has effect—

Limits on renewal

Item	*In this case...*	*Do the standard halving rules in section 106 and rules in section 107 apply?*	*Can the permit be renewed more than twice?*
1	an application for renewal of a work-bid petroleum exploration permit, where the original petroleum exploration permit was granted— (a) on or after 1 January 2003; and (b) as a result of an application made in response to an invitation in a notice that was published under section 86(1) on or after 1 January 2003	Yes	No
2	an application for renewal of a special petroleum exploration permit, where the original petroleum exploration permit was granted on or after 1 January 2003	Yes	No

Limits on renewal			
Item	*In this case...*	*Do the standard halving rules in section 106 and rules in section 107 apply?*	*Can the permit be renewed more than twice?*
3	any other application for renewal of a petroleum exploration permit	Yes	Yes, so long as the standard halving rules do not prevent the renewal

S. 105(3) inserted by No. 16/2018 s. 13.

(3) Despite subsection (2), the standard halving rules in section 106 and the modified halving rules in section 107 do not apply to an application for renewal of a petroleum exploration permit if—

(a) the permit was granted on the basis that an area (the ***relevant area***) was within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceased to be within the offshore area; and

(ii) fell within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the permit area.

S. 105(4) inserted by No. 16/2018 s. 13.

(4) For the purposes of subsection (3)—

(a) disregard section 278; and

(b) it is immaterial whether the change occurred before, at or after the commencement of this subsection.

105A Limits on renewal of boundary-change petroleum exploration permits

S. 105A inserted by No. 16/2018 s. 14.

(1) If—

(a) the grant of a boundary-change petroleum exploration permit under section 101A(4) is consequential on a Commonwealth petroleum exploration title ceasing to be in force as mentioned in section 101A(2)(b) or (3)(b); and

(b) the Commonwealth petroleum exploration title was granted otherwise than by way of renewal—

then—

(c) the standard halving rules in section 106 apply to an application for the renewal of the permit mentioned in paragraph (a); and

(d) an application must not be made for the renewal of the permit if the Minister has previously granted a renewal of the permit mentioned in paragraph (a).

(2) If—

(a) the grant of a boundary-change petroleum exploration permit under section 101A(4) is consequential on a Commonwealth petroleum exploration title ceasing to be in force as mentioned in section 101A(2)(b) or (3)(b); and

(b) the Commonwealth petroleum exploration title was granted by way of renewal—

an application must not be made for the renewal of the permit mentioned in paragraph (a).

(3) If a boundary-change petroleum exploration permit was granted under section 101A(5), an application must not be made for the renewal of the permit.

106 Standard halving rules

(1) This section sets out the standard halving rules.

(2) This section applies to—

(a) an application for renewal of a cash-bid petroleum exploration permit that is capable of being renewed; and

S. 106(2)(b) amended by No. 16/2018 s. 15(1)(a).

(b) an application for renewal that is covered by item 1, 2 or 3 of the table in section 105(2); and

S. 106(2)(c) inserted by No. 16/2018 s. 15(1)(b).

(c) an application for renewal that is covered by section 105A(1)(c).

S. 106(2A) inserted by No. 16/2018 s. 15(2).

(2A) Subsection (2) has effect subject to section 105(3).

(3) The maximum number of blocks in relation to which an application for a renewal of a permit may be made is worked out using the table—

Maximum number of blocks

Item	*In this case...*	*the maximum number of blocks is...*
1	the number of non-location blocks in relation to which the permit is in force is a number (the ***divisible number***) that is divisible by 2 without remainder	one-half of the divisible number.
2	the number of non-location blocks in relation to which the permit is in force is a number that is one less or one more than a number (the ***divisible number***) that is divisible by 4 without remainder	one-half of the divisible number.

(4) Subsection (3) has effect subject to section 107.

(5) An application to renew a permit may include, in addition to the blocks worked out under subsection (3)—

(a) a block that is, or is included in, a location and in relation to which the permit is in force; or

(b) 2 or more blocks covered by paragraph (a).

(6) In this section—

non-location block means a block that is neither a location nor included in a location.

107 Additional rules relating to renewals of cash-bid petroleum exploration permits

(1) This section applies to—

(a) an application for renewal of a cash-bid petroleum exploration permit that is capable of being renewed; and

(b) an application for renewal that is covered by item 1, 2 or 3 of the table in section 105(2).

(2) An application cannot be made to renew a permit in relation to only one block.

(3) If a permit is in force in relation to 5 or 6 blocks, an application may be made to renew the permit in relation to 4 of those blocks.

(4) If a permit is in force in relation to 2, 3 or 4 blocks, an application may be made to renew the permit in relation to all those blocks.

(5) If a permit is renewed as a result of an application referred to in subsection (4), an application may not be made for the further renewal of the permit.

108 Renewal of petroleum exploration permit—offer document

(1) This section applies if an application to renew a petroleum exploration permit has been made under section 102.

(2) The Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the permit if each of the following has been complied with—

(a) the conditions to which the petroleum exploration permit is, or has from time to time been, subject;

(b) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1;

(c) the regulations.

Note

Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(3) The Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the permit if—

(a) any of—

(i) the conditions to which the petroleum exploration permit is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is satisfied that there are sufficient grounds to warrant the granting of the renewal of the permit.

Note

Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

109 Refusal to renew petroleum exploration permit

(1) This section applies if an application to renew a petroleum exploration permit has been made under section 102.

(2) The Minister must, by written notice given to the applicant, refuse to renew the permit if—

(a) any of—

(i) the conditions to which the petroleum exploration permit is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the permit.

Note

Consultation procedures apply—see section 258.

110 Renewal of petroleum exploration permit

The Minister must renew a petroleum exploration permit to which an application under section 119 relates if—

(a) an applicant has been given an offer document under section 108; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

Division 6—Locations

111 Simplified outline

(1) This section sets out a simplified outline of this Division.

(2) If a petroleum pool is identified in a petroleum exploration permit area, the Minister may declare a location over the blocks to which the petroleum pool extends.

(3) Generally, the blocks must be nominated for declaration by the permittee.

(4) The Minister may require the permittee to nominate the blocks.

(5) The declaration may be revoked or varied in certain circumstances.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Division.

112 Nomination of blocks as a location

(1) If—

(a) a petroleum pool is identified in a petroleum exploration permit area; and

(b) the permittee or another person has, whether in or outside the permit area, recovered petroleum from the pool—

the permittee may nominate, for declaration as a location—

(c) if the pool extends to only one block in the permit area—that block; or

(d) if the pool extends to 2 or more blocks in the permit area—those blocks.

(2) If—

(a) 2 or more petroleum pools are identified in a petroleum exploration permit area; and

(b) the permittee or another person has, whether in or outside the permit area, recovered petroleum from each of those pools—

the permittee may, instead of making a nomination under subsection (1) in relation to each pool, nominate for declaration as a single location—

(c) all of the blocks to which the pools extend; or

(d) all of the blocks to which any 2 or more of the pools extend.

(3) To be effective, a nomination under subsection (2) that relates to 2 or more pools must be such that, in the case of each of the pools, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.

(4) For the purposes of subsection (3), 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 joined together at one point only.

(5) A nomination under this section must be—

(a) in writing; and

(b) given to the Minister.

113 Requirement to nominate blocks as a location

(1) If—

(a) the Minister is of the opinion that a petroleum exploration permittee is entitled to nominate a block or blocks under section 112(1) or (2); and

(b) the permittee has not done so—

the Minister may, by written notice given to the permittee, require the permittee to nominate the block or blocks within—

(c) 90 days after the day on which the notice was given; or

(d) such longer period, not more than 180 days after the day on which the notice was given, as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(d) only on written application made by the permittee within the period of 90 days mentioned in subsection (1)(c).

(3) If the permittee does not comply with the requirement, the Minister may, by written notice given to the permittee, nominate the block or blocks for declaration as a location.

114 Declaration of location

(1) If—

(a) a petroleum exploration permittee has made a nomination under section 112; and

(b) the Minister is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination—

the Minister must, by writing, declare the nominated block or blocks to be a location.

(2) A copy of a declaration under subsection (1) must be published in the Government Gazette.

(3) The Minister may form an opinion for the purposes of this section if the Minister considers that there are reasonable grounds for doing so having regard to any information the Minister has, whether given by the permittee or otherwise.

(4) If the Minister has made a nomination under section 113, the Minister must, by notice published in the Government Gazette, declare the nominated block or blocks to be a location.

S. 114(5) inserted by No. 16/2018 s. 16.

(5) If—

(a) a boundary-change petroleum exploration permit is granted over one or more section 37 blocks; and

(b) immediately before the grant, those section 37 blocks were, or were part of, a location within the meaning of the Commonwealth Act; and

(c) apart from this subsection, those section 37 blocks are not, and are not part of, a location within the meaning of this Act—

the Minister is taken—

(d) to have declared those section 37 blocks to be a location; and

(e) to have done so immediately after the grant.

S. 114(6) inserted by No. 16/2018 s. 16.

(6) If—

(a) a petroleum exploration permit is varied under section 263A so as to include in the permit area one or more section 37 blocks; and

(b) immediately before the variation, those section 37 blocks were, or were part of, a location within the meaning of the Commonwealth Act; and

(c) apart from this subsection, those section 37 blocks are not, and are not part of, a location within the meaning of this Act—

the Minister is taken—

(d) to have declared those section 37 blocks to be a location; and

(e) to have done so immediately after the variation.

S. 114(7) inserted by No. 16/2018 s. 16.

(7) In this section—

section 37 block means—

(a) a block constituted as provided by section 37; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth petroleum exploration title—the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth petroleum exploration title—that part of the graticular section.

115 Revocation of declaration

(1) If—

(a) a petroleum exploration permit is in force over a block that constitutes, or the blocks that constitute, a location; and

(b) the permittee requests the Minister to revoke the declaration of the location—

the Minister may, by writing, revoke the declaration of the location.

(2) A copy of a revocation under subsection (1) is to be published in the Government Gazette.

(3) If—

(a) a block or blocks constituting or forming part of a location was or were the subject of a petroleum exploration permit or a petroleum retention lease; and

(b) that block is, or those blocks are, no longer the subject of the permit or lease—

the Minister must, by notice published in the Government Gazette—

(c) in a case where that block constitutes, or those blocks constitute, that location—revoke the declaration of that location; or

(d) in a case where that block forms, or those blocks form, part of that location—revoke the declaration of that location to the extent to which the declaration relates to that block or those blocks.

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

(a) a person has applied for the grant of a petroleum production licence over the block, and the Minister has not made a decision in relation to the application; or

(b) a petroleum production licence is in force in relation to the block.

(5) Subsection (3) does not apply in relation to a block if—

(a) a person has applied for the grant of a petroleum retention lease over the block, and the Minister has not made a decision in relation to the application; or

(b) a petroleum retention lease is in force in relation to the block.

(6) If a petroleum retention lease is granted in relation to a block or blocks forming part of a location, the Minister must, by notice published in the Government Gazette, revoke the declaration of the location to the extent to which the declaration relates to the block that is, or the blocks that are, not within the petroleum retention lease area.

(7) If—

(a) the Minister refuses to grant a petroleum retention lease in relation to 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 131(b)(ii) (which deals with commercial viability)—

the Minister must, by notice published in the Government Gazette, revoke the declaration of that location.

Note

If a petroleum exploration permit is in force over a block that constitutes a location, the permittee's application for a petroleum retention lease over the block is rejected as mentioned in subsection (7), and the permittee wants to apply for a petroleum production licence, then the permittee must re-nominate the block for declaration as a location before the permittee applies for the petroleum production licence.

(8) If—

(a) an application for the grant of a petroleum production licence has been made under section 164 or 166; and

(b) the application specifies 2 or more blocks; and

(c) a petroleum production licence is granted in respect of—

(i) only one of the blocks; or

(ii) some, but not all, of the blocks; and

(d) the remaining block or blocks form part of a location—

the Minister must, by notice published in the Government Gazette, revoke the declaration of the location to the extent to which the declaration relates to the remaining block or blocks.

Notes

1 Section 164 deals with applications by permittees.

2 Section 166 deals with applications by lessees.

116 Variation of declaration

(1) If a petroleum exploration permit is in force over a block that constitutes, or blocks that constitute, a location, the Minister may, by writing, vary the declaration of the location—

(a) by adding to the location a block—

(i) that is in the permit area; and

(ii) to which, in the opinion of the Minister, a petroleum pool within the location extends; or

(b) by deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.

(2) A copy of a variation under subsection (1) is to be published in the Government Gazette.

(3) The Minister may vary a declaration only if—

(a) the permittee requests the variation; or

(b) all of the following conditions are satisfied—

(i) the Minister gives the permittee written notice of the proposed variation, identifying the block to be added to, or deleted from, the location;

(ii) the notice invites the permittee to give the Minister a submission about the proposed variation;

(iii) the notice specifies a time limit for making the submission;

(iv) the Minister has considered any submission made in accordance with the notice.

(4) The time limit must be at least 30 days after the notice is given.

(5) The Minister may form an opinion for the purposes of this section if the Minister considers that there are reasonable grounds for doing so having regard to any information the Minister has, whether given by the permittee or otherwise.

Part 2.3—Petroleum retention leases

Division 1—General provisions

117 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of petroleum retention leases over blocks in the offshore area.

(3) A petroleum retention lease authorises the lessee to explore for petroleum in the lease area.

(4) A petroleum retention lease over a block may be granted to—

(a) the holder of a petroleum exploration permit over the block; or

(b) the holder of a life-of-field petroleum production licence over the block.

(5) The criteria for granting a petroleum retention lease over a block are—

(a) the block contains petroleum; and

(b) the recovery of petroleum is not currently commercially viable, but is likely to become commercially viable within 15 years.

(5A) A petroleum retention lease may be obtained as a result of a change to the boundary of the offshore area.

S. 117(5A) inserted by No. 16/2018 s. 17.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

118 Rights conferred by petroleum retention lease

(1) A petroleum retention lease authorises the lessee, in accordance with the conditions (if any) to which the lease is subject—

(a) to explore for petroleum in the lease area; and

(b) to recover petroleum on an appraisal basis in the lease area; and

(c) to carry on such operations, and execute such works, in the lease area as are necessary for those purposes.

(2) Express references in this Act to the injection or storage of a substance do not imply that subsection (1) does not operate so as to authorise the lessee—

(a) to carry on operations to inject a substance into the seabed or subsoil of the offshore area; or

(b) to carry on operations to store (whether on a permanent basis or otherwise) a substance in the seabed or subsoil of the offshore area.

(3) The regulations may provide that a petroleum retention lease authorises the lessee, in accordance with the conditions (if any) to which the lease is subject—

(a) to explore in the lease area for a potential greenhouse gas storage formation; and

(b) to explore in the lease area for a potential greenhouse gas injection site; and

(c) to carry on such operations, and execute such works, in the lease area as are necessary for those purposes.

(4) The rights conferred on the lessee by or under subsection (1) or (3) are subject to this Act and the regulations.

119 Conditions of petroleum retention leases

(1) The Minister may grant a petroleum retention lease subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the lease.

(3) Subsection (1) does not apply to a petroleum retention lease granted under section 141A.

S. 119(3) inserted by No. 16/2018 s. 18.

120 Standard conditions of petroleum retention leases

(1) A petroleum retention lease is subject to a condition that if the Minister gives the lessee a written notice requesting the lessee to—

(a) re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells); and

(b) inform the Minister in writing of the results of the re-evaluation—

the lessee must comply with the request within—

(c) the period of 90 days after the notice is given; or

(d) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(d) only on written application made by the lessee within the period of 90 days mentioned in subsection (1)(c).

(3) If a petroleum retention lessee has complied with a subsection (1) request during the term of the lease, the Minister must not give the lessee a further subsection (1) request during that term.

(4) Despite section 119(2), the condition mentioned in subsection (1) does not need to be specified in the lease.

(5) Any or all of the following conditions may be specified in a petroleum retention lease—

(a) conditions requiring the lessee to carry out work in, or in relation to, the lease area;

(b) conditions about the amounts that the lessee must spend in carrying out such work;

(c) conditions requiring the lessee to comply with directions that—

(i) relate to the matters covered by paragraphs (a) and (b);

(ii) are given in accordance with the lease.

S. 120(6) amended by No. 16/2018 s. 19.

(6) Subsection (5) does not limit section 119(1), 121(3) or 121A(1).

121 Conditions of declared petroleum retention leases—approval of key petroleum operations

(1) A declared petroleum retention lease is subject to the condition that the lessee will not carry on key petroleum operations under the lease unless the Minister has approved the operations under section 122.

(2) Despite section 119(2), the condition mentioned in subsection (1) does not need to be specified in the lease.

(3) If, under section 122, the Minister approves the carrying on of one or more key petroleum operations under a declared petroleum retention lease, the Minister may, by written notice given to the lessee, vary the lease by imposing one or more conditions to which the lease is subject.

(4) A variation of a declared petroleum retention lease under subsection (3) takes effect on the day on which notice of the variation is given to the lessee.

(5) A condition imposed under subsection (3) may require the lessee to ensure that—

(a) all wells; or

(b) one or more specified wells—

made in the lease area by any person engaged or concerned in operations authorised by the lease are made in a manner, and to a standard, that will facilitate the plugging or closing off of the wells in a way that restores or maintains the suitability of a part of a geological formation for the permanent storage of greenhouse gas substances.

(6) Subsection (5) does not limit—

(a) subsection (3); or

(b) Part 6.2; or

(c) Part 6.4.

(7) If—

(a) a declared petroleum retention lease is subject to a condition; and

(b) the condition was imposed under subsection (3)—

the Minister may, by written notice given to the lessee, vary or revoke the condition.

(8) A variation of a declared petroleum retention lease under subsection (7) takes effect on the day on which notice of the variation is given to the lessee.

(9) Subsection (8) does not limit section 260.

121A Variation of petroleum retention leases obtained as result of change to the boundary of the offshore area

S. 121A inserted by No. 16/2018 s. 20.

(1) The Minister may, by written notice given to the lessee of a petroleum retention lease granted under section 141A, vary the lease by imposing one or more conditions to which the lease is subject.

(2) A notice under subsection (1) must be given within 14 days after the grant of the lease.

(3) A variation under subsection (1) takes effect on the day on which notice of the variation is given to the lessee.

122 Declared petroleum retention lease—approval by Minister of key petroleum operations

(1) The registered holder of a declared petroleum retention lease may apply to the Minister for approval to carry on one or more key petroleum operations under the lease.

(2) If an application for approval is made under subsection (1), the Minister may—

(a) give the approval; or

(b) by written notice given to the applicant, refuse to give the approval.

(3) In deciding whether to give the approval, the Minister must comply with sections 123 and 124.

123 Minister must have regard to certain matters before approving key petroleum operations

(1) The Minister must have regard to the impact (if any) that any of the key petroleum operations to which an application under section 122 relates could have on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit; or

(d) an existing greenhouse gas holding lease; or

(e) an existing greenhouse gas injection licence; or

(f) if a greenhouse gas assessment permit or a greenhouse gas holding lease is in force over a block or blocks—

(i) a future greenhouse gas holding lease over the block or any of the blocks; or

(ii) a future greenhouse gas injection licence over the block or any of the blocks; or

S. 123(1)(f)(ii) amended by No. 26/2021 s. 14(1)(a).

(g) an existing cross-boundary greenhouse gas title; or

S. 123(1)(g) inserted by No. 26/2021 s. 14(1)(b).

(h) if a cross-boundary greenhouse gas assessment permit or cross-boundary greenhouse gas holding lease is in force over a block or blocks—

S. 123(1)(h) inserted by No. 26/2021 s. 14(1)(b).

(i) a future cross-boundary greenhouse gas holding lease over the block or any of the blocks; or

(ii) a future cross-boundary greenhouse gas injection licence over the block or any of the blocks.

(2) If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 122 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit held by a person other than the applicant; or

(d) an existing greenhouse gas holding lease held by a person other than the applicant; or

S. 123(2)(e) amended by No. 26/2021 s. 14(2)(a).

(e) an existing greenhouse gas injection licence held by a person other than the applicant; or

S. 123(2)(ea) inserted by No. 26/2021 s. 14(2)(b).

(ea) an existing cross-boundary greenhouse gas title held by a person other than the applicant—

the Minister must have regard to—

S. 123(2)(f) amended by No. 26/2021 s. 14(2)(c).

(f) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence or cross-boundary greenhouse gas title, as the case may be, has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(g) if so—the terms of that agreement.

(3) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 122 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future greenhouse gas holding lease over a block or blocks; or

(iv) a future greenhouse gas injection licence over a block or blocks; and

(b) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

S. 123(3A) inserted by No. 26/2021 s. 14(3).

(3A) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 122 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future cross-boundary greenhouse gas holding lease over a block or blocks; or

(iv) a future cross-boundary greenhouse gas injection licence over a block or blocks; and

(b) a cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(4) The Minister must have regard to the public interest.

S. 123(5) amended by No. 26/2021 s. 14(4).

(5) Subsections (1), (2), (3) and (3A)do not limit subsection (4).

(6) This section does not limit the matters to which the Minister may have regard to in deciding whether to give an approval under section 122.

124 Circumstances in which approval of key petroleum operations must not be given

S. 124 amended by No. 26/2021 s. 15.

If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 122 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under an existing greenhouse gas injection licence or an existing cross-boundary greenhouse gas injection licence, the Minister must not give the approval under section 122 unless the registered holder of the greenhouse gas injection licence or cross-boundary greenhouse gas injection licence has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied.

125 No right to an approval

To avoid doubt, section 118 does not imply that a petroleum retention lessee who applies for approval under section 122(1) of this section is entitled to be given the approval.

126 Suspension of rights to be disregarded

For the purposes of sections 122, 123 and 124, disregard a suspension of rights under section 470.

127 Declared petroleum retention leases

(1) If—

(a) a post-commencement petroleum retention lease is in force; and

(b) the Minister is satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the lease will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

S. 127 (1)(b)(viii) amended by No. 26/2021 s. 16(1)(a).

(viii) a future greenhouse gas injection licence; or

S. 127(1)(b)(ix) inserted by No. 26/2021 s. 16(1)(b).

(ix) an existing cross-boundary greenhouse gas title; or

(x) a future cross-boundary greenhouse gas title—

S. 127(1)(b)(x) inserted by No. 26/2021 s. 16(1)(b).

the Minister must, by written notice given to the petroleum retention lessee, determine that the petroleum retention lease is a ***declared petroleum retention lease*** for the purposes of this Act.

(2) If—

(a) a determination is in force under subsection (1) in relation to a post-commencement petroleum retention lease; and

(b) the Minister is not satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the lease will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

S. 127 (2)(b)(viii) amended by No. 26/2021 s. 16(2)(a).

(viii) a future greenhouse gas injection licence; or

S. 127(2)(b)(ix) inserted by No. 26/2021 s. 16(2)(b).

(ix) an existing cross-boundary greenhouse gas title; or

S. 127(2)(b)(x) inserted by No. 26/2021 s. 16(2)(b).

(x) a future cross-boundary greenhouse gas title—

the Minister must, by written notice given to the petroleum retention lessee, revoke the determination.

128 Duration of petroleum retention lease

S. 128(1) amended by No. 16/2018 s. 21(1).

(1) A petroleum retention lease (other than a lease granted under section 141A) remains in force for the period of 5 years beginning on—

(a) the day on which the lease is granted; or

(b) if a later day is specified in the lease as the day on which the lease is to come into force—that later day.

S. 128(1A) inserted by No. 16/2018 s. 21(2).

(1A) A petroleum retention lease granted under section 141A remains in force for the period of 5 years beginning on the day on which the lease is granted.

S. 128(2) amended by No. 16/2018 s. 21(3).

(2) Subsections (1) and (1A) have effect subject to this Chapter.

Notes

1 For a special rule about the extension of the duration of a petroleum retention lease if the lessee applies for a petroleum production licence, see section 129.

2 For a special rule about the extension of the duration of petroleum retention leases pending decisions on renewal applications, see section 142(5).

3 For special rules about the duration of a petroleum retention lease once a decision has been made refusing to renew the lease, see section 144(6) and (7).

4 For a special rule about the extension of the duration of a petroleum retention lease following a suspension or exemption decision, see sections 261 and 263.

5 For the revocation of a petroleum retention lease, see section 180.

6 For a special rule about when a petroleum retention lease ceases to be in force following the grant of a petroleum production licence, see section 171.

7 For the surrender of a petroleum retention lease, see Part 2.12.

8 For the cancellation of a petroleum retention lease, see Part 2.13.

129 Extension of petroleum retention lease if lessee applies for petroleum production licence

(1) If—

(a) a petroleum retention lease is in force over a block or blocks; and

(b) before the time when the lease would, apart from this subsection, expire, the lessee applies to the Minister for the grant by the Minister of a petroleum production licence over the block or one or more of the blocks—

the table has effect—

Extension of lease		
Item	*In this case...*	*the lease continues in force over the block or blocks covered by the application until...*
1	the Minister gives the lessee an offer document relating to a petroleum production licence over the block or one or more of the blocks	the licence is granted, the lessee withdraws the application or the application lapses.

Extension of lease		
Item	*In this case...*	*the lease continues in force over the block or blocks covered by the application until...*
2	the Minister decides not to grant a petroleum production licence to the lessee	notice of the decision is given to the lessee.

(2) Subsection (1) has effect subject to this Chapter but despite section 128.

Note

See the notes at the end of section 128.

Division 2—Obtaining a petroleum retention lease

Subdivision 1—Application for petroleum retention lease by the holder of a petroleum exploration permit

130 Application for petroleum retention lease by the holder of a petroleum exploration permit

(1) If a petroleum exploration permit is in force over a block that constitutes, or the blocks that constitute, a location, the permittee may, within the application period, apply to the Minister for the grant by the Minister of a petroleum retention lease over that block or over one or more of those blocks.

Note

For ***application period***, see subsection (3).

(2) An application under this section must be accompanied by details of—

(a) the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks specified in the application; and

(b) the current commercial viability of the recovery of petroleum from that area; and

(c) the possible future commercial viability of the recovery of petroleum from that area.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(3) The ***application period*** for an application under this section is—

(a) the period of 2 years after the day (the ***declaration day***) 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 longer period, not more than 4 years after the declaration day, as the Minister allows.

(4) The Minister may allow a longer period under subsection (3)(b) only on written application made by the permittee within the period of 2 years mentioned in subsection (3)(a).

131 Grant of petroleum retention lease—offer document

If—

(a) an application for a petroleum retention lease has been made under section 130; and

(b) the Minister is satisfied that—

(i) the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and

(ii) the recovery of petroleum from that area is not, at the time of the application, commercially viable but is likely to become commercially viable within 15 years after that time—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum retention lease over the block or blocks as to which the Minister is satisfied as mentioned in paragraph (b).

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see section 254(3).

132 Refusal to grant petroleum retention lease

(1) This section applies if an application for a petroleum retention lease has been made under section 130.

(2) If the Minister is not satisfied as to the matters referred to in section 131(b) in relation to the block, or all the blocks, specified in the application, the Minister must, by written notice given to the applicant, refuse to grant a petroleum retention lease to the applicant.

(3) If—

(a) the application specifies 2 or more blocks; and

(b) the Minister is not satisfied as to the matters referred to in section 131(b) in relation to—

(i) only one of the blocks; or

(ii) some, but not all, of the blocks—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum retention lease to the applicant in relation to the block or blocks as to which the Minister is not satisfied as mentioned in section 131(b).

133 Grant of petroleum retention lease

If—

(a) an applicant has been given an offer document under section 131; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant a petroleum retention lease over the block or blocks specified in the offer document.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

134 Petroleum exploration permit ceases to be in force when petroleum retention lease comes into force

When a petroleum retention lease under section 133 comes into force in relation to one or more blocks, a petroleum exploration permit ceases to be in force to the extent to which it relates to those blocks.

135 Petroleum exploration permit transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a petroleum exploration permit is registered under section 514—

(a) after an application has been made under section 130 for the grant of a petroleum retention lease over a block or blocks in relation to which the petroleum exploration permit is in force; and

(b) before any action has been taken by the Minister under section 131 or 132 in relation to the application.

(2) After the transfer, sections 130 to 133 and Part 2.10 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Subdivision 2—Application for petroleum retention lease by the holder of a life-of-field petroleum production licence

136 Application for petroleum retention lease by the holder of a life-of-field petroleum production licence

(1) If—

(a) a life-of-field petroleum production licence is in force over a block or blocks; and

(b) the following conditions are satisfied in relation to an area (the ***unused area***) that consists of the block or any or all of the blocks—

(i) petroleum has been found to exist in the unused area;

(ii) no petroleum recovery operations are being carried on under the licence in relation to the unused area;

the licensee may, within the application period, apply to the Minister for the grant by the Minister of a petroleum retention lease over the unused area.

Note

For ***application period***, see subsection (3).

(2) An application under this section must be accompanied by details of—

(a) the applicant's proposals for work and expenditure in relation to the unused area; and

(b) the current commercial viability of the recovery of petroleum from the unused area; and

(c) the possible future commercial viability of the recovery of petroleum from the unused area.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(3) The ***application period*** for an application under this section by a petroleum production licensee is the period of 5 years that began on—

(a) the day on which the licence was granted; or

(b) if any petroleum recovery operations have been carried on under the licence in relation to the unused area—the last day on which any such operations were so carried on.

137 Grant of petroleum retention lease—offer document

If—

(a) an application for a petroleum retention lease has been made under section 136; and

(b) the Minister is satisfied that recovery of petroleum from the unused 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 must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum retention lease over the unused area.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

138 Refusal to grant petroleum retention lease

If—

(a) an application for a petroleum retention lease has been made under section 136; and

(b) the Minister is not satisfied as to the matters referred to in section 137(b) in relation to the unused area—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum retention lease to the applicant.

Note

Consultation procedures apply—see section 258.

139 Grant of petroleum retention lease

If—

(a) an applicant has been given an offer document under section 137; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant a petroleum retention lease over the unused area.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

140 Petroleum production licence ceases to be in force when petroleum retention lease comes into force

When a petroleum retention lease under section 139 comes into force in relation to one or more blocks, a petroleum production licence ceases to be in force to the extent to which it relates to those blocks.

141 Petroleum production licence transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a petroleum production licence is registered under section 514—

(a) after an application has been made under section 136 for the grant of a petroleum retention lease over a block or blocks in relation to which the petroleum production licence is in force; and

(b) before any action has been taken by the Minister under section 137 or 138 in relation to the application.

(2) After the transfer, sections 136 to 139 and Part 2.10 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Pt 2.3 Div. 2 Subdiv. 3 (Heading and s. 141A) inserted by No. 16/2018 s. 22.

Subdivision 3—Obtaining a petroleum retention lease as a result of a change to the boundary of the offshore area

S. 141A inserted by No. 16/2018 s. 22.

141A Grant of petroleum retention lease as a result of a change to the boundary of the offshore area

(1) This section applies if—

(a) a Commonwealth petroleum retention title has been granted on the basis that an area (the ***relevant area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area; and

(c) either—

(i) the conditions set out in subsection (2) are satisfied; or

(ii) the conditions set out in subsection (3) are satisfied; and

(d) there are one or more section 37 blocks (the ***relevant section 37 blocks***) that—

(i) correspond to the section 37 blocks that were covered by the Commonwealth petroleum retention title immediately before the change; and

(ii) are in the offshore area; and

(iii) are not the subject of a variation under section 263A.

(2) The conditions mentioned in subsection (1)(c)(i) are—

(a) one or more, but not all, of the section 37 blocks that were covered by the Commonwealth petroleum retention title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change and that are in the Commonwealth defined offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(3) The conditions mentioned in subsection (1)(c)(ii) are—

(a) all of the section 37 blocks that were covered by the Commonwealth petroleum retention title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(4) The Minister is taken—

(a) to have granted the holder of the Commonwealth petroleum retention title a petroleum retention lease over the relevant section 37 blocks; and

(b) to have done so immediately after the relevant time mentioned in whichever of subsection (2) or (3) is applicable.

Note

For the duration of the petroleum retention lease, see section 128(1A).

(5) If, after the change to the boundary of the offshore area—

(a) a part of a section 37 block that was covered by the Commonwealth petroleum retention title immediately before the change is in the Commonwealth defined offshore area; and

(b) the remaining part of the section 37 block is in the offshore area—

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 37 block.

(6) In this section—

section 37 block means—

(a) a block constituted as provided by section 37; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth petroleum retention title—the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth petroleum retention title—that part of the graticular section.

Note

See also subsection (5).

Division 3—Renewal of petroleum retention leases

142 Application for renewal of petroleum retention lease

(1) A petroleum retention lessee may apply to the Minister for the renewal by the Minister of the lease.

(2) An application to renew a petroleum retention lease must be made—

(a) not more than 12 months before the expiry date of the lease; and

(b) at least 180 days before the expiry date of the lease.

(3) Despite subsection (2), the Minister may accept an application to renew a petroleum retention lease if the application is made—

(a) later than 180 days before the expiry date of the lease; and

(b) before the expiry date of the lease.

(4) An application to renew a petroleum retention lease must be accompanied by details of—

(a) the lessee's proposals for work and expenditure in relation to the lease area; and

(b) the current commercial viability of recovery of petroleum from the lease area; and

(c) the possible future commercial viability of recovery of petroleum from the lease area.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(5) If—

(a) a petroleum retention lessee makes an application to renew the lease; and

(b) the lease would, apart from this subsection, expire—

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

(ii) before the application lapses as provided by section 256—

the lease continues in force—

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

(d) until the application so lapses—

whichever happens first.

(6) Subsection (5) has effect subject to this Chapter but despite section 128.

Note

See the notes at the end of section 128.

143 Renewal of petroleum retention lease—offer document

(1) This section applies if an application to renew a petroleum retention lease has been made under section 142.

(2) If—

(a) each of the following has been complied with—

(i) the conditions to which the petroleum retention lease is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1;

(iii) the regulations; and

(b) 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 must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the lease.

Note

Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(3) If—

(a) any of—

(i) the conditions to which the petroleum retention lease is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is satisfied that there are sufficient grounds to warrant the granting of the renewal of the petroleum retention lease; 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 may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the lease.

Note

Section 259 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

144 Refusal to renew petroleum retention lease

(1) This section applies if an application to renew a petroleum retention lease has been made under section 142.

(2) If—

(a) any of—

(i) the conditions to which the petroleum retention lease is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the petroleum retention lease—

the Minister must, by written notice given to the applicant, refuse to renew the lease.

Note

Consultation procedures apply—see section 258.

(3) If the Minister is satisfied that recovery of petroleum from the lease area is, at the time of the application, commercially viable, the Minister must, by written notice given to the applicant, refuse to renew the lease.

Note

Consultation procedures apply—see section 258.

(4) If the Minister is satisfied that recovery of petroleum from the lease area is unlikely to become commercially viable within the period of 15 years after the time of the application, the

Minister must, by written notice given to the applicant, refuse to renew the lease.

Note

Consultation procedures apply—see section 258.

(5) A notice of refusal under subsection (3) must contain a statement to the effect that the lessee may, within 12 months after the notice was given, apply for a petroleum production licence over one or more of the blocks comprised in the lease.

(6) If—

(a) the Minister makes a decision under subsection (3) refusing to renew the lease; and

(b) a notice of refusal is given to the applicant; and

(c) within 12 months after the notice was given, the lessee applies for a petroleum production licence over one or more of the blocks comprised in the lease; and

(d) the lease would, apart from this subsection, expire—

(i) before the Minister grants, or refuses to grant, the petroleum production licence; or

(ii) before the application lapses—

the lease continues in force until—

(e) the Minister grants, or refuses to grant, the petroleum production licence; or

(f) the application lapses—

whichever happens first.

(7) If—

(a) the Minister makes a decision under subsection (3) refusing to renew the lease; and

(b) a notice of refusal is given to the applicant; and

(c) subsection (6) does not apply; and

(d) the lease would, apart from this subsection, expire within 12 months after the notice was given—

the lease continues in force until the end of the 12-month period beginning on the day on which the notice was given.

(8) Subsections (6) and (7) have effect subject to this Chapter but despite section 128.

Note

See the notes at the end of section 128.

145 Renewal of petroleum retention lease

If—

(a) an applicant has been given an offer document under section 143; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must renew the petroleum retention lease.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

Division 4—Revocation of petroleum retention leases

146 Notice of proposal to revoke petroleum retention lease

(1) This section applies if—

(a) a petroleum retention lessee has been given a notice under section 120(1) during the term of the lease; and

(b) the lessee has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice; and

(c) the lessee has not made an application to renew the lease; and

(d) after consideration of—

(i) the results of the re-evaluation referred to in paragraph (b); and

(ii) 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.

Note

Section 120(1) deals with re-evaluation of the commercial viability of petroleum production in the lease area.

(2) The Minister may give the lessee, and such other persons (if any) as the Minister thinks appropriate, a written notice—

(a) telling the recipient of the notice that the Minister—

(i) has formed the opinion that recovery of petroleum from the lease area is commercially viable; and

(ii) proposes to revoke the lease; and

(b) inviting the recipient of the notice to make a written submission to the Minister about the proposal to revoke the lease; and

(c) specifying a time limit for making that submission.

(3) The time limit must be at least 30 days after the notice is given.

147 Revocation of petroleum retention lease

(1) If—

(a) a notice under section 146(2) is given to—

(i) the lessee of a petroleum retention lease; or

(ii) the lessee of a petroleum retention lease and one or more other persons; and

(b) either—

(i) the lessee does not make a submission in accordance with the notice; or

(ii) the Minister, after consideration of any submissions made in accordance with the notice, determines that the lease should be revoked—

the Minister must, by written notice given to the lessee, revoke the lease.

(2) If—

(a) a petroleum retention lease is revoked under subsection (1); and

(b) the lessee applies for a petroleum production licence in relation to one or more of the blocks comprised in the lease within the period of 12 months beginning on the day on which the notice of revocation was given—

the revocation of the lease takes effect—

(c) when the Minister grants, or refuses to grant, the petroleum production licence; or

(d) when the application lapses—

whichever happens first.

(3) If—

(a) a petroleum retention lease is revoked under subsection (1); and

(b) the lessee does not apply for a petroleum production licence in relation to one or more of the blocks comprised in the lease within the period of 12 months beginning on the day on which the notice of revocation was given—

the revocation of the lease takes effect at the end of that 12-month period.

(4) If a petroleum retention lease is revoked under subsection (1), the lease continues in force until the revocation takes effect in accordance with subsection (2) or (3).

Part 2.4—Petroleum production licences

Division 1—General provisions

148 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to recover petroleum in the offshore area except—

(a) under a petroleum production licence; or

(b) as otherwise authorised or required by or under this Act.

(3) This Part provides for the grant of petroleum production licences over blocks in the offshore area.

(4) A petroleum production licence authorises the licensee to carry out petroleum recovery operations in the licence area.

(5) There are 4 ways in which a petroleum production licence can be granted—

S. 148(5) amended by No. 16/2018 s. 23(a).

(a) grant of a petroleum production licence as a result of an application made by a petroleum exploration permittee or a petroleum retention lessee;

(b) grant of a petroleum production licence over a surrendered block or a similar block;

(c) grant of a petroleum production licence over an individual block in exchange for another licence that was in force over the same block;

S. 148(5)(c) amended by No. 16/2018 s. 23(b).

(d) grant of a petroleum production licence as a result of a change to the boundary of the offshore area.

S. 148(5)(d) inserted by No. 16/2018 s. 23(c).

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

149 Prohibition of unauthorised recovery of petroleum in offshore area

A person must not intentionally carry on petroleum recovery operations in the offshore area unless the petroleum recovery operations are—

(a) authorised by a petroleum production licence; or

(b) otherwise authorised or required by or under this Act.

Penalty: 5 years imprisonment.

150 Rights conferred by petroleum production licence

(1) A petroleum production licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject—

(a) to recover petroleum in the licence area; and

(b) to recover petroleum from the licence area in another area to which the licensee has lawful access for that purpose; and

(c) to explore for petroleum in the licence area; and

(d) to carry on such operations, and execute such works, in the licence area as are necessary for those purposes.

(2) Express references in this Act to the injection or storage of a substance do not imply that subsection (1) does not operate so as to authorise the licensee—

(a) to carry on operations to inject a substance into the seabed or subsoil of the offshore area; or

(b) to carry on operations to store (whether on a permanent basis or otherwise) a substance in the seabed or subsoil of the offshore area.

(3) The regulations may provide that a petroleum production licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject—

(a) to explore in the licence area for a potential greenhouse gas storage formation; and

(b) to explore in the licence area for a potential greenhouse gas injection site; and

(c) to carry on such operations, and execute such works, in the licence area as are necessary for those purposes.

(4) The regulations may provide that, if—

(a) petroleum is recovered in the licence area of a petroleum production licence (the ***first licence***); and

(b) operations for the recovery or processing of the petroleum are carried on using a facility located in the licence area of another petroleum production licence (the ***second licence***); and

(c) a prescribed substance (which may be a hydrocarbon) is recovered as an incidental consequence of the recovery of the petroleum—

the second licence authorises the licensee of the second licence, in accordance with the conditions (if any) to which the second licence is subject—

(d) to inject the substance into the seabed or subsoil of the licence area of the second licence; and

(e) to store (whether on a permanent basis or otherwise) the substance in the seabed or subsoil of the licence area of the second licence; and

(f) to carry on such operations, and execute such works, in the licence area of the second licence as are necessary for those purposes.

(5) Subsections (3) and (4) do not limit subsection (1).

(6) The rights conferred on the licensee by or under subsection (1), (3) or (4) are subject to this Act and the regulations.

151 Conditions of petroleum production licences

(1) The Minister may grant a petroleum production licence subject to whatever conditions the Minister thinks appropriate.

Note

A grant of a licence may be a grant by way of renewal—see section 11.

(2) The conditions (if any) must be specified in the licence.

S. 151(3) inserted by No. 16/2018 s. 24.

(3) Subsection (1) does not apply to a petroleum production licence granted under section 179A.

S. 151A inserted by No. 26/2021 s. 17.

151A Minister must have regard to cross-boundary titles before granting petroleum production licence

(1) This section applies if an application for the grant of a petroleum production licence has been made under this Part.

(2) In deciding whether to grant the petroleum production licence, the Minister must have regard to the impact (if any) that any of the operations that could be carried on under the licence could have on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under a cross-boundary greenhouse gas title.

(3) If the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under a cross-boundary greenhouse gas title held by a person other than the applicant, the Minister must have regard to—

(c) whether the holder of the cross-boundary greenhouse gas title has agreed, in writing, to the applicant carrying on the operations in respect of which the Minister is so satisfied; and

(d) if so—the terms of that agreement.

(4) This section does not limit the matters to which the Minister may have regard to in deciding whether to grant a petroleum production licence under this Part.

152 Standard conditions of petroleum production licences

(1) A petroleum production licence may be granted subject to a general condition requiring the licensee to—

(a) explore for petroleum in the licence area with a view to determining whether there is any additional recoverable petroleum in the licence area; and

(b) recover such petroleum if it is commercially viable to do so.

S. 152(2) amended by No. 16/2018 s. 25.

(2) Subsection (1) does not limit section 151(1), 155(3) or 155A(1).

S. 152A inserted by No. 20/2020 s. 31.

152A Conditions restricting the sale of petroleum to LNG exporters

(1) Any petroleum production licence granted on or after 1 May 2018 is granted subject to the condition that the licensee must not supply petroleum recovered under the licence to an LNG exporter unless—

(a) the licensee has first taken all reasonable steps to supply that petroleum to a domestic consumer on reasonable terms; and

(b) there is no domestic consumer willing to buy the petroleum on reasonable terms.

Penalty: 20 penalty units.

(2) In determining whether terms are reasonable for the purposes of subsection (1)(b), the factors (if any) prescribed by the regulations must be taken into account.

(3) If a person commits an offence against subsection (1), the Minister may publish, in the Government Gazette, on an Internet site maintained by the Department or both, a notice stating—

(a) the name of the person; and

(b) that the person has committed an offence against subsection (1); and

(c) when the offence was committed; and

(d) the penalty imposed.

(4) A petroleum production licensee who proposes to supply petroleum recovered under the licence to an LNG exporter must notify the Minister of the proposed supply.

(5) A notice under subsection (4) must—

(a) be in writing; and

(b) contain any prescribed information; and

(c) be given within any prescribed period.

(6) In this section—

domestic consumer, in relation to the supply of petroleum, means an entity—

(a) that will consume the petroleum within Australia; or

(b) that will supply the petroleum to an entity that will consume the petroleum within Australia;

LNG exporter, in relation to the supply of petroleum, means an entity other than a domestic consumer;

petroleum includes petroleum that is converted into another form by physical or chemical means, including but not limited to liquefied natural gas.

152B Minister may require person to provide information on supply of petroleum

S. 152B inserted by No. 20/2020 s. 31.

(1) If the Minister considers on reasonable grounds that a petroleum production licensee has breached section 152A(1), the Minister may—

(a) direct the licensee, or a person to whom the licensee has offered to supply petroleum (an ***offeree***), to provide information relating to the terms on which the licensee proposes to supply or has supplied petroleum; and

(b) if the Minister reasonably believes that the licensee or an offeree is in possession of a document or thing that relates to the offer to supply petroleum—

(i) direct the licensee or offeree to provide the document or thing for inspection by the Minister; and

(ii) retain the document or thing for a period reasonably necessary for the inspection of the document or thing.

(2) A direction under subsection (1) must be in writing and may specify a date by which the direction must be complied with.

(3) The Minister may authorise an inspector within the meaning of the **Petroleum Act 1998** to receive and inspect information, documents or things for the purposes of this section.

153 Restrictions on conditions of petroleum production licences

(1) Despite section 151(1), a petroleum production licence must not be granted subject to specific conditions requiring the licensee to—

(a) make a well in the licence area; or

(b) carry out a seismic survey, or any other kind of survey, in, or in relation to, the licence area; or

(c) spend particular amounts on the carrying out of work in, or in relation to, the licence area.

(2) To avoid doubt, a condition covered by section 152(1) does not breach subsection (1).

154 Renewal conditions of petroleum production licences

In making a decision about the conditions to which a petroleum production licence granted on renewal will be subject, the Minister must have regard to—

(a) the investment of the licensee, or of any former licensee, during the term of—

(i) the original petroleum production licence; or

(ii) any petroleum production licence granted on a previous renewal—

where the investment relates to—

(iii) operations authorised by the licence concerned; or

(iv) any other development connected with those operations; and

(b) such other matters (if any) as the Minister considers relevant.

155 Conditions of declared petroleum production licences—approval of key petroleum operations

(1) A declared petroleum production licence is subject to the condition that the licensee will not carry on key petroleum operations under the licence unless the Minister has approved the operations under section 156.

(2) Despite section 151(2), the condition mentioned in subsection (1) does not need to be specified in the licence.

(3) If, under section 156, the Minister approves the carrying on of one or more key petroleum operations under a declared petroleum production licence, the Minister may, by written notice given to the licensee, vary the licence by imposing one or more conditions to which the licence is subject.

(4) A variation of a declared petroleum production licence under subsection (3) takes effect on the day on which notice of the variation is given to the licensee.

(5) A condition imposed under subsection (3) may require the licensee to ensure that—

(a) all wells; or

(b) one or more specified wells—

made in the licence area by any person engaged or concerned in operations authorised by the licence are made in a manner, and to a standard, that will facilitate the plugging or closing off of the wells in a way that restores or maintains the suitability of a part of a geological formation for the permanent storage of greenhouse gas substances.

(6) Subsection (5) does not limit—

(a) subsection (3); or

(b) Part 6.2; or

(c) Part 6.4.

(7) If—

(a) a declared petroleum production licence is subject to a condition; and

(b) the condition was imposed under subsection (3)—

the Minister may, by written notice given to the licensee, vary or revoke the condition.

(8) A variation of a declared petroleum production licence under subsection (7) takes effect on the day on which notice of the variation is given to the licensee.

(9) Subsection (8) does not limit section 260.

155A Variation of petroleum production licences obtained as result of change to the boundary of the offshore area

S. 155A inserted by No. 16/2018 s. 26.

(1) The Minister may, by written notice given to the licensee of a petroleum production licence granted under section 179A, vary the licence by imposing one or more conditions to which the licence is subject.

(2) A notice under subsection (1) must be given within 14 days after the grant of the licence.

(3) A variation under subsection (1) takes effect on the day on which notice of the variation is given to the licensee.

156 Declared petroleum production licence—approval by Minister of key petroleum operations

(1) The registered holder of a declared petroleum production licence may apply to the Minister for approval to carry on one or more key petroleum operations under the licence.

(2) If an application for approval is made under subsection (1), the Minister may—

(a) give the approval; or

(b) by written notice given to the applicant, refuse to give the approval.

(3) In deciding whether to give the approval, the Minister must comply with sections 157 and 158.

157 Minister must have regard to certain matters before approving key petroleum operations

(1) The Minister must have regard to the impact (if any) that any of the key petroleum operations to which an application under section 156 relates could have on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit; or

(d) an existing greenhouse gas holding lease; or

(e) an existing greenhouse gas injection licence; or

(f) if a greenhouse gas assessment permit or a greenhouse gas holding lease is in force over a block or blocks—

(i) a future greenhouse gas holding lease over the block or any of the blocks; or

S. 157(1)(f)(ii) amended by No. 26/2021 s. 18(1)(a).

(ii) a future greenhouse gas injection licence over the block or any of the blocks; or

S. 157(1)(g) inserted by No. 26/2021 s. 18(1)(b).

(g) an existing cross-boundary greenhouse gas title; or

S. 157(1)(h) inserted by No. 26/2021 s. 18(1)(b).

(h) if a cross-boundary greenhouse gas assessment permit or cross-boundary greenhouse gas holding lease is in force over a block or blocks—

(i) a future cross-boundary greenhouse gas holding lease over the block or any of the blocks; or

(ii) a future cross-boundary greenhouse gas injection licence over the block or any of the blocks.

(2) If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 156 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(c) an existing greenhouse gas assessment permit held by a person other than the applicant; or

(d) an existing greenhouse gas holding lease held by a person other than the applicant; or

(e) an existing greenhouse gas injection licence held by a person other than the applicant; or

S. 157(2)(e) amended by No. 26/2021 s. 18(2)(a).

(ea) an existing cross-boundary greenhouse gas title held by a person other than the applicant—

S. 157(2)(ea) inserted by No. 26/2021 s. 18(2)(b).

the Minister must have regard to—

(f) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence or cross-boundary greenhouse gas title, as the case may be, has agreed, in writing, to the applicant carrying

S. 157(2)(f) amended by No. 26/2021 s. 18(2)(c).

on the key petroleum operations in respect of which the Minister is so satisfied; and

(g) if so—the terms of that agreement.

(3) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 156 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future greenhouse gas holding lease over a block or blocks; or

(iv) a future greenhouse gas injection licence over a block or blocks; and

(b) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum

operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

S. 157(3A) inserted by No. 26/2021 s. 18(3).

(3A) If—

(a) the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 156 relates will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that could be carried on under—

(iii) a future cross-boundary greenhouse gas holding lease over a block or blocks; or

(iv) a future cross-boundary greenhouse gas injection licence over a block or blocks; and

(b) a cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is in force over the block or any of the blocks; and

(c) the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or cross-boundary greenhouse gas injection licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas

holding lease or cross-boundary greenhouse gas injection licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key petroleum operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(4) The Minister must have regard to the public interest.

S. 157(5) amended by No. 26/2021 s. 18(4).

(5) Subsections (1), (2), (3) and (3A) do not limit subsection (4).

(6) This section does not limit the matters to which the Minister may have regard to in deciding whether to give an approval under section 156.

S. 158 amended by No. 26/2021 s. 19.

158 Minister must not give approval in certain circumstances

If the Minister is satisfied that there is a significant risk that any of the key petroleum operations to which an application under section 156 relates will have a significant adverse impact on—

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under an existing greenhouse gas injection licence or an existing cross-boundary greenhouse gas injection licence, the Minister must not give the approval under section 156 unless the registered holder of the greenhouse gas injection licence or cross-boundary greenhouse gas injection licence has agreed, in writing, to the applicant carrying on

the key petroleum operations in respect of which the Minister is so satisfied.

159 No right to an approval

To avoid doubt, section 150 does not imply that a petroleum production licensee who applies for approval under section 156(1) is entitled to be given the approval.

160 Suspension of rights to be disregarded

For the purposes of sections 156, 157 and 158, disregard a suspension of rights under section 470.

161 Declared petroleum production licences

(1) If—

(a) a post-commencement petroleum production licence is in force; and

(b) the Minister is satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the licence will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

S. 161 (1)(b)(viii) amended by No. 26/2021 s. 20(1)(a).

(viii) a future greenhouse gas injection licence; or

S. 161(1)(b)(ix) inserted by No. 26/2021 s. 20(1)(b).

(ix) an existing cross-boundary greenhouse gas title; or

S. 161(1)(b)(x) inserted by No. 26/2021 s. 20(1)(b).

(x) a future cross-boundary greenhouse gas title—

the Minister must, by written notice given to the petroleum production licensee, determine that the petroleum production licence is a ***declared petroleum production licence*** for the purposes of this Act.

(2) If—

(a) a determination is in force under subsection (1) in relation to a post-commencement petroleum production licence; and

(b) the Minister is not satisfied that there is a significant risk that any of the key petroleum operations that could be carried on under the licence will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance—

that are being, or could be, carried on under—

(iii) an existing greenhouse gas assessment permit; or

(iv) an existing greenhouse gas holding lease; or

(v) an existing greenhouse gas injection licence; or

(vi) a future greenhouse gas assessment permit; or

(vii) a future greenhouse gas holding lease; or

(viii) a future greenhouse gas injection licence; or

S. 161 (2)(b)(viii) amended by No. 26/2021 s. 20(2)(a).

(ix) an existing cross-boundary greenhouse gas title; or

S. 161(2)(b)(ix) inserted by No. 26/2021 s. 20(2)(b).

(x) a future cross-boundary greenhouse gas title—

S. 161(2)(b)(x) inserted by No. 26/2021 s. 20(2)(b).

the Minister must, by written notice given to the petroleum production licensee, revoke the determination.

162 Duration of petroleum production licence

(1) A petroleum production licence remains in force indefinitely.

(2) Subsection (1) has effect subject to this Chapter.

Notes

1 For special rules about the duration of licences granted over individual blocks, see section 179(3).

2 For the revocation of an initial petroleum production licence mentioned in section 178, see section 179(4).

3 For a special rule about when a petroleum production licence ceases to be in force following the grant of a petroleum retention lease, see section 140.

4 For the surrender of a petroleum production licence, see Part 2.12.

5 For the cancellation of a petroleum production licence, see Part 2.13.

6 For the termination of a life-of-field petroleum production licence if there have been no recovery operations for 5 years, see section 163.

163 Termination of life-of-field petroleum production licence if no recovery operations for 5 years

(1) If—

(a) there is a life-of-field petroleum production licence; and

(b) no petroleum recovery operations under the licence have been carried on at any time during a continuous period of at least 5 years—

the Minister may, by written notice given to the licensee, tell the licensee that the Minister proposes to terminate the licence after the end of 30 days after the notice is given.

(2) At any time after the end of 30 days after the notice is given to the licensee, the Minister may, by written notice given to the licensee, terminate the licence.

Note

For remedial directions following termination, see section 636.

(3) In working out, for the purposes of subsection (1), the period in which no petroleum recovery operations were carried on under a licence, disregard any period in which no such operations were carried on because of circumstances beyond the licensee's control.

(4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.

(5) The Minister may give a copy of a notice under subsection (1) to such other persons (if any) as the Minister thinks fit.

(6) A notice under subsection (1) must—

(a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal to terminate the licence; and

(b) specify a time limit for making that submission.

(7) In deciding whether to terminate the licence, the Minister must take into account any submissions made in accordance with the notice.

Division 2—Obtaining a petroleum production licence as a result of an application made by a petroleum exploration permittee or a petroleum retention lessee

164 Application for petroleum production licence by permittee

(1) If a petroleum exploration permit is in force over a block that constitutes, or the blocks that constitute, a location, the permittee may, within the application period, apply to the Minister for the grant by the Minister of a petroleum production

licence over that block or over one or more of those blocks.

Note

For ***application period***, see section 165.

(2) At any time before an offer document relating to the application is given to the applicant, the applicant may, by written notice given to the Minister, vary the number of blocks specified in the application.

(3) A variation of an application must be made in an approved manner.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) An application, or a variation of an application, under this section must be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks covered by the application or the varied application, as the case may be.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

165 Application period

(1) The ***application period*** for an application under section 164 is—

(a) the period of 2 years after the day (the ***declaration day***) 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 longer period, not more than 4 years after the declaration day, as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(b) only on written application made by the permittee within the period of 2 years mentioned in subsection (1)(a).

(3) Despite subsection (1), if—

(a) a petroleum exploration permittee has applied for a petroleum retention lease under section 130 over a block or blocks; and

(b) a notice refusing to grant the petroleum retention lease has been given to the permittee under section 132—

the ***application period*** for an application made by the permittee under section 164 for the grant of a petroleum production licence over the block or blocks is whichever of the following periods ends last—

(c) the period that is applicable under subsection (1);

(d) the period of 12 months after the day on which the notice was given.

Note

A failure to make an application within the application period results in revocation of the petroleum exploration permit to the extent to which it relates to the block concerned—see section 180.

166 Application for petroleum production licence by lessee

(1) If a petroleum retention lease is in force over a block or blocks, the lessee may apply to the Minister for the grant by the Minister of a petroleum production licence over that block or over one or more of those blocks.

(2) An application under this section must be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks specified in the application.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

167 Offer document

(1) If—

(a) an application for the grant of a petroleum production licence has been made under section 164 or 166; and

(b) the Minister is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and

(c) in a case where (assuming that the applicant were granted a petroleum production licence over the block or blocks as to which the Minister is satisfied as mentioned in paragraph (b)) the petroleum production licence would be a post-commencement petroleum production licence, and—

(i) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on operations that are being, or could be, carried on under a greenhouse gas

assessment permit or a greenhouse gas holding lease; or

(ii) if one or more identified greenhouse gas storage formations are wholly situated in the permit area of a greenhouse gas assessment permit or the lease area of a greenhouse gas holding lease—the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on operations that could be carried on under a future greenhouse gas injection licence, where the identified greenhouse gas storage formation, or any of the identified greenhouse gas storage formations, is wholly situated in the licence area of the future greenhouse gas injection licence—

the Minister is satisfied that it is in the public interest for the petroleum production licence to be granted to the applicant; and

(d) in a case where—

(i) (assuming that the applicant were granted a petroleum production licence over the block or blocks as to which the Minister is so satisfied as mentioned in paragraph (b)) the petroleum production licence would be a post-commencement petroleum production licence; and

(ii) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence

will have a significant adverse impact on operations that are being, or could be, carried on under a greenhouse gas injection licence—

the Minister is satisfied that—

(iii) the registered holder of the greenhouse gas injection licence has agreed, in writing, to the grant of the petroleum production licence; and

(iv) to the extent to which the agreement is a dealing to which Part 5.6 applies—the dealing has been approved under section 585 or is reasonably likely to be approved under that section; and

(v) to the extent to which the agreement is a dealing to which Part 4.6 would apply if the petroleum production licence were to come into existence—it is reasonably likely that the dealing would, after the petroleum production licence comes into existence, be approved under section 528—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum production licence over the block or blocks as to which the Minister is so satisfied as mentioned in paragraph (b).

Notes

1 Section 164 deals with applications by permittees.

2 Section 166 deals with applications by lessees.

3 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

4 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

5 Section 151A contains requirements for the Minister to have regard to cross-boundary greenhouse gas titles when deciding whether to grant a petroleum production licence.

Note 5 to s. 167(1) inserted by No. 26/2021 s. 21.

(2) For the purposes of subsection (1)(d), in considering whether the grant of the petroleum production licence is in the public interest, the Minister must have regard to—

(a) whether the registered holder of the greenhouse gas assessment permit or greenhouse gas holding lease, as the case may be, has agreed, in writing, to the grant of the petroleum production licence; and

(b) if so—the terms of that agreement.

(3) Subsection (2) does not limit the matters to which the Minister may have regard.

(4) This section has effect subject to section 169.

168 Refusal to grant petroleum production licence

(1) This section applies if an application for the grant of a petroleum production licence has been made under section 164 or 166.

Notes

1 Section 164 deals with applications by permittees.

2 Section 166 deals with applications by lessees.

(2) If—

(a) the application specifies one block; and

(b) the Minister is not satisfied that the block contains petroleum—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum production licence to the applicant.

(3) If—

(a) the application specifies 2 or more blocks; and

(b) the Minister is not satisfied that any of the blocks contains petroleum—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum production licence to the applicant.

(4) If—

(a) the application specifies 2 or more blocks; and

S. 168(4)(b) amended by No. 55/2010 s. 80(1).

(b) the Minister is satisfied that—

(i) only one of the blocks contains petroleum; or

(ii) some, but not all, of the blocks contain petroleum—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum production licence to the applicant in relation to the remaining block or blocks.

Note

The petroleum exploration permit or petroleum retention lease remains in force in relation to the remaining block or blocks.

(5) If—

(a) (assuming that the applicant were granted a petroleum production licence over the block or blocks as to which the Minister is satisfied

as mentioned in section 167(1)(b)) the petroleum production licence would be a post-commencement petroleum production licence; and

(b) either—

(i) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on operations that are being, or could be, carried on under a greenhouse gas assessment permit or a greenhouse gas holding lease; or

(ii) if one or more identified greenhouse gas storage formations are wholly situated in the permit area of a greenhouse gas assessment permit or the lease area of a greenhouse gas holding lease—the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on operations that could be carried on under a future greenhouse gas injection licence, where the identified greenhouse gas storage formation, or any of the identified greenhouse gas storage formations, is wholly situated in the licence area of the future greenhouse gas injection licence; and

(c) the Minister is not satisfied that it is in the public interest for the petroleum production licence to be granted to the applicant—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum production licence to the applicant.

Note to s. 168(5) inserted by No. 26/2021 s. 22.

Note

Section 151A contains requirements for the Minister to have regard to cross-boundary greenhouse gas titles when deciding whether to grant a petroleum production licence.

(6) If—

(a) (assuming that the applicant were granted a petroleum production licence over the block or blocks as to which the Minister is satisfied as mentioned in section 167(1)(b)) the petroleum production licence would be a post-commencement petroleum production licence; and

(b) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the petroleum production licence will have a significant adverse impact on operations that are being, or could be, carried on under a greenhouse gas injection licence; and

(c) the Minister is not satisfied that—

(i) the registered holder of the greenhouse gas injection licence has agreed, in writing, to the grant of the petroleum production licence; and

(ii) to the extent to which the agreement is a dealing to which Part 5.6 applies—the dealing has been approved under section 585 or is reasonably likely to be approved under that section; and

(iii) to the extent to which the agreement is a dealing to which Part 4.6 would apply if the petroleum production licence were to come into existence—it is reasonably likely that the dealing would, after the petroleum production licence comes into existence, be approved under section 528—

the Minister must, by written notice given to the applicant, refuse to grant a petroleum production licence to the applicant.

(7) A notice under this section must set out the reasons for the Minister's refusal.

(8) For the purposes of subsection (6)(c), in considering whether the grant of the petroleum production licence is in the public interest, the Minister must have regard to—

(a) whether the registered holder of the greenhouse gas assessment permit or greenhouse gas holding lease, as the case may be, has agreed, in writing, to the grant of the petroleum production licence; and

(b) if so—the terms of that agreement.

(9) Subsection (8) does not limit the matters to which the Minister may have regard.

(10) This section has effect subject to section 169.

169 Minister may defer taking action on application for petroleum production licence if there is a pending application for a greenhouse gas assessment permit

(1) This section applies if—

(a) an application for the grant of a petroleum production licence has been made under section 164 or 166; and

(b) assuming that the applicant were granted a petroleum production licence over the block or blocks as to which the Minister is so satisfied as mentioned in section 167(1)(b), the petroleum production licence would be a post-commencement petroleum production licence; and

(c) when the application for the grant of the petroleum production licence was made, an application for a greenhouse gas assessment permit was being considered by the Minister; and

(d) the Minister is satisfied that it would be in the public interest to defer taking any action under section 167 or 168 in relation to the application for the grant of the petroleum production licence until the application for the greenhouse gas assessment permit is finalised.

(2) The Minister must not take any action under section 167 or 168 in relation to the application for the grant of the petroleum production licence until 24 hours after whichever of the following events happens first—

(a) the Minister grants a greenhouse gas assessment permit to the applicant for the permit;

(b) the application for the greenhouse gas assessment permit lapses;

(c) the Minister refuses to grant a greenhouse gas assessment permit to the applicant for the permit.

170 Grant of petroleum production licence

If—

(a) an applicant has been given an offer document under section 167; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant a petroleum production licence over the block or blocks as to which the Minister is satisfied as mentioned in section 167(1)(b).

Notes

1 If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

2 If an application made by a petroleum exploration permittee in relation to a block lapses, the petroleum exploration permit is revoked to the extent to which it relates to that block—see section 180.

3 If an application made by a petroleum retention lessee in relation to a block lapses, the petroleum retention lease is revoked to the extent to which it relates to that block—see section 180.

171 Petroleum exploration permit or petroleum retention lease ceases to be in force when petroleum production licence comes into force

When a petroleum production licence under section 170 comes into force in relation to one or more blocks, a petroleum exploration permit or petroleum retention lease ceases to be in force to the extent to which it relates to those blocks.

172 Petroleum exploration permit or petroleum retention lease transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a petroleum exploration permit or petroleum retention lease is registered under section 514—

(a) after an application has been made—

(i) under section 164 for the grant of a petroleum production licence over a block in relation to which the petroleum exploration permit is in force; or

(ii) under section 166 for the grant of a petroleum production licence over a block in relation to which the petroleum retention lease is in force; and

(b) before any action has been taken by the Minister under section 167 or 168 in relation to the application.

(2) After the transfer—

(a) in the case of an application under section 164—that section has effect in relation to the application as if any reference in subsection (3) of that section to the applicant were a reference to the transferee; and

(b) in all cases—sections 167 and 170 and Part 2.10 of this Act have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Division 3—Obtaining a cash-bid petroleum production licence over a surrendered block or similar block

173 Application for cash-bid petroleum production licence over surrendered blocks or similar blocks

(1) If—

(a) a petroleum production licence is surrendered or cancelled to the extent to which it relates to a block; or

(b) a petroleum production licence is terminated to the extent to which it relates to a block; or

(c) a petroleum exploration permit or petroleum retention lease is surrendered, cancelled or revoked to the extent to which it relates to a block—

(i) that, at the time of the surrender, cancellation or revocation, 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 later time, by notice published in the Government Gazette—

(d) invite applications for the grant by the Minister of a petroleum production licence over that block; and

(e) specify a period within which applications may be made.

(2) A notice under subsection (1) must state that an applicant is required to specify—

(a) an amount that the applicant would be prepared to pay for the grant of the licence; or

(b) a rate of royalty that the applicant would be prepared to pay, if the licence were granted, being a rate exceeding 10% of the wellhead value of petroleum recovered.

(3) If the Minister, in a notice under subsection (1), states that an applicant must specify a rate of royalty referred to in subsection (2)(b), the Minister may, in that notice, also state that the applicant will be required to pay an amount specified in that notice for the grant of the licence.

(4) An application under this section must—

(a) be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block; and

(b) specify—

(i) the amount that the applicant would be prepared to pay for the grant of the licence; or

(ii) the rate of royalty referred to in subsection (2)(b) and the amount the applicant must pay for the grant of the licence (if any).

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

174 Deposit

(1) An application for a cash-bid petroleum production licence under section 173 must be accompanied by a deposit of 10% of—

(a) the amount that the applicant has specified under section 173(4)(b)(i) as the amount that the applicant would be prepared to pay for the grant of the licence; or

(b) the amount specified by the Minister under section 173(3) in a notice under section 173(1) as the amount that applicant must be required to pay for the grant of the licence.

(2) If the petroleum production licence is not granted, a deposit under subsection (1) must be refunded to the applicant.

(3) Subsection (2) does not apply if—

(a) the applicant has been given an offer document under section 175(2) or 176(3) in relation to the application; and

(b) the applicant does not, under section 256, request the grant of the petroleum production licence.

175 Grant of cash-bid petroleum production licence—only one application

(1) This section applies if—

(a) the Minister publishes a notice under section 173(1) inviting applications for the grant of a petroleum production licence over a block; and

(b) at the end of the period specified in the notice, only one application has been made under section 173 in relation to the block.

(2) The Minister may—

(a) give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a petroleum production licence over that block; or

(b) by written notice given to the applicant, reject the application.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

176 Grant of cash-bid petroleum production licence—2 or more applications

(1) This section applies if—

(a) the Minister publishes a notice under section 173(1) inviting applications for the grant of a petroleum production licence over a block; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 173 in relation to the block.

(2) The Minister may reject any or all of the applications.

(3) If the Minister does not reject all of the applications, the table has effect—

Unrejected applications

Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and	one of those applicants.

Unrejected applications		
Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
	(b) the amounts and rates of royalty specified in the applications under section 173(4) are equal	
3	(a) 2 or more applications remain unrejected; and (b) the amounts and rates of royalty specified in the applications under section 173(4) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts and rates of royalty specified in the applications under section 173(4) are— (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

(4) An offer document given to an applicant must tell the applicant that the Minister is prepared to grant the applicant a petroleum production licence over the block.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

(5) If—

(a) an applicant is given an offer document under this section; and

(b) the application lapses as provided by section 256 or 257; and

(c) there are one or more remaining unrejected applications—

subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

(6) If the Minister does not give an offer document to an applicant, the Minister must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

177 Grant of cash-bid petroleum production licence

(1) If—

(a) an applicant has been given an offer document under section 175 or 176; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section; and

(c) in the case of an offer document under section 176—the applicant has paid the specified balance within the period applicable under section 257;

the Minister must grant the applicant a petroleum production licence over the block specified in the offer document.

Notes

1 If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

2 In the case of an offer document under section 176, if the applicant has not paid the specified balance within the period applicable under section 257, the application lapses at the end of that period—see section 257(2).

(2) For the purposes of this section, the ***specified balance*** is the balance specified in the offer document as the balance of the amount that the applicant must pay for the grant of the petroleum production licence.

Division 4—Obtaining petroleum production licences over individual blocks

178 Applications for petroleum production licences over individual blocks

(1) This section applies to a petroleum production licence (the ***initial petroleum production licence***) if—

(a) the licence is in force over 2 or more blocks; and

(b) the blocks do not form a location or part of a location.

(2) The licensee of the initial petroleum production licence may apply to the Minister for the grant of 2 or more new petroleum production licences over the blocks that were the subject of the initial petroleum production licence, in exchange for the initial petroleum production licence.

(3) An application under this section—

(a) must specify the number of new petroleum production licences required; and

(b) must specify the block or blocks that were the subject of the initial petroleum production licence and for which each new petroleum production licence is sought.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

179 Grant of petroleum production licences over individual blocks

(1) This section applies if a licensee of an initial petroleum production licence mentioned in section 178 has made an application under that section.

(2) The Minister must grant the licensee new petroleum production licences in accordance with the application.

(3) A new petroleum production licence under this section must be granted subject to conditions corresponding as closely as practicable to the conditions to which the initial petroleum production licence was subject.

(4) If new petroleum production licences are granted under this section—

(a) the initial petroleum production licence is revoked; and

(b) the revocation has effect on the day on which those new licences come into force.

Division 4A—Obtaining a petroleum production licence as a result of a change to the boundary of the offshore area

Pt 2.4 Div. 4A (Heading and s. 179A) inserted by No. 16/2018 s. 27.

179A Grant of petroleum production licence as a result of a change to the boundary of the offshore area

S. 179A inserted by No. 16/2018 s. 27.

(1) This section applies if—

(a) a fixed-term Commonwealth petroleum production title has been granted on the basis that an area (the ***relevant area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area; and

(c) either—

(i) the conditions set out in subsection (2) are satisfied; or

(ii) the conditions set out in subsection (3) are satisfied; and

(d) there are one or more section 37 blocks (the ***relevant section 37 blocks***) that—

(i) correspond to the section 37 blocks that were covered by the fixed-term Commonwealth petroleum production title immediately before the change; and

(ii) are in the offshore area; and

(iii) are not the subject of a variation under section 263A.

(2) The conditions mentioned in subsection (1)(c)(i) are—

(a) one or more, but not all, of the section 37 blocks that were covered by the fixed-term Commonwealth petroleum production title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change and that are in the Commonwealth defined offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(3) The conditions mentioned in subsection (1)(c)(ii) are—

(a) all of the section 37 blocks that were covered by the fixed-term Commonwealth petroleum production title immediately before the change are in the relevant area; and

(b) the title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the title immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the title.

(4) The Minister is taken—

(a) to have granted the holder of the fixed-term Commonwealth petroleum production title a petroleum production licence over the relevant section 37 blocks; and

(b) to have done so immediately after the relevant time mentioned in whichever of subsection (2) or (3) is applicable.

(5) If, after the change to the boundary of the offshore area—

(a) a part of a section 37 block that was covered by the fixed-term Commonwealth petroleum production title immediately before the change is in the Commonwealth defined offshore area; and

(b) the remaining part of the section 37 block is in the offshore area—

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 37 block.

(6) In this section—

section 37 block means—

(a) a block constituted as provided by section 37; or

(b) if a graticular section is wholly within the area that was covered by the fixed-term Commonwealth petroleum production title—the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the fixed-term Commonwealth petroleum production title—that part of the graticular section.

Note

See also subsection (5).

Division 5—What happens if a block is not taken up

180 Revocation of petroleum exploration permit or petroleum retention lease to the extent to which it relates to a block not taken up

(1) If—

(a) a petroleum exploration permittee could apply under section 164 for a petroleum production licence in relation to a block or blocks; and

(b) the permittee does not, within the application period, make the application—

then—

(c) the petroleum exploration permit is revoked to the extent to which it relates to that block or those blocks; and

(d) the revocation has effect at the end of the application period.

Note

For ***application period,*** see section 165.

(2) If an application made by a petroleum exploration permittee under section 164 in relation to a block or blocks lapses—

(a) the petroleum exploration permit is revoked to the extent to which it relates to that block or those blocks; and

(b) the revocation has effect—

(i) at the end of the application period; or

(ii) on the lapsing of the application—

whichever is the later.

Note

For lapsing of applications, see section 256.

(3) If an application made by a petroleum retention lessee under section 166 in relation to a block or blocks lapses—

(a) the petroleum retention lease is revoked to the extent to which it relates to that block or those blocks; and

(b) the revocation has effect on the lapsing of the application.

Notes

1 For lapsing of applications, see section 256.

2 See also section 115(3) (revocation of declaration of location where block is no longer the subject of a petroleum exploration permit or a petroleum retention lease).

S. 180(4) inserted by No. 16/2018 s. 28.

(4) This section does not apply in relation to a petroleum exploration permit if—

(a) the permit has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area; and

(c) immediately before the change, the relevant area was a part of the permit area.

S. 180(5) inserted by No. 16/2018 s. 28.

(5) For the purposes of subsection (4)—

(a) disregard section 278; and

(b) it is immaterial whether the change occurred before, at or after the commencement of this subsection.

Division 6—Petroleum field development

Subdivision 1—Directions about the recovery of petroleum

181 Direction to recover petroleum

(1) If—

(a) petroleum is not being recovered in a petroleum production licence area; and

(b) the Minister is satisfied that there is recoverable petroleum in that area—

the Minister may, by written notice given to the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.

(2) If—

(a) a direction is in force under subsection (1) in relation to a licensee; and

(b) the Minister is not satisfied with the steps taken or being taken by the licensee—

the Minister may, by written notice given to the licensee, direct the licensee to take such steps as the Minister thinks necessary and practicable for, or in relation to, the recovery of petroleum in the licence area.

182 Directions about the rate of recovery of petroleum

(1) If petroleum is being recovered in a petroleum production licence area, the Minister may, by written notice given to the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered—

(a) in the licence area; or

(b) from a petroleum pool in the licence area—

to the rate specified in the notice.

(2) If—

(a) a direction is in force under subsection (1) in relation to a licensee; and

(b) the Minister is not satisfied with the steps taken or being taken by the licensee—

the Minister may, by written notice given to the licensee, give the licensee such directions as the Minister thinks necessary and practicable for, or in relation to, the increase or reduction of the rate at which petroleum is being recovered—

(c) in the licence area; or

(d) from a petroleum pool in the licence area.

(3) In deciding whether to give a direction under this section, the Minister may take into account matters relating to the effects on State revenue of the proposed direction.

(4) Subsection (3) does not limit the matters that may be taken into account.

(5) The Minister must not give a direction under this section if the direction would require action to be taken that is contrary to good oilfield practice.

Subdivision 2—Unit development

183 Definitions

In this Subdivision—

dealing means a dealing to which Part 4.6 applies;

unit development—

(a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee of a petroleum production licence and partly in—

(i) the licence area of another licensee of a petroleum production licence; or

(ii) an area that is not within the offshore area but in which a person other than the first-mentioned licensee is lawfully entitled to carry on petroleum recovery operations from the pool; and

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

184 Unit development agreement and unit development scheme

(1) A licensee of a petroleum production licence may from time to time enter into a written agreement for, or in relation to, the unit development of a petroleum pool, but nothing in this subsection derogates from the operation of section 522.

(2) The Minister, on the Minister's own initiative or on application made to the Minister in writing by—

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

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

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee of a petroleum

production licence whose licence area includes part of the petroleum pool, by written notice given to the licensee, to—

(c) enter into a written agreement, within the period specified in the notice, for, or in relation to, the unit development of the petroleum pool; and

(d) lodge an application in accordance with section 523 for approval of any dealing to which the agreement relates.

(3) If—

(a) a licensee of a petroleum production licence who is directed under subsection (2) 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—

(i) an application for approval of a dealing to which the agreement relates is not lodged with the Minister; or

(ii) if an application is so lodged—the dealing is not approved under section 528—

the Minister may, by written notice given to the licensee, direct the licensee to submit to the Minister, within the period specified in the notice, a scheme for, or in relation to, the unit development of the petroleum pool.

185 Directions

(1) At any time after the end 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 section 184(3), the

Minister may, by written notice given to 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.

(2) If a person is the licensee of petroleum production licences in relation to 2 or more licence areas in each of which there is part of a particular petroleum pool, the Minister may, by written notice given to 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.

(3) If—

(a) an agreement under section 184 is in force; or

(b) the Minister has given directions under subsection (1) or (2)—

the Minister may, having regard to additional information that has become available, by written notice given to the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

(4) The Minister must not give a direction under subsection (2) or (3) unless the Minister has given to the licensee or licensees concerned an opportunity to confer with the Minister about the proposed direction.

(5) Directions under this section may include directions as to the rate at which petroleum is to be recovered.

186 Consultation

(1) If a petroleum pool extends, or is reasonably believed by the Minister to extend, from the offshore area into—

(a) lands to which the laws of the State, or of another State, relating to exploiting petroleum resources apply; or

(b) the offshore area of an adjoining State—

the Minister must consult about exploiting the petroleum pool with—

(c) the appropriate authority of the State referred to in paragraph (a); or

(d) the Designated Authority (as defined under the Commonwealth Act) of the adjoining State referred to in paragraph (b).

Note

The ***offshore area*** of a State other than Victoria is defined by section 8 of the Commonwealth Act.

(2) If subsection (1) applies in relation to a petroleum pool, the Minister must not—

(a) approve an agreement under this section; or

(b) give a direction under this section—

in relation to that petroleum pool except with the approval of the appropriate authority and any other State concerned.

Part 2.5—Infrastructure licences

Division 1—General provisions

187 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to construct or operate an infrastructure facility in the offshore area except—

(a) under an infrastructure licence; or

(b) as otherwise authorised or required by or under this Act.

(3) This Part provides for the grant of infrastructure licences.

(4) An infrastructure licence authorises the licensee to construct and operate an infrastructure facility in the licence area. An infrastructure facility may relate to petroleum or a greenhouse gas substance.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

188 Prohibition of unauthorised construction or operation of an infrastructure facility in the offshore area

A person must not intentionally—

(a) start to construct or reconstruct an infrastructure facility; or

(b) continue to construct or reconstruct an infrastructure facility; or

(c) start to alter an infrastructure facility; or

(d) continue to alter an infrastructure facility; or

(e) operate an infrastructure facility—

in the offshore area unless that person is authorised by an infrastructure licence or otherwise authorised or required by or under this Act.

Penalty: Imprisonment for 5 years.

189 Rights conferred by an infrastructure licence

(1) An infrastructure licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject—

(a) in the case of an infrastructure licence granted before the commencement of this section—

(i) to construct infrastructure facilities in the licence area; and

(ii) to operate infrastructure facilities in the licence area—

so long as those facilities are for engaging in—

(iii) a section 17(2) activity; or

(iv) a section 17(3) activity specified in the licence as the result of a variation under section 200; or

(b) in the case of an infrastructure licence granted after the commencement of this section—

(i) to construct infrastructure facilities in the licence area; and

(ii) to operate infrastructure facilities in the licence area—

so long as those facilities are for engaging in—

(iii) a section 17(2) activity specified in the licence; or

(iv) a section 17(3) activity specified in the licence.

(2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.

(3) To avoid doubt, the grant of an infrastructure licence is not a precondition to doing anything that could be authorised by a petroleum exploration permit, petroleum retention lease, petroleum production licence or pipeline licence.

190 Conditions of infrastructure licences

(1) The Minister may grant an infrastructure licence subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the licence.

(3) An infrastructure licence is subject to the condition that, if—

(a) regulations are made for the purpose of subsection (4); and

(b) those regulations impose requirements on the licensee—

the licensee will comply with those requirements.

(4) The regulations may establish a regime for third party access to services provided by means of the use of an infrastructure facility that is for engaging in any of the activities to which section 17(3) applies.

Note

Section 17(3) applies to certain greenhouse gas activities.

(5) Despite subsection (2), the condition mentioned in subsection (3) does not need to be specified in the licence.

191 Duration of infrastructure licence

(1) An infrastructure licence remains in force indefinitely.

(2) Subsection (1) has effect subject to this Chapter.

Notes

1 For the surrender of an infrastructure licence, see Part 2.12.

2 For the cancellation of an infrastructure licence, see Part 2.13.

3 For the termination of an infrastructure licence if there have been no operations for 5 years, see section 192.

192 Termination of infrastructure licence if no operations for 5 years

(1) If an infrastructure licence is in force, and the licensee—

(a) has not carried out any construction work under the licence at any time during a continuous period of at least 5 years; and

(b) has not used the infrastructure facilities constructed under the licence at any time during a continuous period of at least 5 years—

the Minister may, by written notice given to the licensee, tell the licensee that the Minister proposes to terminate the infrastructure licence after the end of 30 days after the notice is given.

(2) At any time after the end of 30 days after the notice referred to in subsection (1) is given to the licensee, the Minister may, by written notice given to the licensee, terminate the infrastructure licence.

Note

For remedial directions following termination, see section 636.

(3) In working out, for the purposes of subsection (1)—

(a) the period in which an infrastructure licensee did not carry out any construction work under the licence; or

(b) the period in which an infrastructure licensee did not use the infrastructure facilities constructed under the licence—

disregard any period in which construction work was not carried out, or the infrastructure facilities were not used, as the case may be, because of circumstances beyond the licensee's control.

(4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.

(5) The Minister may give a copy of a notice under subsection (1) to such other persons (if any) as the Minister thinks fit.

(6) A notice under subsection (1) must—

(a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal to terminate the licence; and

(b) specify a time limit for making that submission.

(7) In deciding whether to terminate the licence, the Minister must take into account any submissions made in accordance with the notice.

Division 2—Obtaining an infrastructure licence

193 Application for infrastructure licence

(1) A person may apply to the Minister for the grant by the Minister of an infrastructure licence.

(2) An application under this section must be accompanied by details of the applicant's proposals for the construction and operation of infrastructure facilities at a place that is—

(a) in the offshore area; and

(b) described in the application.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

194 Grant of infrastructure licence—offer document

If an application for the grant of an infrastructure licence has been made under section 193, the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant the Minister is prepared to grant the applicant an infrastructure licence in relation to the place described in the application.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

3 For consultation procedures, see sections 197 and 198.

195 Refusal to grant infrastructure licence

If—

(a) an application for the grant of an infrastructure licence has been made under section 193; and

(b) the Minister decides not to give the applicant an offer document under section 194—

the Minister must, by written notice given to the applicant, refuse to grant the infrastructure licence.

196 Grant of infrastructure licence

If—

(a) an applicant has been given an offer document under section 194; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant the infrastructure licence concerned.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

197 Consultation with petroleum titleholders—grant of infrastructure licence

(1) This section applies if—

(a) an application for an infrastructure licence (the ***proposed infrastructure licence***) has been made under section 193 in relation to a place in a block; and

(b) the block—

(i) is the subject of a petroleum exploration permit, petroleum retention lease or petroleum production licence; or

(ii) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence; or

(iii) includes the whole or a part of a place that is the subject of another infrastructure licence; or

(iv) is the subject of a petroleum special prospecting authority or petroleum access authority; and

(c) the applicant is not the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence, other infrastructure licence, petroleum special prospecting authority or petroleum access authority; and

(d) if paragraph (b)(i), (ii) or (iii) applies—the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence or other infrastructure licence has not given written consent to the grant of the proposed infrastructure licence; and

(e) if paragraph (b)(iv) applies—

(i) the registered holder of the petroleum special prospecting authority or petroleum access authority has not given written consent to the grant of the proposed infrastructure licence; or

(ii) the petroleum special prospecting authority or petroleum access authority will not expire before any construction or operation of infrastructure facilities under the proposed infrastructure licence would occur.

(2) Before the Minister gives the applicant an offer document under section 194, the Minister must—

(a) by written notice given to the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence, other infrastructure licence, petroleum special prospecting authority or petroleum access authority, give at least 30 days notice of the Minister's proposal to give the applicant the offer document; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the proposed infrastructure licence; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for the making of that submission.

(4) In deciding—

(a) whether to give the applicant the offer document; and

(b) the conditions (if any) to which the proposed infrastructure licence should be subject—

the Minister must take into account any submissions made in accordance with the notice.

198 Consultation with greenhouse gas titleholders—grant of infrastructure licence

(1) This section applies if—

(a) an application for an infrastructure licence (the ***proposed infrastructure licence***) has been made under section 193 in relation to a place in a block; and

(b) the block—

(i) is the subject of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence; or

(ii) is the subject of a greenhouse gas search authority or greenhouse gas special authority; and

(c) the applicant is not the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority; and

(d) if paragraph (b)(i) applies—the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not given written consent to the grant of the proposed infrastructure licence; and

(e) if paragraph (b)(ii) applies—

(i) the registered holder of the greenhouse gas search authority or greenhouse gas special authority has not given written consent to the grant of the proposed infrastructure licence; or

(ii) the greenhouse gas search authority or greenhouse gas special authority will not expire before any construction or operation of infrastructure facilities under the proposed infrastructure licence would occur.

(2) Before the Minister gives the applicant an offer document under section 194, the Minister must—

(a) by written notice given to the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority, give at least 30 days notice of the Minister's proposal to give the applicant the offer document; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the proposed infrastructure licence; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for the making of that submission.

(4) In deciding—

(a) whether to give the applicant the offer document; and

(b) the conditions (if any) to which the proposed infrastructure licence should be subject—

the Minister must take into account any submissions made in accordance with the notice.

Division 3—Varying an infrastructure licence

199 Application for variation of infrastructure licence

(1) An infrastructure licensee may apply to the Minister for the variation by the Minister of the licence.

(2) An application under this section must—

(a) be accompanied by details of the proposed variation; and

(b) set out the reasons for the proposed variation.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

200 Variation of infrastructure licence

(1) If an infrastructure licensee applies under section 199 for a variation of the licence, the Minister may, by written notice given to the licensee—

(a) vary the licence to such extent as the Minister thinks necessary; or

(b) refuse to vary the licence.

Note

For consultation procedures, see sections 201 and 202.

(2) A variation of an infrastructure licence under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 731.

201 Consultation with petroleum titleholders—variation of infrastructure licence

(1) This section applies if—

(a) an infrastructure licence (the ***first infrastructure licence***) relates to a place in a block; and

(b) an application for variation of the first infrastructure licence is made under section 199; and

(c) the block—

(i) is the subject of a petroleum exploration permit, petroleum retention lease or petroleum production licence; or

(ii) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence; or

(iii) includes the whole or a part of a place that is the subject of another infrastructure licence; or

(iv) is the subject of a petroleum special prospecting authority or petroleum access authority; and

(d) the applicant is not the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence, other infrastructure licence, petroleum special prospecting authority or petroleum access authority; and

(e) if paragraph (c)(i), (ii) or (iii) applies—the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence or other infrastructure licence has not given written consent to the variation of the first infrastructure licence; and

(f) if paragraph (c)(iv) applies—

(i) the registered holder of the petroleum special prospecting authority or petroleum access authority has not given written consent to the variation of the first infrastructure licence; or

(ii) the petroleum special prospecting authority or petroleum access authority will not expire before any construction or operation of infrastructure facilities under the first infrastructure licence, as proposed to be varied, would occur.

(2) Before varying the first infrastructure licence, the Minister must—

(a) by written notice given to the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence, pipeline licence, other infrastructure licence, petroleum special prospecting authority or petroleum access authority, give at least 30 days notice that the Minister is considering the application; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the proposed variation; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for the making of that submission.

(4) In deciding whether to vary the first infrastructure licence, the Minister must take into account any submissions made in accordance with the notice.

202 Consultation with greenhouse gas titleholders—variation of infrastructure licence

(1) This section applies if—

(a) an infrastructure licence (the ***first infrastructure licence***) relates to a place in a block; and

(b) an application for variation of the first infrastructure licence is made under section 199; and

(c) the block—

(i) is the subject of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence; or

(ii) is the subject of a greenhouse gas search authority or greenhouse gas special authority; and

(d) the applicant is not the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse

gas injection licence, greenhouse gas search authority or greenhouse gas special authority; and

(e) if paragraph (c)(i) applies—the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not given written consent to the variation of the first infrastructure licence; and

(f) if paragraph (c)(ii) applies—

(i) the registered holder of the greenhouse gas search authority or greenhouse gas special authority has not given written consent to the variation of the first infrastructure licence; or

(ii) the greenhouse gas search authority or greenhouse gas special authority will not expire before any construction or operation of infrastructure facilities under the first infrastructure licence, as proposed to be varied, would occur.

(2) Before varying the first infrastructure licence, the Minister must—

(a) by written notice given to the registered holder of the greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority, give at least 30 days notice that the Minister is considering the application; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the proposed variation; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for the making of that submission.

(4) In deciding whether to vary the first infrastructure licence, the Minister must take into account any submissions made in accordance with the notice.

Part 2.6—Pipeline licences

Division 1—General provisions

203 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to construct or operate a pipeline in the offshore area without a pipeline licence.

(3) This Part provides for the grant of pipeline licences.

(4) A pipeline licence authorises the licensee to construct and operate a pipeline. A pipeline may be used to convey petroleum or a greenhouse gas substance.

(5) A pipeline licensee must not cease to operate the pipeline without the consent of the Minister.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

204 Offence of unauthorised construction or operation of a pipeline in the offshore area

A person must not intentionally—

(a) start to construct or reconstruct a pipeline; or

(b) continue to construct or reconstruct a pipeline; or

(c) start to alter a pipeline; or

(d) continue to alter a pipeline; or

(e) operate a pipeline—

in the offshore area unless that person is authorised by a pipeline licence to do so.

Penalty: Imprisonment for 5 years.

205 Offence of starting to operate a pipeline

A person must not intentionally start to operate a pipeline in the offshore area unless—

(a) the pipeline has been constructed and tested in accordance with a pipeline licence; and

(b) the Minister has certified in writing that the Minister is satisfied that—

(i) the pipeline has been constructed and tested in accordance with a pipeline licence; and

(ii) the pipeline is fit to be operated.

Penalty: Imprisonment for 5 years.

206 Offence of recommencing to operate a pipeline

A person must not intentionally recommence to operate a pipeline, the previous operation of which was discontinued, in the offshore area unless the recommencement is carried out—

(a) with the written consent of the Minister; and

(b) in accordance with the conditions (if any) specified in that consent.

Penalty: Imprisonment for 5 years.

207 Defences

(1) Sections 204, 205 and 206 do not apply if—

(a) in an emergency in which there is a likelihood of loss or injury; or

(b) for the purpose of maintaining a pipeline in good order or repair—

the person engages in the conduct to avoid that loss or injury, or to maintain the pipeline in good order and repair, and the person—

(c) as soon as practicable, notifies the Minister of the conduct; and

(d) complies with any directions given to the person by the Minister.

(2) Sections 204, 205 and 206 do not apply to anything done in compliance with a direction under—

(a) this Act; or

(b) the regulations.

208 Consents and certificates

The Minister may—

(a) refuse to give a consent or certificate for the purposes of this Division; or

(b) make a consent under section 206 subject to such conditions as are specified in the consent.

209 Rights conferred by pipeline licence

(1) A pipeline licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject—

(a) to construct in the part of the offshore area specified in the licence a pipeline—

(i) of the design, construction, size and capacity specified in the licence; and

(ii) along the route specified in the licence; and

(iii) in the position, in relation to the seabed, specified in the licence; and

(b) to construct in the part of the offshore area specified in the licence the pumping stations, tank stations and valve stations specified in the licence in the positions specified in the licence; and

(c) to operate—

(i) that pipeline; and

(ii) those pumping stations, tank stations and valve stations; and

(d) to carry on such operations, to execute such works and to do all such other things in the part of the offshore area specified in the licence as are necessary for, or incidental to, the construction or operation of—

(i) that pipeline; and

(ii) those pumping stations, tank stations and valve stations.

(2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.

210 Conditions of pipeline licences

(1) The Minister may grant a pipeline licence subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the licence.

(3) A pipeline licence may be granted subject to a condition that the licensee must complete the construction of the pipeline within the period specified in the licence.

(4) A pipeline licence is subject to the condition that the licensee will not operate the pipeline to convey a greenhouse gas substance unless the Minister has approved the greenhouse gas substance under section 211.

(5) A pipeline licence is subject to the condition that, if—

(a) regulations are made for the purposes of subsection (6); and

(b) those regulations impose requirements on the licensee—

the licensee will comply with those requirements.

(6) The regulations may establish a regime for third party access to services provided by means of the use of greenhouse gas pipelines.

(7) Despite subsection (2), the conditions mentioned in subsections (4) and (5) do not need to be specified in the licence.

(8) Subsections (3), (4) and (5) do not limit subsection (1).

211 Approval by Minister of greenhouse gas substance to be conveyed in a pipeline

(1) A pipeline licensee may apply to the Minister for approval of a greenhouse gas substance that is to be conveyed by means of the pipeline.

(2) If an application for approval is made under subsection (1), the Minister may, by written notice given to the applicant—

(a) give the approval, with or without conditions to which the approval is subject; or

(b) refuse to give the approval.

(3) In deciding whether to give an approval, the Minister must have regard to—

(a) in a case where it is proposed to inject the greenhouse gas substance into an identified greenhouse gas storage formation—

(i) whether the greenhouse gas substance is suitable for injection into the identified greenhouse gas storage formation; and

(ii) whether the greenhouse gas substance is suitable for permanent storage in the identified greenhouse gas storage formation; and

(b) in a case where it is proposed to inject the greenhouse gas substance, on an appraisal basis, into a potential greenhouse gas storage formation (other than an identified greenhouse gas storage formation)—

(i) whether the greenhouse gas substance is suitable for injection, on an appraisal basis, into the potential greenhouse gas storage formation; and

(ii) whether the greenhouse gas substance is suitable for storage, on an appraisal basis, in the potential greenhouse gas storage formation; and

(c) such other matters (if any) as the Minister considers relevant.

(4) To avoid doubt, section 209 does not imply that a pipeline licensee who applies for approval under subsection (1) is entitled to be given the approval.

212 Duration of pipeline licence

(1) A pipeline licence comes into force—

(a) on the day on which the pipeline licence is granted; or

(b) if a later day is specified in the pipeline licence as being the day on which the pipeline licence is to come into force—on that later day.

(2) A pipeline licence remains in force indefinitely.

(3) Subsection (2) has effect subject to this Chapter.

Notes

1 For the surrender of a pipeline licence, see Part 2.12.

2 For the cancellation of a pipeline licence, see Part 2.13.

3 For the termination of a pipeline licence if there have been no operations for 5 years, see section 213.

213 Termination of pipeline licence if no operations for 5 years

(1) If a pipeline licence is in force, and the licensee—

(a) has not carried out any construction work under the licence at any time during a continuous period of at least 5 years; and

(b) has not used the pipeline or a part of the pipeline at any time during a continuous period of at least 5 years—

the Minister may, by written notice given to the licensee, tell the licensee that the Minister proposes to—

(c) terminate the pipeline licence; or

(d) terminate the pipeline licence in relation to the part of the pipeline—

as the case may be, after the end of 30 days after the notice is given.

(2) At any time after the end of 30 days after the notice referred to in subsection (1) is given to the licensee, the Minister may, by written notice given to the licensee—

(a) terminate the pipeline licence; or

(b) terminate the pipeline licence in relation to the part of the pipeline—

as the case may be.

Note

For remedial directions following termination, see section 636.

(3) In working out, for the purposes of subsection (1)—

(a) the period in which a pipeline licensee did not carry out any construction work under the licence; or

(b) the period in which a pipeline licensee did not use the pipeline or a part of the pipeline—

disregard any period in which construction work was not carried out, or the pipeline or part of the pipeline was not used, as the case may be, because of circumstances beyond the licensee's control.

(4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.

(5) For the purposes of subsection (3), the failure to obtain a greenhouse gas substance for conveyance in the pipeline, or a part of the pipeline, is not a circumstance beyond the licensee's control.

(6) The Minister may give a copy of a notice under subsection (1) to such other persons (if any) as the Minister thinks fit.

(7) A notice under subsection (1) must—

(a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal to—

(i) terminate the pipeline licence; or

(ii) terminate the pipeline licence in relation to the part of the pipeline; and

(b) specify a time limit for making that submission.

(8) In deciding whether to—

(a) terminate the pipeline licence; or

(b) terminate the pipeline licence in relation to the part of the pipeline—

the Minister must take into account any submissions made in accordance with the notice.

214 Alteration or removal of pipeline constructed in breach of this Act

(1) This section applies if—

(a) the construction of a pipeline is started, continued or completed in breach of this Act; or

(b) a pipeline is altered or reconstructed in breach of this Act.

(2) The Minister may, by written notice given to whichever of the following persons is applicable—

(a) if the construction of the pipeline has been completed—the owner of the pipeline;

(b) if the construction of the pipeline has not been completed—the person for whom the pipeline is being constructed—

direct the person—

(c) to make specified alterations to the pipeline; or

(d) to move the pipeline to a specified place in the offshore area; or

(e) to remove the pipeline from the offshore area—

within the period specified in the direction.

(3) The period specified in the direction must be reasonable.

(4) If a person does not comply with a direction under subsection (2) within—

(a) the period specified in the direction; or

(b) such longer period as the Minister allows—

the Minister may do any or all of the things required by the direction to be done.

(5) The Minister may allow a longer period under subsection (4)(b) only on written application made by the person referred to in subsection (4) within the period specified in the direction.

(6) Costs and expenses incurred by the Minister under subsection (4) are—

(a) a debt due to the State by the person referred to in that subsection; and

(b) recoverable in a court of competent jurisdiction.

Division 2—Obtaining a pipeline licence

215 Application for pipeline licence

(1) A person may apply to the Minister for the grant by the Minister of a pipeline licence.

(2) An application under this section must be accompanied by details of—

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

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

(c) the applicant's proposals for work and expenditure in relation to the construction of the pipeline; and

(d) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(g) any agreements that the applicant—

(i) has entered into; or

(ii) proposes to enter into—

for, or in relation to, the supply or conveyance of petroleum or greenhouse gas substances by means of the pipeline.

(3) An application under this section must be accompanied by a plan, drawn to an approved scale, showing—

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

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

(c) the site of any pumping station, tank station or valve station that the applicant wants to be declared under section 18 to be a terminal station in connection with the pipeline; and

(d) the location of any point that the applicant wants to be declared under section 19 to be a terminal point in connection with the pipeline.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

4 If a pipeline licensee wants to alter the pipeline, the licensee will need to apply under section 224 for the variation of the licence.

216 Rights of petroleum production licensees following application for petroleum-related pipeline licences by other persons

(1) If—

(a) a person applies for a pipeline licence in relation to the construction of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the person is not the petroleum production licensee—

the petroleum production licensee may, within—

(c) 90 days after the publication in the Government Gazette of notice of the application; or

(d) such longer period, not more than 180 days, as the Minister allows—

apply under section 215 for such a pipeline licence and, in the application, request that the application mentioned in the Government Gazette notice be rejected.

Note

For publication in the Government Gazette of notice of the application, see section 731.

(2) If a pipeline licence is granted to the petroleum production licensee as a result of an application covered by subsection (1), the Minister must, by written notice given to the person mentioned in subsection (1)(a), reject the application mentioned in subsection (1)(c).

(3) The Minister may allow a longer period under subsection (1)(d) only on written application made by the petroleum production licensee within the period of 90 days mentioned in subsection (1)(c).

217 Rights of petroleum production licensees following application for greenhouse gas-related pipeline licences by other persons

(1) If—

(a) a person applies for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the person is not the petroleum production licensee—

the petroleum production licensee may, within—

(d) 90 days after the publication in the Government Gazette of notice of the application; or

(e) such longer period, not more than 180 days, as the Minister allows—

apply under section 215 for such a pipeline licence and, in the application, request that the application mentioned in the Government Gazette notice be rejected.

Note

For publication in the Government Gazette of notice of the application, see section 731.

(2) If a pipeline licence is granted to the petroleum production licensee as a result of an application covered by subsection (1), the Minister must, by written notice given to the person mentioned in subsection (1)(a), reject the application mentioned in subsection (1)(d).

(3) The Minister may allow a longer period under subsection (1)(e) only on written application made by the petroleum production licensee within the period of 90 days mentioned in subsection (1)(d).

218 Rights of greenhouse gas injection licensees following application for greenhouse gas-related pipeline licences by other persons

(1) If—

(a) a person applies for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the person is not the greenhouse gas injection licensee—

the greenhouse gas injection licensee may, within—

(d) 90 days after the publication in the Government Gazette of notice of the application; or

(e) such longer period, not more than 180 days, as the Minister allows—

apply under section 215 for such a pipeline licence and, in the application, request that the application mentioned in the Government Gazette notice be rejected.

Note

For publication in the Government Gazette of notice of the application, see section 731.

(2) If a pipeline licence is granted to the greenhouse gas injection licensee as a result of an application covered by subsection (1), the Minister must, by written notice given to the person mentioned in subsection (1)(a), reject the application mentioned in subsection (1)(d).

(3) The Minister may allow a longer period under paragraph (1)(e) only on written application made by the greenhouse gas injection licensee within the period of 90 days mentioned in subsection (1)(d).

219 Grant of petroleum-related pipeline licence—offer document

(1) This section applies if an application for a pipeline licence has been made under section 215.

(2) If—

(a) the application is for a pipeline licence in relation to the construction in the offshore area of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the applicant is not the petroleum production licensee; and

(c) the application has not been rejected under section 216(2)—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(3) If—

(a) the application is for a pipeline licence in relation to the construction of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the applicant is the petroleum production licensee; and

(c) each of the following has been complied with—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1;

(iii) the regulations—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(4) If—

(a) the application is for a pipeline licence in relation to the construction of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the applicant is the petroleum production licensee; and

(c) any of—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(d) the Minister is satisfied that there are sufficient grounds to warrant the granting of the pipeline licence—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(5) If the application is for a pipeline licence in relation to the construction in the offshore area of a petroleum pipeline for the conveyance of petroleum recovered from a place beyond the outer limits of the offshore area, the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a pipeline licence.

(6) An offer document under this section must specify the route to be followed by the petroleum pipeline, and that route must 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.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

220 Grant of greenhouse gas-related pipeline licence—offer document

(1) This section applies if an application for a pipeline licence has been made under section 215.

(2) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the applicant is not the petroleum production licensee; and

(d) the application has not been rejected under section 217(2)—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(3) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—
the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the applicant is the petroleum production licensee; and

(d) each of the following has been complied with—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1;

(iii) the regulations—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(4) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the applicant is the petroleum production licensee; and

(d) any of—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(e) the Minister is satisfied that there are sufficient grounds to warrant the granting of the pipeline licence—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(5) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the applicant is not the greenhouse gas injection licensee; and

(d) the application has not been rejected under section 218(2)—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(6) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the applicant is the greenhouse gas injection licensee; and

(d) each of the following has been complied with—

(i) the conditions to which the greenhouse gas injection licence is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(iii) the regulations—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(7) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the applicant is the greenhouse gas injection licensee; and

(d) any of—

(i) the conditions to which the greenhouse gas injection licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(e) the Minister is satisfied that there are sufficient grounds to warrant the granting of the pipeline licence—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant the pipeline licence.

(8) An offer document under this section must specify the route to be followed by the greenhouse gas pipeline, and that route must 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.

Notes

1 Section 255 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 254 to provide further information, the Minister may refuse to give the applicant an offer document—see section 254(3).

221 Refusal to grant petroleum-related pipeline licence

(1) This section applies if an application for a pipeline licence has been made under section 215.

(2) If—

(a) the application is for a pipeline licence in relation to the construction of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the applicant is the petroleum production licensee; and

(c) any of—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(d) the Minister is not satisfied that there are sufficient grounds to warrant the granting of a pipeline licence—

the Minister must, by written notice given to the applicant, refuse to grant the pipeline licence.

Note

Consultation procedures apply—see section 258.

(3) If—

(a) the application is for a pipeline licence in relation to the construction of a petroleum pipeline for the conveyance of petroleum recovered in a petroleum production licence area; and

(b) the applicant is not the petroleum production licensee—

the Minister may, by written notice given to the applicant, refuse to grant the pipeline licence.

222 Refusal to grant greenhouse gas-related pipeline licence

(1) This section applies if an application for a pipeline licence has been made under section 215.

(2) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the applicant is the petroleum production licensee; and

(d) any of—

(i) the conditions to which the petroleum production licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(e) the Minister is not satisfied that there are sufficient grounds to warrant the granting of a pipeline licence—

the Minister must, by written notice given to the applicant, refuse to grant the pipeline licence.

Note

Consultation procedures apply—see section 258.

(3) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a petroleum production licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a petroleum production licence area to a place in the petroleum production licence area; and

(b) either—

(i) if paragraph (a)(i) applies—
the greenhouse gas substance is a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) if paragraph (a)(ii) applies—
the greenhouse gas substance is to be injected into the seabed or subsoil for the purpose of enhancing petroleum recovery operations carried on under the petroleum production licence; and

(c) the applicant is not the petroleum production licensee—

the Minister may, by written notice given to the applicant, refuse to grant the pipeline licence.

(4) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the applicant is the greenhouse gas injection licensee; and

(d) any of—

(i) the conditions to which the greenhouse gas injection licence is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(e) the Minister is not satisfied that there are sufficient grounds to warrant the granting of a pipeline licence—

the Minister must, by written notice given to the applicant, refuse to grant the pipeline licence.

Note

Consultation procedures apply—see section 258.

(5) If—

(a) the application is for a pipeline licence in relation to the construction, in the offshore area, of a greenhouse gas pipeline for—

(i) the conveyance of a greenhouse gas substance within a greenhouse gas injection licence area in the offshore area; or

(ii) the conveyance of a greenhouse gas substance from a place outside a greenhouse gas injection licence area to a place in the greenhouse gas injection licence area; and

(b) the greenhouse gas substance is to be injected into an identified greenhouse gas storage formation that is wholly situated in the greenhouse gas injection licence area; and

(c) the applicant is not the greenhouse gas injection licensee—

the Minister may, by written notice given to the applicant, refuse to grant the pipeline licence.

223 Grant of pipeline licence

If—

(a) an applicant has been given an offer document under section 219 or 220; and

(b) the applicant has made a request under section 256 in relation to the offer document within the period applicable under that section—

the Minister must grant the applicant the pipeline licence concerned.

Note

If the applicant does not make a request under section 256 within the period applicable under that section, the application lapses at the end of that period—see section 256(4).

Division 3—Varying a pipeline licence

224 Variation of pipeline licence on application by licensee

(1) A pipeline licensee may apply to the Minister for the variation by the Minister of the licence.

(2) An application under this section must—

(a) be accompanied by details of the proposed variation; and

(b) specify the reasons for the proposed variation.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

3 Section 254 enables the Minister to require the applicant to give further information.

(3) When notice of an application under this section is published in the Government Gazette, the notice must specify a period within which a person may make a written submission to the Minister about the application.

Note

For publication in the Government Gazette of notice of the application, see section 731.

(4) After considering any submissions made to the Minister under subsection (3), the Minister may, by written notice given to the applicant—

(a) vary the pipeline licence to such extent as the Minister thinks necessary; or

(b) refuse to vary the pipeline licence.

(5) A variation of a pipeline licence under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 731.

225 Variation of pipeline licence at the request of a Minister or a statutory body

(1) The Minister may, by written notice given to a pipeline licensee, direct the licensee to—

(a) make such changes to the design, construction, route or position of the pipeline concerned as are specified in the direction; and

(b) make those changes within the period specified in the direction—

and, if the Minister gives such a direction, the Minister must vary the pipeline licence in accordance with the direction.

(2) The period specified in the direction must be reasonable.

(3) A variation of a pipeline licence under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 731.

(4) The Minister may give a direction under subsection (1) only if—

(a) the Minister is requested to do so by—

(i) a Minister of this State or the Commonwealth or of another State or the Northern Territory; or

(ii) a body established by a law of this State or the Commonwealth or of another State or a Territory; and

(b) in the Minister's opinion, it is in the public interest to give the direction.

(5) A person who is given a direction under subsection (1) must not intentionally contravene the direction.

Penalty: Imprisonment for 5 years.

S. 225(6) amended by No. 55/2010 s. 80(2).

(6) If—

(a) the Minister gives a direction to a person under subsection (1) in relation to a pipeline in the offshore area; and

(b) the person complies with the direction—

the person may bring an action in the Supreme Court against the Minister or body who made the request under subsection (4).

(7) The court must—

(a) hear the action without a jury; and

(b) determine whether it is just that the whole or a part of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.

(8) If the court determines that it is just that such a payment ought to be made, the court must determine the amount of the payment and give judgment accordingly.

Division 4—Pipeline operation

226 Ceasing to operate pipeline without consent

(1) A person who is a pipeline licensee in relation to a pipeline must not intentionally cease to operate the pipeline.

Penalty: Imprisonment for 5 years.

(2) Subsection (1) does not apply if the failure of the licensee to operate the pipeline is—

(a) with the written consent of the Minister; and

(b) in accordance with the conditions (if any) specified in the consent.

(3) Subsection (1) does not apply if the failure of the licensee to operate the pipeline was—

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

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

(c) in an emergency in which there was a likelihood of loss or injury.

Part 2.7—Petroleum special prospecting authorities

Division 1—General provisions

227 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of petroleum special prospecting authorities over blocks in the offshore area.

(3) A petroleum special prospecting authority may be granted over a block so long as none of the following is in force over the block—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) a greenhouse gas assessment permit;

(e) a greenhouse gas holding lease;

(f) a greenhouse gas injection licence.

(4) A petroleum special prospecting authority authorises the holder to carry on petroleum exploration operations in the authority area (but not to make a well).

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

228 Rights conferred by petroleum special prospecting authority

(1) A petroleum special prospecting authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the

petroleum exploration operations specified in the authority.

(2) A petroleum special prospecting authority does not authorise the registered holder to make a well.

(3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

229 Conditions of petroleum special prospecting authorities

(1) The Minister may grant a petroleum special prospecting authority subject to whatever conditions the Minister thinks appropriate.

Note

See also section 618, which deals with insurance.

(2) The conditions (if any) must be specified in the petroleum special prospecting authority.

230 Duration of petroleum special prospecting authority

(1) A petroleum special prospecting authority comes into force on the day specified in the authority as the day on which the authority is to come into force.

(2) A petroleum special prospecting authority remains in force for the period specified in the authority.

(3) The period specified under subsection (2) must not be longer than 180 days.

(4) Subsection (2) has effect subject to this Chapter.

Notes

1 For the surrender of a petroleum special prospecting authority, see Part 2.12.

2 For the cancellation of a petroleum special prospecting authority, see Part 2.13.

231 Petroleum special prospecting authority cannot be transferred

A petroleum special prospecting authority cannot be transferred.

Division 2—Obtaining a petroleum special prospecting authority

232 Application for petroleum special prospecting authority

(1) A person may apply to the Minister for the grant of a petroleum special prospecting authority over a block or blocks, so long as none of the following is in force over that block or any of those blocks—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) a greenhouse gas assessment permit;

(e) a greenhouse gas holding lease;

(f) a greenhouse gas injection licence.

(2) An application under this section must specify—

(a) the petroleum exploration operations that the applicant proposes to carry on; and

(b) the block or blocks within which the applicant proposes to carry on those operations.

Notes

1 Part 2.10 contains additional provisions about application procedures.

2 Section 252 requires the application to be accompanied by an application fee.

233 Grant or refusal of petroleum special prospecting authority

If an application for a petroleum special prospecting authority has been made under section 232, the Minister may—

(a) grant the applicant a petroleum special prospecting authority; or

(b) by written notice given to the applicant, refuse to grant a petroleum special prospecting authority to the applicant.

234 Holders to be informed of the grant of another petroleum special prospecting authority

(1) This section applies if—

(a) a person (the ***first person***) is the registered holder of a petroleum special prospecting authority over a block; and

(b) another petroleum special prospecting authority is granted to another person (the ***second person***) over the block.

(2) The Minister must, by written notice given to the first person, inform the first person of—

(a) the petroleum exploration operations authorised by the petroleum special prospecting authority granted to the second person; and

(b) the conditions of the petroleum special prospecting authority granted to the second person.

(3) The Minister must, by written notice given to the second person, inform the second person of—

(a) the petroleum exploration operations authorised by the petroleum special prospecting authority granted to the first person; and

(b) the conditions of the petroleum special prospecting authority granted to the first person.

235 Holders to be informed of the grant of greenhouse gas search authority

(1) This section applies if—

(a) a person (the ***first person***) is the registered holder of a petroleum special prospecting authority over a block; and

(b) a greenhouse gas search authority is granted to another person (the ***second person***) over the block.

(2) The Minister must, by written notice given to the first person, inform the first person of—

(a) the operations authorised by the greenhouse gas search authority granted to the second person; and

(b) the conditions of the greenhouse gas search authority granted to the second person.

(3) The Minister must, by written notice given to the second person, inform the second person of—

(a) the petroleum exploration operations authorised by the petroleum special prospecting authority granted to the first person; and

(b) the conditions of the petroleum special prospecting authority granted to the first person.

Part 2.8—Petroleum access authorities

Division 1—General provisions

236 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of petroleum access authorities over blocks in the offshore area.

(3) A petroleum access authority authorises the holder to carry on certain petroleum exploration operations, and certain operations relating to the recovery of petroleum, in the authority area (but not to make a well, other than a deviation well that enters an adjacent permit area, lease area or licence area that is the subject of a permit, licence or lease held by that holder).

S. 236(3) amended by No. 64/2012 s. 63.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

237 Rights conferred by petroleum access authority

(1) A petroleum access authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the operations specified in the authority.

(2) A petroleum access authority does not authorise the registered holder to make a well.

(2A) However, a petroleum access authority authorises the registered holder to make a deviation well that enters—

S. 237(2A) inserted by No. 64/2012 s. 64.

(a) an adjacent permit area that is the subject of a petroleum exploration permit held by the registered holder; or

(b) an adjacent lease area that is the subject of a petroleum retention lease held by the registered holder; or

(c) an adjacent licence area that is the subject of a petroleum production licence held by the registered holder.

(3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

238 Conditions of petroleum access authorities

(1) The Minister may grant a petroleum access authority subject to whatever conditions the Minister thinks appropriate.

Note

See also section 619, which deals with insurance.

(2) The conditions (if any) must be specified in the petroleum access authority.

239 Duration of petroleum access authority

(1) A petroleum access authority comes into force on the day specified in the authority as the day on which the authority is to come into force.

(2) A petroleum access authority remains in force for the period specified in the authority, but may be extended by the Minister for a further specified period.

(3) Subsection (2) has effect subject to this Chapter.

Notes

1 For the surrender of a petroleum access authority, see Part 2.12.

2 For the revocation of a petroleum access authority, see section 246.

Division 2—Obtaining a petroleum access authority

240 Application for petroleum access authority

(1) The table has effect—

S. 240(1) (Table) amended by No. 26/2021 s. 39.

Application for petroleum access authority

Item	*Column 1*	*Column 2*	*Column 3*
	This person...	*may apply to...*	*for the grant of a petroleum access authority to enable the person to...*
1	the registered holder of a petroleum exploration permit, petroleum retention lease or petroleum production licence relating to the offshore area	the Minister	carry on, in an area that is part of the offshore area but outside the permit area, lease area or licence area— either or both of the following— (a) petroleum exploration operations; (b) operations related to the recovery of petroleum in or from the permit area, lease area or licence area.
2	the holder of a Commonwealth title or adjacent State title who wants to gain access to the offshore area	the Minister	carry on, in a part of the offshore area, either or both of the following— (a) petroleum exploration operations; (b) operations related to the recovery of petroleum in or from the area to which that Commonwealth title or adjacent State title relates.

Application for petroleum access authority			
Item	*Column 1* *This person...*	*Column 2* *may apply to...*	*Column 3* *for the grant of a petroleum access authority to enable the person to...*
3	the registered holder of a petroleum special prospecting authority relating to the offshore area	the Minister	carry on petroleum exploration operations in an area that is part of the offshore area but outside the authority area of the petroleum special prospecting authority.
4	an applicant for a petroleum special prospecting authority relating to a particular offshore area	the Minister	carry on petroleum exploration operations in an area that is— (a) part of that offshore area but outside the authority area of the proposed petroleum special prospecting authority; or (b) part of an adjoining offshore area.

(2) An application under this section must specify—

(a) the operations that the applicant proposes to carry on; and

(b) the area in which the applicant proposes to carry on those operations.

Note

Part 2.10 contains additional provisions about application procedures.

(3) In this section—

adjacent State title means an authority (however described) under a corresponding State law to explore for, or recover, petroleum;

Commonwealth title means an instrument under the Commonwealth Act that confers, in relation to the Commonwealth defined

offshore area or the offshore area (within the meaning of that Act) for another State, some or all of the rights that a State title confers in relation to the offshore area;

Note

Commonwealth defined offshore area is defined in section 6(1).

State title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence.

241 Grant or refusal of petroleum access authority

(1) If—

(a) an application for a petroleum access authority has been made under section 240; and

(b) the Minister is satisfied that it is necessary or desirable to grant the petroleum access authority for—

(i) the more effective exercise of the applicant's rights; or

(ii) the proper performance of the applicant's duties—

in the applicant's capacity as—

(iii) the registered holder of a petroleum exploration permit, petroleum retention lease or petroleum production licence; or

(iv) the holder of a State title; or

(v) the registered holder of a petroleum special prospecting authority—

the Minister may—

(c) grant the applicant a petroleum access authority; or

(d) by written notice given to the applicant, refuse to grant a petroleum access authority to the applicant.

(2) In this section ***state title*** has the same meaning as in section 240.

Note

Consultation procedures apply—see section 242.

242 Consultation—grant of petroleum access authority in the offshore area

(1) This section applies if—

(a) an application for a petroleum access authority has been made under section 240 in relation to the offshore area (the ***application area***); and

(b) the application area is, to any extent, the subject of a petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority; and

(c) the applicant is not the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority; and

(d) the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority has

not given written consent to the grant of the petroleum access authority.

(2) Before granting the petroleum access authority, the Minister must—

(a) by written notice given to the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority, give at least 30 days notice of the Minister's intention to grant the petroleum access authority; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the petroleum access authority that is proposed to be granted; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding—

(a) whether to grant the petroleum access authority; and

(b) the conditions (if any) to which the petroleum access authority should be subject—

the Minister must take into account any submissions made in accordance with the notice.

Division 3—Variation of petroleum access authorities

243 Variation of petroleum access authority

The Minister may, by written notice given to the registered holder of a petroleum access authority, vary the petroleum access authority.

244 Consultation—variation of petroleum access authority in the offshore area

(1) This section applies if—

(a) a petroleum access authority was granted as a result of an application under section 240 in relation to the offshore area; and

(b) the Minister proposes to vary the petroleum access authority; and

(c) the authority area is, to any extent, the subject of a petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority; and

(d) the applicant is not the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority; and

(e) the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority has not given written consent to the variation of the petroleum access authority.

(2) Before varying the petroleum access authority, the Minister must—

(a) by written notice given to the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority, give at least 30 days notice of the Minister's intention to vary the petroleum access authority; and

(b) give a copy of the notice to—

(i) the registered holder of the petroleum access authority; and

(ii) such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the variation that is proposed to be made; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to vary the petroleum access authority, the Minister must take into account any submissions made in accordance with the notice.

Division 4—Reporting obligations of holders of petroleum access authorities

245 Reporting obligations of holders of petroleum access authorities

(1) If—

(a) at any time during a particular month, a petroleum access authority is in force in relation to an area that consists of, or includes, a block that is the subject of a petroleum exploration permit, petroleum retention lease or petroleum production licence; and

(b) the registered holder of the petroleum access authority is not the registered holder of the permit, lease or licence—

the registered holder of the petroleum access authority must, within 30 days after the end of that month, give the registered holder of the permit, lease or licence—

(c) a written report about the operations carried on in that block during that month; and

(d) a written summary of the facts ascertained from those operations.

(2) A person who is subject to a requirement under subsection (1) must comply with that requirement.

Penalty: 60 penalty units.

Division 5—Revocation of petroleum access authorities

246 Revocation of petroleum access authority

(1) The Minister may, by written notice given to the registered holder of a petroleum access authority, revoke the petroleum access authority.

(2) If—

(a) the Minister revokes a petroleum access authority; and

(b) the petroleum access authority authorised operations in—

(i) a petroleum exploration permit area; or

(ii) a petroleum retention lease area; or

(iii) a petroleum production licence area—

the Minister must give written notice of the revocation to the permittee, lessee or licensee.

Part 2.9—Petroleum scientific investigation consents

247 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of petroleum scientific investigation consents.

(3) A petroleum scientific investigation consent authorises the holder to carry on petroleum exploration operations in the course of a scientific investigation.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

248 Rights conferred by petroleum scientific investigation consent

(1) A petroleum scientific investigation consent authorises the holder, in accordance with the conditions (if any) to which the consent is subject, to carry on, in the offshore area specified in the consent, the petroleum exploration operations specified in the consent in the course of the scientific investigation specified in the consent.

(2) The rights conferred on the holder by subsection (1) are subject to section 276.

Note

Section 276 deals with interference with other rights.

249 Conditions of petroleum scientific investigation consents

(1) The Minister may grant a petroleum scientific investigation consent subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the consent.

250 Grant of petroleum scientific investigation consent

(1) The Minister may grant a written petroleum scientific investigation consent authorising a person to carry on, in the offshore area, petroleum exploration operations in the course of a scientific investigation.

(2) The person is the ***holder*** of the consent.

Part 2.10—Standard procedures

251 Application to be made in an approved manner

(1) This section applies to an application for—

(a) the grant or renewal of a petroleum exploration permit; or

(b) the grant or renewal of a petroleum retention lease; or

(c) the grant, variation or renewal of a petroleum production licence; or

(d) the grant or variation of an infrastructure licence; or

(e) the grant or variation of a pipeline licence; or

(f) the grant of a petroleum special prospecting authority; or

(g) the grant of a petroleum access authority.

(2) The application must be made in an approved manner.

252 Application fee

(1) This section applies to an application for—

(a) the grant or renewal of a petroleum exploration permit; or

(b) the grant or renewal of a petroleum retention lease; or

(c) the grant or renewal of a petroleum production licence; or

(d) the grant or variation of an infrastructure licence; or

(e) the grant or variation of a pipeline licence; or

(f) the grant of a petroleum special prospecting authority.

(2) The application must be accompanied by the fee (if any) prescribed by the regulations.

(3) Different fees may be prescribed for different applications.

(4) A fee must not be such as to amount to taxation.

(5) To avoid doubt, a fee is in addition to—

(a) the amount that a person specifies in an application as the amount that the person is prepared to pay for—

(i) a cash-bid petroleum exploration permit; or

(ii) a special petroleum exploration permit; or

(iii) a section 177 petroleum production licence; and

(b) the amount specified in an offer document as the amount that a person must pay for a cash-bid petroleum exploration permit; and

(c) the balance specified in an offer document as the balance that a person must pay for—

(i) a special petroleum exploration permit; or

(ii) a section 177 petroleum production licence.

253 Application may set out additional matters

(1) This section applies to the following—

(a) an application for the grant of a petroleum exploration permit (otherwise than by way of renewal);

(b) an application for the grant of a petroleum retention lease (otherwise than by way of renewal);

(c) an application under section 164, 166 or 173 for the grant of a petroleum production licence;

(d) an application for the variation of a petroleum production licence;

(e) an application for the grant of an infrastructure licence;

(f) an application for the grant of a pipeline licence;

(g) an application for the grant of a petroleum access authority.

(2) The application may set out any additional matters that the applicant wishes to be considered.

254 Minister may require further information

(1) This section applies to an application for—

(a) the grant of a petroleum exploration permit (otherwise than by way of renewal); or

(b) the grant or renewal of a petroleum retention lease; or

(c) the grant of a petroleum production licence (otherwise than by way of renewal and otherwise than by way of grant under section 179); or

(d) the variation of a petroleum production licence; or

(e) the grant or variation of an infrastructure licence; or

(f) the grant or variation of a pipeline licence.

(2) The Minister may, by written notice given to the applicant, require the applicant to give the Minister, within the period specified in the notice, further information in connection with the application.

(3) If the applicant breaches the requirement, the Minister may, by written notice given to the applicant—

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

(4) Subsection (3) has effect despite any provision of this Act that requires the Minister to—

(a) consider the application; or

(b) take any particular action in relation to the application.

(5) A reference in this section to taking action in relation to the application includes a reference to giving an offer document in relation to the application.

(6) If an application for the grant of a petroleum production licence has been made under section 164 or 166 then—

(a) if the Minister does not require the applicant to give further information under subsection (2)—the Minister must, within 30 days after the application was made, determine whether or not sufficient information has been received to determine the application; or

(b) if the Minister requires the applicant to give further information under subsection (2)—the Minister must, within 30 days after receiving the information, determine whether or not sufficient information has been received to determine the application.

(7) If, under subsection (6), the Minister determines that sufficient information has been provided, the Minister must issue the applicant with a notice to that effect specifying the last date on which information was provided.

(8) The issuing of a notice under subsection (7) does not prevent the Minister from later requiring further information under subsection (2). However, the later requirement does not affect the notice under subsection (7).

(9) If an application covered by subsection (6)—

(a) lapses; or

(b) is withdrawn; or

(c) is refused—

any notice issued under subsection (7) in relation to that application is taken never to have been issued.

255 Offer documents

(1) This section applies to an offer document that relates to an application for—

(a) the grant or renewal of a petroleum exploration permit; or

(b) the grant or renewal of a petroleum retention lease; or

(c) the grant or renewal of a petroleum production licence; or

(d) the grant of an infrastructure licence; or

(e) the grant of a pipeline licence.

(2) The offer document must contain—

(a) a summary of the conditions to which the permit, lease or licence will be subject; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under section 256.

(3) If the offer document relates to an application for the grant of a cash-bid petroleum exploration permit, the offer document must—

(a) specify the amount that the applicant must pay for the permit; and

(b) contain a statement to the effect that the application will lapse if the applicant does not pay the amount to the State within the period allowed for making a request under section 256.

(4) If the offer document relates to an application for the grant of a special petroleum exploration permit, the offer document must—

(a) specify the balance of the amount that the applicant must pay for the permit; and

(b) contain a statement to the effect that the application will lapse if the applicant does not pay the balance to the State within the period allowed for making a request under section 256.

(5) If the offer document is given under section 176 to an applicant for a petroleum production licence, the offer document must—

(a) specify the balance of the amount that the applicant must pay for the licence; and

(b) contain a statement to the effect that the application will lapse if the applicant does not pay the balance to the State within the period allowed for making a request under section 256.

256 Acceptance of offer—request by applicant

(1) The table has effect—

Acceptance of offer by applicant

Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
1	a work-bid petroleum exploration permit	whichever of the following periods is applicable— (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Minister allows—	the permit.
2	a cash-bid petroleum exploration permit	30 days after the offer document was given to the applicant,	the permit.
3	a special petroleum exploration permit	whichever of the following periods is applicable— (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Minister allows—	the permit.
4	the renewal of a petroleum exploration permit	30 days after the offer document was given to the applicant,	the renewal of the permit.

Acceptance of offer by applicant			
Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
5	a petroleum retention lease	whichever of the following periods is applicable— (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Minister allows—	the lease.
6	the renewal of a petroleum retention lease	30 days after the offer document was given to the applicant,	the renewal of the lease.
7	a petroleum production licence	whichever of the following periods is applicable— (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Minister allows—	the licence.
8	the renewal of a petroleum production licence	30 days after the offer document was given to the applicant,	the renewal of the licence.

Acceptance of offer by applicant			
Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
9	an infrastructure licence	whichever of the following periods is applicable— (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Minister allows—	the licence.
10	a pipeline licence	whichever of the following periods is applicable— (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Minister allows—	the licence.

(2) The Minister may allow a longer period under paragraph (b) of column 2 of item 1 or 5 of the table only on written application made by the applicant within the period of 30 days mentioned in paragraph (a) of that column.

(3) The Minister may allow a longer period under paragraph (b) of column 2 of item 3, 7, 9 or 10 of the table only on written application made by the applicant within the period of 90 days mentioned in paragraph (a) of that column.

(4) If an applicant does not make a request under an item of the table within the period applicable under column 2 of the table, the application lapses at the end of that period.

257 Acceptance of offer—payment

(1) If—

(a) an offer document specifies an amount that the applicant must pay to the State for the grant of a cash-bid petroleum exploration permit; and

(b) the applicant has not paid that amount within the period applicable under column 2 of the table in section 256(1)—

the application lapses at the end of that period.

(2) If—

(a) an offer document specifies the balance of the amount that the applicant must pay to the State for the grant of—

(i) a special petroleum exploration permit; or

(ii) a section 177 petroleum production licence; and

(b) the applicant has not paid that balance within the period applicable under column 2 of the table in section 256(1)—

the application lapses at the end of that period.

258 Consultation—adverse decisions

(1) This section applies to a decision set out in the table, and the ***affected person*** in relation to that decision is set out in the table.

Decisions and affected persons

Item	*Column 1* *Provision under which decision is made*	*Column 2* *Decision of the Minister*	*Column 3* *Affected person*
1	section 109	refusal to renew a petroleum exploration permit	the permittee
2	section 138	refusal to grant a petroleum retention lease to a petroleum production licensee	the licensee
3	section 144	refusal to renew a petroleum retention lease	the lessee
4	section 221	refusal to grant a pipeline licence to a petroleum production licensee	the licensee
5	section 222	refusal to grant a pipeline licence to a petroleum production licensee	the licensee.
6	section 222	refusal to grant a pipeline licence to a greenhouse gas injection licensee	the licensee.

(2) Before making the decision, the Minister must—

(a) by written notice given to the affected person, give at least 30 days notice of the Minister's intention to make the decision; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the decision that is proposed to be made; and

(b) set out the reasons for the proposal; and

(c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(d) specify a time limit for making that submission.

(4) In deciding whether to make the decision, the Minister must take into account any submissions made in accordance with the notice.

259 Minister may require information about negotiations for a designated agreement

(1) This section applies to the following applications—

(a) an application under section 78(1) for approval to carry on one or more key petroleum operations under a declared petroleum exploration permit;

(b) an application under section 122 for approval to carry on one or more key petroleum operations under a declared petroleum retention lease;

(c) an application under section 156(1) for approval to carry on one or more key petroleum operations under a declared petroleum production licence—

where either or both of the following are relevant to the Minister's decision on the application—

(d) the existence or non-existence of a designated agreement;

(e) the terms of a designated agreement.

(2) The Minister may, by written notice given to the applicant, require the applicant to give to the Minister, within the period specified in the notice, a written report about negotiations, or attempts at negotiations, relating to—

(a) the entering into of the designated agreement; and

(b) the terms of the designated agreement.

(3) If the applicant breaches the requirement, the Minister may, by written notice given to the applicant—

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

(4) Subsection (3) has effect despite any provision of this Act that requires the Minister to—

(a) consider the application; or

(b) take any particular action in relation to the application.

Part 2.11—Variation, suspension and exemption

Division 1—Variation, suspension and exemption decisions relating to petroleum exploration permits, petroleum retention leases, petroleum production licences, infrastructure licences and pipeline licences

260 Variation, suspension and exemption—conditions of titles

(1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists—

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
1	a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence	the permittee, lessee or licensee applies in writing to the Minister for— (a) a variation or suspension of any of the conditions to which the permit, lease or licence is subject; or (b) exemption from compliance with any of the conditions to which the permit, lease or licence is subject.
2	a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence	the Minister gives a direction or consent to the permittee, lessee or licensee under— (a) this Chapter; or (b) Chapter 6; or (c) Part 7.1; or (d) the regulations.
3	a petroleum exploration permit or petroleum production licence	the permit or licence is— (a) partly cancelled; or (b) partly revoked; or

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
		(c) partly surrendered.
4	a petroleum retention lease	the lease is partly revoked.
5	a petroleum exploration permit, petroleum retention lease or petroleum production licence	the permit, lease or licence is taken to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, lease or licence (see sections 102(5) and 142(5)).
6	a petroleum production licence	the licensee enters into an agreement under section 184, or a direction is given to the licensee under that section.
7	a pipeline licence	the licence is partly cancelled.
8	a pipeline licence	the licence is varied under section 224 or 225.

(2) The Minister may, by written notice given to the permittee, lessee or licensee—

(a) vary; or

(b) suspend; or

(c) exempt the permittee, lessee or licensee from compliance with—

any of the conditions to which the permit, lease, or licence is subject, on such conditions (if any) as are specified in the notice.

(3) Subsection (2) does not authorise the giving of a notice to the extent that it would affect the term of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence.

Note

See also section 261 (extension of term).

(4) A variation of a petroleum production licence, infrastructure licence or pipeline licence under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

(5) A variation of a petroleum exploration permit or petroleum retention lease under this section takes effect on the day on which notice of the variation is given to the permittee or lessee.

261 Extension of term of petroleum exploration permit or petroleum retention lease—suspension or exemption

(1) This section applies if, under section 260, the Minister—

(a) suspends any of the conditions to which a petroleum exploration permit or petroleum retention lease is subject; or

(b) exempts a petroleum exploration permittee or petroleum retention lessee from compliance with any of the conditions to which the permit or lease is subject.

(2) Despite section 260(3), if the Minister considers that the circumstances make it reasonable to do so, the Minister may extend the term of the permit or lease by a period not more than the period of the suspension or exemption.

(3) The extension may be—

(a) in the notice of suspension or exemption; or

(b) by a later written notice given to the permittee or lessee.

262 Suspension of rights—petroleum exploration permit or petroleum retention lease

(1) If the Minister is satisfied that it is necessary to do so in the national interest, the Minister must, by written notice given to a petroleum exploration permittee or petroleum retention lessee, suspend, either—

(a) for a specified period; or

(b) indefinitely—

any or all of the rights conferred by the permit or lease.

(2) If any rights are suspended under subsection (1), any conditions that must be complied with in the exercise of those rights are also suspended.

(3) The Minister may, by written notice given to the permittee or lessee, terminate a suspension of rights under subsection (1).

263 Extension of term of petroleum exploration permit or petroleum retention lease—suspension of rights

(1) This section applies if rights conferred by a petroleum exploration permit or petroleum retention lease are suspended under section 262.

(2) The Minister may extend the term of the permit or lease by a period not more than the period of the suspension.

(3) The extension may be—

(a) in the notice of suspension; or

(b) by a later written notice given to the permittee or lessee.

263A Variation of a State title—including an area as the result of a change to the boundary of the offshore area

S. 263A inserted by No. 16/2018 s. 29.

(1) This section applies if—

(a) a Commonwealth title has been granted on the basis that an area (the ***relevant area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the offshore area, the relevant area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area; and

(c) either—

(i) the conditions set out in subsection (2) are satisfied; or

(ii) the conditions set out in subsection (3) are satisfied; and

(d) immediately before the relevant time mentioned in whichever of subsection (2) or (3) is applicable—

(i) the Commonwealth title was held by the registered holder of a State title that corresponds to the Commonwealth title; and

(ii) at least one section 37 block covered by the State title immediately adjoined at least one other section 37 block that was covered by the Commonwealth title and that is in the relevant area; and

(e) before the relevant time mentioned in whichever of subsection (2) or (3) is applicable—

(i) the holder of the Commonwealth title; and

(ii) the registered holder of the State title—

gave the Minister a written notice electing to accept the variation under this section of the State title.

Note

For when a State title corresponds to a Commonwealth title, see subsection (12).

(2) The conditions mentioned in subsection (1)(c)(i) are—

(a) one or more, but not all, of the section 37 blocks that were covered by the Commonwealth title immediately before the change are in the relevant area; and

(b) the Commonwealth title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the Commonwealth title immediately before the change and that are in the Commonwealth defined offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth title.

(3) The conditions mentioned in subsection (1)(c)(ii) are—

(a) all of the section 37 blocks that were covered by the Commonwealth title immediately before the change are in the relevant area; and

(b) the Commonwealth title subsequently ceases to be in force at the same time (the ***relevant time***)—

(i) as to all of the section 37 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth title.

(4) If the conditions set out in subsection (1)(d) and (e) are met by only one State title, that title is the ***relevant State title*** for the purposes of this section.

(5) If the conditions set out in subsection (1)(d) and (e) would, apart from this subsection, be met by 2 or more State titles that have the same registered holder, the Minister must, by written notice given to the registered holder, declare that one of those State titles is the ***relevant State title*** for the purposes of this section.

(6) If the relevant State title is a petroleum exploration permit—

(a) the Minister must, by written notice given to the permittee, vary the permit to include in the permit area all of the section 37 blocks that—

(i) correspond to the section 37 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the offshore area; and

(b) the section 37 blocks included in the permit area because of the variation are, for the remainder of the term of the permit, blocks in relation to which the permit is in force.

(7) If the relevant State title is a petroleum retention lease—

(a) the Minister must, by written notice given to the lessee, vary the lease to include in the lease area all of the section 37 blocks that—

(i) correspond to the section 37 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the offshore area; and

(b) the section 37 blocks included in the lease area because of the variation are, for the remainder of the term of the lease, blocks in relation to which the lease is in force.

(8) If the relevant State title is a petroleum production licence—

(a) the Minister must, by written notice given to the licensee, vary the licence to include in the licence area all of the section 37 blocks that—

(i) correspond to the section 37 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the offshore area; and

(b) the section 37 blocks included in the licence area because of the variation are, for the remainder of the term of the licence, blocks in relation to which the licence is in force.

(9) Subsections (6)(b), (7)(b) and (8)(b) have effect subject to this Chapter.

(10) A variation under subsection (6)(a), (7)(a) or (8)(a) takes effect immediately after the relevant time mentioned in whichever of subsection (2) or (3) is applicable.

(11) For the purposes of this section, a section 37 block immediately adjoins another section 37 block if—

(a) the graticular section that constitutes or includes that section 37 block and the graticular section that constitutes or includes that other section 37 block—

(i) have a side in common; or

(ii) are joined together at one point only; or

(b) that section 37 block and that other section 37 block are in the same graticular section.

(12) For the purposes of this section—

(a) a petroleum exploration permit granted otherwise than by way of renewal corresponds to a Commonwealth petroleum exploration title granted otherwise than by way of renewal; and

(b) a petroleum retention lease corresponds to a Commonwealth petroleum retention title; and

(c) a petroleum production licence corresponds to a fixed-term Commonwealth petroleum production title granted by way of renewal or otherwise; and

(d) a petroleum exploration permit granted by way of first renewal corresponds to a Commonwealth petroleum exploration title granted by way of first renewal; and

(e) a petroleum exploration permit granted by way of second renewal corresponds to a Commonwealth petroleum exploration title granted by way of second renewal.

(13) If, after the change to the boundary of the offshore area—

(a) a part of a section 37 block that was covered by the Commonwealth title immediately before the change is in the Commonwealth defined offshore area; and

(b) the remaining part of the section 37 block is in the offshore area—

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 37 block.

(14) In this section—

Commonwealth title means—

(a) a Commonwealth petroleum exploration title; or

(b) a Commonwealth petroleum retention title; or

(c) a fixed-term Commonwealth petroleum production title;

section 37 block means—

(a) a block constituted as provided by section 37; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth title concerned—the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth title concerned—that part of the graticular section;

Note

See also subsection (13).

State title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence.

Division 2—Variation, suspension and exemption decisions relating to petroleum special prospecting authorities and petroleum access authorities

264 Variation, suspension and exemption—conditions of petroleum special prospecting authorities and petroleum access authorities

(1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists—

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
1	a petroleum access authority	a petroleum access authority is in force over the whole or a part of a block that is the subject of a petroleum exploration permit, petroleum retention lease or petroleum production licence.
2	a petroleum access authority	the Minister varies a petroleum access authority over a block that is the subject of a petroleum exploration permit, petroleum retention lease or petroleum production licence.

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
3	a petroleum special prospecting authority or petroleum access authority	the registered holder of the authority applies in writing to the Minister for— (a) a variation or suspension of any of the conditions to which the authority is subject; or (b) exemption from compliance with any of the conditions to which the authority is subject.
4	a petroleum special prospecting authority or petroleum access authority	the Minister gives a direction or consent to the registered holder of the authority under— (a) this Chapter; or (b) Chapter 6; or (c) Part 7.1; or (d) the regulations.

(2) The Minister may, by written notice given to the registered holder of the authority—

(a) vary; or

(b) suspend; or

(c) exempt the registered holder from compliance with—

any of the conditions to which the authority is subject, on such conditions (if any) as are specified in the notice.

Part 2.12—Surrender of titles

Division 1—Surrender of petroleum exploration permits, petroleum production licences, petroleum retention leases, infrastructure licences and pipeline licences

265 Application for consent to surrender title

(1) The table has effect—

Surrender		
Item	*The registered holder of...*	*may apply to the Minister for consent to surrender...*
1	a petroleum exploration permit	the permit as to some or all of the blocks in relation to which the permit is in force.
2	a petroleum production licence	the licence as to some or all of the blocks in relation to which the licence is in force.
3	a petroleum retention lease	the lease.
4	an infrastructure licence	the licence.
5	a pipeline licence	the licence as to the whole or a part of the pipeline in relation to which the licence is in force.

(2) An application under subsection (1) must be in writing.

266 Consent to surrender title

(1) This section applies if an application is made under section 265 for a consent.

(2) The Minister may, by written notice given to the applicant—

(a) give consent; or

(b) refuse to consent.

(3) The Minister may consent to the surrender sought by the application only if the registered holder of the permit, lease or licence—

(a) has paid all fees and amounts payable by the holder 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 permit, lease or licence is subject and with the provisions of—

(i) this Chapter; and

(ii) Chapter 4; and

(iii) Chapter 6; and

(iv) Part 7.1; and

(v) the regulations; and

(c) has—

(i) to the satisfaction of the Minister, removed or caused to be removed from the surrender area (defined by subsection (7)) all property brought into the surrender area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or

(ii) made arrangements that are satisfactory to the Minister in relation to that property; and

(d) has, to the satisfaction of the Minister, plugged or closed off all wells made in the surrender area by any person engaged or concerned in the operations authorised by the permit, lease or licence; and

(e) has provided, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the surrender area; and

(f) has, to the satisfaction of the Minister, made good any damage to the seabed or subsoil in the surrender area caused by any person engaged or concerned in the operations authorised by the permit, lease or licence—

but, if the registered holder has complied with those requirements, the Minister must not unreasonably refuse consent to the surrender.

(4) Subsection (3)(e) has effect subject to—

(a) this Chapter; and

(b) Chapter 6; and

(c) the regulations.

(5) Despite subsection (3), if—

(a) any of—

(i) the conditions to which the permit, lease or licence is subject; or

(ii) the provisions of this Chapter, Chapter 4, Chapter 6 and Part 7.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is satisfied that there are sufficient grounds to warrant the giving of consent to the surrender sought by the application—

the Minister may give consent under subsection (2) to the surrender sought by the application.

(6) For the purposes of this section, if—

(a) the application for consent relates to a work-bid petroleum exploration permit; and

(b) a condition of the permit requires the registered holder to carry out specified work during a period specified in the permit; and

(c) the application is made during such a period—

the registered holder of the permit is taken not to have complied with the condition unless the holder has completed the work specified for the period mentioned in paragraph (b).

(7) For the purposes of this section, the ***surrender area*** is worked out using the table—

Surrender area

Item	*In the case of a surrender of...*	*the surrender area is...*
1	a petroleum exploration permit or petroleum production licence	the area constituted by the blocks as to which the permit or licence is proposed to be surrendered.
2	a petroleum retention lease	the lease area.
3	an infrastructure licence	the licence area.
4	a pipeline licence	(a) in the case of the surrender of the licence as to the whole of the pipeline in relation to which the licence is in force—the part of the offshore area in which the pipeline is constructed; or (b) in the case of the surrender of the licence as to a part of the pipeline in relation to which the licence is in force—the part of the offshore area in which the part of the pipeline is constructed.

267 Surrender of title

(1) This section applies if the Minister consents under section 266 to—

(a) the surrender, in whole or in part, of—

(i) a petroleum exploration permit; or

(ii) a petroleum production licence; or

(iii) a pipeline licence; or

(b) the surrender of—

(i) a petroleum retention lease; or

(ii) an infrastructure licence.

(2) The registered holder of the permit, lease or licence may, by written notice given to the Minister, surrender the whole or the part, as the case may be, of the permit, lease or licence.

(3) The surrender takes effect on the day on which notice of the surrender is published in the Government Gazette.

Division 2—Surrender of petroleum special prospecting authorities and petroleum access authorities

268 Surrender of petroleum special prospecting authority

The registered holder of a petroleum special prospecting authority may, by written notice given to the Minister, surrender the petroleum special prospecting authority.

269 Surrender of petroleum access authority

The registered holder of a petroleum access authority may, by written notice given to the Minister, surrender the petroleum access authority.

Part 2.13—Cancellation of titles

Division 1—Cancellation of petroleum exploration permits, petroleum production licences, petroleum retention leases, infrastructure licences and pipeline licences

270 Grounds for cancellation of title

For the purposes of this Division, each of the following is a ground for cancelling a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence—

(a) the registered holder has not complied with a condition to which the permit, lease or licence is subject;

(b) the registered holder has not complied with a direction given to the holder by the Minister under this Chapter, Chapter 6 or Part 7.1;

(c) the registered holder has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 4; or

(iii) Chapter 6; or

(iv) Part 7.1; or

(v) the regulations;

(d) the registered holder has not paid an amount payable by the holder under this Act within the period of 90 days after the day on which the amount became payable.

271 Cancellation of title

(1) The table has effect—

Cancellation		
Item	*If there is a ground for cancelling...*	*the Minister may, by written notice given to the registered holder,...*
1	a petroleum exploration permit	cancel the permit as to some or all of the blocks in relation to which the permit is in force.
2	a petroleum retention lease	cancel the lease as to all of the blocks in relation to which the lease is in force.
3	a petroleum production licence	cancel the licence as to some or all of the blocks in relation to which the licence is in force.
4	an infrastructure licence	cancel the licence.
5	a pipeline licence	cancel the pipeline licence as to the whole or a part of the pipeline in relation to which the licence is in force.

Note

Consultation procedures apply—see section 272.

(2) In exercising a power conferred by subsection (1), the Minister must take into account any action taken by the registered holder—

(a) to remove the ground of cancellation; or

(b) to prevent the recurrence of similar grounds.

(3) A cancellation takes effect on the day on which notice of the cancellation is published in the Government Gazette.

272 Consultation

(1) Before making a decision under section 271(1), the Minister must—

(a) by written notice given to the registered holder, give at least 30 days notice of the Minister's intention to make the decision; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(2) The notice must—

(a) set out details of the decision that is proposed to be made; and

(b) set out the reasons for the proposal; and

(c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(d) specify a time limit for making that submission.

(3) In deciding whether to make the decision, the Minister must take into account any submissions made in accordance with the notice.

273 Cancellation of title not affected by other provisions

(1) If—

(a) the registered holder of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 4; or

(iii) Chapter 6; or

(iv) Part 7.1; or

(v) the regulations; and

(b) the holder has been convicted of an offence relating to that noncompliance—

the Minister may exercise a power of cancellation under section 271(1) on the ground of that noncompliance, even though the holder has been convicted of that offence.

(2) If—

(a) a person who was the registered holder of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 4; or

(iii) Chapter 6; or

(iv) Part 7.1; or

(v) the regulations; and

(b) the Minister has exercised a power of cancellation under section 271(1) on the ground of that noncompliance—

the person may be convicted of an offence relating to the noncompliance, even though the Minister has exercised that power of cancellation.

(3) If—

(a) the registered holder of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence has not paid an amount payable by the holder under this Act within the period of 90 days

after the day on which the amount became payable; and

(b) either—

(i) judgment for the amount has been obtained; or

(ii) the amount, or any part of the amount, has been paid or recovered—

the Minister may exercise a power of cancellation under section 271(1) on the ground of that non-payment, even though—

(c) judgment for the amount has been obtained; or

(d) the amount, or a part of the amount, has been paid or recovered.

(4) If—

S. 273(4)(a) substituted by No. 55/2010 s. 80(3).

(a) a person who was the registered holder of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence or pipeline licence has not paid an amount payable by the person under this Act within the period of 90 days after the day on which the amount became payable; and

(b) the Minister has exercised a power of cancellation under section 271(1) on the ground of that non-payment—

the person continues to be liable to pay—

(c) that amount; and

(d) any late payment penalty relating to that amount—

even though the Minister has exercised that power of cancellation.

Division 2—Cancellation of petroleum special prospecting authorities

274 Cancellation of petroleum special prospecting authority

The Minister may, by written notice given to the registered holder of a petroleum special prospecting authority, cancel the petroleum special prospecting authority if the holder has breached a condition of the petroleum special prospecting authority.

Part 2.14—Other provisions

275 Reservation of blocks

(1) If the following conditions are satisfied in relation to a particular block—

(a) there is no petroleum exploration permit, petroleum retention lease or petroleum production licence over the block;

(b) there is no place in the block that is an infrastructure licence area;

(c) there is no pipeline over or in the block;

(d) there are no pending applications for the grant of a petroleum exploration permit or petroleum production licence over the block;

(e) there are no pending applications for the grant of an infrastructure licence relating to a place in the block;

(f) there are no pending applications for the grant of a pipeline licence relating to a pipeline or proposed pipeline over or in the block—

the Minister may, by notice published in the Government Gazette, declare that—

(g) the block is not to be the subject of a petroleum exploration permit, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority; and

(h) an infrastructure licence is not to be granted in relation to a place within the block; and

(i) a pipeline licence is not to be granted in relation to a pipeline over or in the block.

(2) If a declaration under subsection (1) is in force in relation to a block—

(a) a petroleum exploration permit, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority must not be granted over that block; and

(b) an infrastructure licence must not be granted in relation to a place within that block; and

(c) a pipeline licence must not be granted in relation to a pipeline over or in that block.

(3) Subsection (2) has effect despite any other provision of this Act.

276 Interference with other rights

(1) This section applies to the following—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) an infrastructure licence;

(e) a pipeline licence;

(f) a petroleum special prospecting authority;

(g) a petroleum access authority;

(h) a petroleum scientific investigation consent.

(2) A person (the ***first person***) carrying on activities in the offshore area under the permit, lease, licence, authority or consent must carry on those activities in a manner that does not interfere with—

(a) navigation; or

(b) fishing; or

(c) the conservation of the resources of the sea and seabed; or

(d) any activities of another person being lawfully carried on by way of—

(i) exploration for, recovery of or conveyance of a mineral (whether petroleum or not); or

(ii) construction or operation of a pipeline; or

(e) the enjoyment of native title rights and interests (within the meaning of the Native Title Act 1993 of the Commonwealth)—

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of the first person.

(3) A person who is subject to a requirement under subsection (2) must comply with that requirement.

Penalty: 120 penalty units.

277 No conditions about payment of money

There must not be included in—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) any other instrument under this Act—

a condition requiring the payment of money to the Minister.

278 Changes to the boundary of the offshore area

(1) If—

(a) a State title has been granted on the basis that an area (the ***first area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the first area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area—

this Act applies in relation to the State title as if the first area were still within the offshore area.

(2) Subsection (1) continues to apply to the first area only while the State title remains in force.

S. 278(2A) inserted by No. 16/2018 s. 30(1).

(2A) If—

(a) a Commonwealth title has been granted on the basis that an area (the ***second area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the boundary of the offshore area, the second area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area—

then, so far as the Commonwealth title is concerned, this Act does not apply to the second area.

S. 278(2B) inserted by No. 16/2018 s. 30(1).

(2B) Subsection (2A) continues to apply to the second area only while the Commonwealth title remains in force.

(3) This section applies to a change to the boundary of the coastal waters of the State, whether occurring before, at or after the commencement of this section.

(4) In this section—

S. 278(4) def. of *Commonwealth title* inserted by No. 16/2018 s. 30(2).

Commonwealth title means an instrument under the Commonwealth Act that confers, in relation to the Commonwealth defined offshore area, some or all of the rights that a State title confers in relation to the offshore area;

State title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence.

279 Notification of discovery of petroleum in petroleum exploration permit area or petroleum retention lease area

(1) This section applies if petroleum is discovered in a petroleum exploration permit area or a petroleum retention lease area.

(2) The permittee or lessee must immediately inform the Minister of the discovery.

(3) The permittee or lessee must, within 3 days after the date of the discovery, give the Minister a written notice setting out details of the discovery.

(4) Subsections (2) and (3) do not apply if the petroleum is discovered by—

(a) a greenhouse gas assessment permittee; or

(b) a greenhouse gas holding lessee; or

(c) a greenhouse gas injection licensee.

(5) A person who is subject to a requirement under subsection (2) or (3) must comply with that requirement.

Penalty: 120 penalty units.

280 Property in recovered petroleum

(1) This section applies if petroleum is recovered—

(a) by a petroleum exploration permittee in the permit area; or

(b) by a petroleum retention lessee in the lease area; or

(c) by a petroleum production licensee in the licence area.

(2) The petroleum becomes the property of the permittee, lessee or licensee.

(3) The petroleum is not subject to any rights of other persons (other than a person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).

(4) Subsections (2) and (3) have effect subject to this Act.

Note

See also Division 3 of Part 1.2 (which deals with apportionment of petroleum recovered from adjoining title areas).

281 Certain payments to be made by State to Commonwealth

(1) The Treasurer must, not later than the last day of each month, pay to the Commonwealth amounts determined 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 offshore 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) The Consolidated Fund is appropriated to the necessary extent to enable payments to be made to the Commonwealth in accordance with subsection (1).

282 Determination to be disregarded in certain cases

If a determination has been made by the Minister under section 691 in relation to a well, that determination is to be disregarded in determining the value of B for the purposes of section 281.

Chapter 3—Regulation of activities relating to injection and storage of greenhouse gas substances

Part 3.1—Introduction

283 Simplified outline

(1) This section sets out a simplified outline of this Chapter.

(2) This Chapter provides for the grant of the following titles—

(a) a greenhouse gas assessment permit (see Part 3.2);

(b) a greenhouse gas holding lease (see Part 3.3);

(c) a greenhouse gas injection licence (see Part 3.4);

(d) a greenhouse gas search authority (see Part 3.5);

(e) a greenhouse gas special authority (see Part 3.6).

(3) A greenhouse gas assessment permit authorises the permittee to explore in the permit area for potential greenhouse gas storage formations and potential greenhouse gas injection sites.

(4) If an eligible greenhouse gas storage formation is identified in a greenhouse gas permit area, the Minister may declare that the formation is an identified greenhouse gas storage formation.

(5) After the declaration of an identified greenhouse gas storage formation in a greenhouse gas permit area, the permittee may apply for a greenhouse

gas holding lease or a greenhouse gas injection licence.

(6) A greenhouse gas holding lease is granted if the applicant is not currently in a position to inject and store a greenhouse gas substance, but is likely to be in such a position within 15 years. The lessee may apply for a greenhouse gas injection licence.

(7) A greenhouse gas injection licence authorises the licensee to carry out greenhouse gas injection and storage operations in the licence area.

(8) A greenhouse gas search authority authorises the holder to carry on operations in the authority area relating to the exploration for potential greenhouse gas storage formations or potential greenhouse gas injection sites (but not to make a well).

S. 283(9) amended by No. 64/2012 s. 65.

(9) A greenhouse gas special authority authorises the holder to carry on certain greenhouse gas-related operations in the authority area (but not to make a well, other than a deviation well that enters an adjacent permit area, lease area or licence area that is the subject of a permit, licence or lease held by that holder).

(10) Part 3.7 provides for the grant of greenhouse gas research consents. A greenhouse gas research consent authorises the holder to carry on greenhouse gas-related operations in the course of a scientific investigation.

(11) This section is intended only as a guide to readers as to the general scheme and effect of this Chapter.

Part 3.2—Greenhouse gas assessment permits

Division 1—General provisions

284 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to explore in the offshore area for a potential greenhouse gas storage formation, or a potential greenhouse gas injection site, except—

(a) under a greenhouse gas assessment permit; or

(b) as otherwise authorised or required by or under this Act.

(3) This Part provides for the grant of greenhouse gas assessment permits over blocks in the offshore area.

(4) A greenhouse gas assessment permit authorises the permittee to explore in the permit area for potential greenhouse gas storage formations and potential greenhouse gas injection sites.

(5) There are 2 types of greenhouse gas assessment permits—

(a) a greenhouse gas assessment permit granted on the basis of work program bidding (a ***work-bid greenhouse gas assessment permit***);

(b) a greenhouse gas assessment permit granted on the basis of cash bidding (a ***cash-bid greenhouse gas assessment permit***).

(6) If an eligible greenhouse gas storage formation is identified in a greenhouse gas permit area, the Minister may declare that the formation is an identified greenhouse gas storage formation.

(7) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

285 Prohibition of unauthorised exploration for potential greenhouse gas storage formation, or potential greenhouse gas injection site, in offshore area

A person must not intentionally explore for—

(a) a potential greenhouse gas storage formation; or

(b) a potential greenhouse gas injection site—

in the offshore area unless that exploration is authorised by a greenhouse gas assessment permit or is otherwise authorised or required to do so by or under this Act.

Penalty: Imprisonment for 5 years.

286 Rights conferred by greenhouse gas assessment permit

(1) A greenhouse gas assessment permit authorises the permittee, in accordance with the conditions (if any) to which the permit is subject—

(a) to explore in the permit area for a potential greenhouse gas storage formation; and

(b) to explore in the permit area for a potential greenhouse gas injection site; and

S. 286(1)(c) substituted by No. 68/2014 s. 66.

(c) to inject, on an appraisal basis, a greenhouse gas substance into a part of a geological formation, so long as—

(i) the relevant well is situated in the permit area; or

(ii) the relevant well is situated adjacent to the permit area and the greenhouse gas substance is injected in accordance with a special drilling authorisation granted under Part 8A of the **Greenhouse Gas Geological Sequestration Act 2008**; and

S. 286(1)(d) substituted by No. 68/2014 s. 66.

(d) to store, on an appraisal basis, a greenhouse gas substance into a part of a geological formation, so long as—

(i) the injection of the stored greenhouse gas substance takes place at a well that is situated in the permit area; or

(ii) the injection of the stored greenhouse gas substance takes place at a well that is situated adjacent to the permit area and in accordance with a special drilling authorisation granted under Part 8A of the **Greenhouse Gas Geological Sequestration Act 2008**; and

(e) to inject, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

into a part of a geological formation for purposes in connection with the exploration authorised by paragraph (a) or (b), so long as the relevant well is situated in the permit area; and

(f) to store, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

in a part of a geological formation for purposes in connection with the exploration authorised by paragraph (a) or (b), so long as the injection of the stored air, petroleum or water takes place at a well situated in the permit area; and

(g) with the written consent of the Minister, to recover petroleum in the permit area for the sole purpose of appraising a discovery of petroleum that was made as an incidental consequence of—

(i) the exploration authorised by paragraph (a) or (b); or

(ii) the injection authorised by paragraph (c) or (e); and

(h) to carry on such operations, and execute such works, in the permit area as are necessary for those purposes.

(2) The rights conferred on the permittee by subsection (1) are subject to this Act and the regulations.

(3) If petroleum is recovered by the permittee in the permit area as authorised by subsection (1)(g), the petroleum does not become the property of the permittee.

(4) A greenhouse gas assessment permit does not authorise the permittee to make a well outside the permit area.

287 Conditions of greenhouse gas assessment permits

(1) The Minister may grant a greenhouse gas assessment permit subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the permit.

(3) This section applies subject to section 497.

288 Standard conditions of greenhouse gas assessment permits

(1) A greenhouse gas assessment permit is subject to the condition that—

(a) the permittee will not carry on key greenhouse gas operations under the permit unless—

(i) the Minister has approved the operations under section 291; and

(ii) the permittee complies with the conditions (if any) to which the approval is subject; and

(b) if the permittee is given a notice under section 489, the permittee will comply with the notice.

(2) Despite section 287(2), the conditions mentioned in this section do not need to be specified in the permit.

289 Conditions on work-bid greenhouse gas assessment permits

Without limiting section 287(1), any or all of the following conditions may be specified in a work-bid greenhouse gas assessment permit—

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area, including conditions requiring the permittee to carry out the work—

(i) during a period of 12 months or longer; or

(ii) during periods each of which is 12 months or longer;

(b) conditions relating to the amounts that the permittee must spend in carrying out work described in paragraph (a);

(c) conditions requiring the permittee to comply with directions that—

(i) relate to the matters covered by paragraphs (a) and (b); and

(ii) are given in accordance with the permit.

290 Conditions on cash-bid greenhouse gas assessment permits

Despite section 291(1), a cash-bid greenhouse gas assessment permit must not be granted subject to conditions requiring the permittee to—

(a) carry out work in, or in relation to, the permit area; or

(b) spend particular amounts on the carrying out of work in, or in relation to, the permit area.

291 Approval by Minister of key greenhouse gas operations

(1) A greenhouse gas assessment permittee may apply to the Minister for approval to carry on one or more key greenhouse gas operations under the permit.

(2) If an application for approval is made under subsection (1), the Minister may—

(a) give the approval, with or without conditions to which the approval is subject; or

(b) by written notice given to the applicant, refuse to give the approval.

(3) In deciding whether to give the approval, the Minister must comply with sections 292 and 293.

(4) For the purposes of this section, a suspension of rights under section 262 must be disregarded.

(5) To avoid doubt, section 286 does not imply that a greenhouse gas assessment permittee who applies for approval under this section is entitled to be given the approval.

292 Minister must have regard to certain matters before approving key greenhouse gas operations

(1) The Minister must have regard to the impact (if any) that any of the key greenhouse gas operations to which an application for approval under section 291 relates could have on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence.

(2) If the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application for approval under section 291 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit held by a person other than the applicant; or

(b) an existing petroleum retention lease held by a person other than the applicant; or

(c) an existing petroleum production licence held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence, as the case may be, has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(3) If—

(a) the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application for approval under section 291 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be carried on under—

(i) a future petroleum exploration permit over a block or blocks; or

(ii) a future petroleum retention lease over a block or blocks; or

(iii) a future petroleum production licence over a block or blocks; and

(b) a petroleum exploration permit, petroleum retention lease or petroleum production licence is in force over the block or any of the blocks; and

(c) the petroleum exploration permit, petroleum retention lease or petroleum production licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(4) If any of the key greenhouse gas operations to which an application for approval under section 291 relates is—

(a) an operation to inject, on an appraisal basis, a substance into a part of a geological formation; or

(b) an operation to store, on an appraisal basis, a substance in a part of a geological formation—

the Minister must have regard to the composition of the substance.

(5) The Minister must have regard to the public interest.

(6) Subsections (1), (2), (3) and (4) do not limit subsection (5).

(7) This section does not limit the matters to which the Minister may have regard to in deciding whether to give an approval under section 291.

293 Circumstances in which approval of key greenhouse gas operations must not be given

(1) If the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application for approval under section 291 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing pre-commencement petroleum title held by a person other than the applicant; or

(b) an existing post-commencement petroleum production licence held by a person other than the applicant—

the Minister must not give the approval under section 291 unless the registered holder of the pre-commencement petroleum title, or the post-commencement petroleum production licence, as the case may be, has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied.

(2) If—

(a) the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application for approval under section 291 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be carried on under a future pre-commencement petroleum title over a block or blocks; and

(b) the existing pre-commencement petroleum title in force over the block or any of the blocks is held by a person other than the applicant—

the Minister must not give the approval under section 291 unless the registered holder of the existing pre-commencement petroleum title has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied.

294 Duration of greenhouse gas assessment permit

(1) The duration of a greenhouse gas assessment permit is worked out using the table—

S. 294(1) (Table) amended by No. 26/2021 s. 23(1).

Duration of greenhouse gas assessment permits

Item	*This kind of permit...*	*remains in force...*
1	an original greenhouse gas assessment permit	for the period of 6 years beginning on— (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.
1A	an original consolidated work-bid greenhouse gas assessment permit, if— (a) both of the existing work-bid greenhouse gas assessment permits mentioned in section 305A were original greenhouse gas assessment permits; or	for the period beginning on the day on which the permit is granted and ending at whichever is the later of the following times— (a) the time when the first precursor permit would have expired if it had not ceased to be in force; (b) the time when the second precursor permit would have expired if it had not ceased to be in force.

Duration of greenhouse gas assessment permits

Item	*This kind of permit...*	*remains in force...*
	(b) both of the existing work-bid greenhouse gas assessment permits mentioned in section 305A were granted by way of first renewal; or	
	(c) both of the existing work-bid greenhouse gas assessment permits mentioned in section 305A were granted by way of second renewal—	
	and the grant of the original consolidated work-bid greenhouse gas assessment permit resulted in either or both of the following—	
	(d) one of the existing work-bid greenhouse gas assessment permits (the ***first precursor permit***) mentioned in section 305A ceasing to be in force before the time when it would have expired if the original consolidated	

Duration of greenhouse gas assessment permits

Item	*This kind of permit...*	*remains in force...*
	work-bid greenhouse gas assessment permit had not been granted; (e) the other existing work-bid greenhouse gas assessment permit (the ***second precursor permit***) mentioned in section 305A ceasing to be in force before the time when it would have expired if the original consolidated work-bid greenhouse gas assessment permit had not been granted	
1B	an original consolidated work-bid greenhouse gas assessment permit, if— (a) one of the existing work-bid greenhouse gas assessment permits (the ***first precursor permit***) mentioned in section 305A was an original greenhouse gas assessment permit; and	for the period— (a) beginning on the day on which the permit is granted; and (b) ending at the time when the first precursor permit would have expired if it had not ceased to be in force.

Duration of greenhouse gas assessment permits

Item	*This kind of permit...*	*remains in force...*
	(b) the other existing work-bid greenhouse gas assessment permit mentioned in section 305A was granted by way of first renewal or second renewal; and (c) the grant of the original consolidated work-bid greenhouse gas assessment permit resulted in the first precursor permit ceasing to be in force before the time when it would have expired if the original consolidated work-bid greenhouse gas assessment permit had not been granted	
1C	an original consolidated work-bid greenhouse gas assessment permit, if— (a) one of the existing work-bid greenhouse gas assessment permits (the ***first precursor permit***) mentioned in	for the period— (a) beginning on the day on which the permit is granted; and (b) ending at the time when the first precursor permit would have expired if it had not ceased to be in force.

Duration of greenhouse gas assessment permits		
Item	*This kind of permit...*	*remains in force...*
	section 305A was granted by way of first renewal; and (b) the other existing work-bid greenhouse gas assessment permit mentioned in section 305A was granted by way of second renewal; and (c) the grant of the original consolidated work-bid greenhouse gas assessment permit resulted in the first precursor permit ceasing to be in force before the time when it would have expired if the original consolidated work-bid greenhouse gas assessment permit had not been granted	
1D	an original consolidated work-bid greenhouse gas assessment permit, if item 1A, 1B or 1C does not apply	for the period (not exceeding 12 months) specified in the permit.

Duration of greenhouse gas assessment permits		
Item	*This kind of permit...*	*remains in force...*
2	a greenhouse gas assessment permit granted by way of renewal	for the period of 3 years beginning on— (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.

(2) Subsection (1) has effect subject to this Chapter.

Notes

1 For a special rule about the extension of the duration of a greenhouse gas assessment permit if the permittee applies for a declaration of an identified greenhouse gas storage formation, see section 295.

2 For a special rule about the extension of the duration of a greenhouse gas assessment permit pending a decision on a renewal application, see section 311(6).

3 For a special rule about the extension of the duration of a greenhouse gas assessment permit if the permittee applies for a greenhouse gas holding lease or greenhouse gas injection licence, see section 296.

4 For special rules about when a greenhouse gas assessment permit ceases to be in force following the grant of a greenhouse gas holding lease or greenhouse gas injection licence, see sections 340 and 378.

5 For special rules about the extension of the duration of a greenhouse gas assessment permit following a suspension or exemption decision, see sections 469 and 471.

6 For the surrender of a greenhouse gas assessment permit, see Part 3.10.

7 For the cancellation of a greenhouse gas assessment permit, see Part 3.11.

Note 8 to s. 294 inserted by No. 26/2021 s. 23(2).

8 For a special rule about the extension of the duration of a greenhouse gas assessment permit if the permittee applies for a cross-boundary greenhouse gas assessment permit, see section 296A.

9 For a special rule about when a greenhouse gas assessment permit ceases to be in force following the grant of a consolidated work-bid greenhouse gas assessment permit, see section 305C.

Note 9 to s. 294 inserted by No. 26/2021 s. 23(2).

295 Extension of greenhouse gas assessment permit if permittee applies for a declaration of an identified greenhouse gas storage formation

(1) If—

(a) a greenhouse gas assessment permit is in force; and

(b) before the time when the permit would, apart from this subsection, expire, the permittee applies to the Minister for a declaration of an identified greenhouse gas storage formation; and

(c) if the declaration were made in accordance with the application, the identified greenhouse gas storage formation would be wholly situated in the permit area—

the permit continues in force until whichever is the latest of the following times—

(d) if the Minister makes a declaration of an identified greenhouse gas storage formation that is wholly situated in the permit area—the end of the period of 12 months after the day on which the declaration is made;

(e) if the Minister refuses to make a declaration of an identified greenhouse gas storage formation that is wholly situated in the permit area—the time when notice of the refusal is given to the permittee;

(f) the time when the permit would, apart from this subsection, expire.

(2) Subsection (1) has effect subject to this Chapter, but despite section 294.

Note

See the notes at the end of section 294.

296 Extension of greenhouse gas assessment permit if permittee applies for a greenhouse gas holding lease or greenhouse gas injection licence

(1) If—

(a) a greenhouse gas assessment permit is in force over a block or blocks; and

(b) before the time when the permit would, apart from this subsection, expire, the permittee applies to the Minister for the grant of a greenhouse gas holding lease or greenhouse gas injection licence over the block or one or more of the blocks—

the table has effect—

Extension of permit		
Item	*In this case...*	*the permit continues in force over the block or blocks covered by the application until...*
1	the Minister gives the permittee an offer document relating to a greenhouse gas holding lease or greenhouse gas injection licence over the block or one or more of the blocks	the lease or licence is granted, the permittee withdraws the application or the application lapses.
2	the application is for a greenhouse gas holding lease and the Minister refuses to grant the lease to the permittee	the end of the period of 12 months after the day on which the notice of the refusal was given to the permittee.

Extension of permit		
Item	*In this case...*	*the permit continues in force over the block or blocks covered by the application until...*
3	the application is for a greenhouse gas injection licence and the Minister refuses to grant the licence to the permittee on a ground covered by section 382(1)(c), (d), (e), (f) or (g)	the end of the period of 90 days after the day on which the notice of the refusal was given to the permittee.
4	the application is for a greenhouse gas injection licence and the Minister refuses to grant the licence to the permittee on a ground not mentioned in item 3	notice of the refusal is given to the permittee.

(2) Subsection (1) has effect subject to this Chapter but despite section 294.

Note

See the notes at the end of section 294.

296A Extension of duration of existing greenhouse gas assessment permit if permittee applies for a cross-boundary greenhouse gas assessment permit

S. 296A inserted by No. 26/2021 s. 24.

(1) If—

(a) the permittee of an existing greenhouse gas assessment permit makes an application under section 307A(2) of the Commonwealth Act for a cross-boundary greenhouse gas assessment permit; and

(b) the existing greenhouse gas assessment permit would, apart from this subsection, expire—

(i) before the Cross-boundary Authority grants, or refuses to grant, a cross-boundary greenhouse gas assessment permit in response to the application; or

(ii) before the application lapses as provided by section 431A of the Commonwealth Act—

the existing greenhouse gas assessment permit continues in force—

(c) until the Cross-boundary Authority grants, or refuses to grant, a cross-boundary greenhouse gas assessment permit in response to the application; or

(d) until the application so lapses; whichever happens first.

(2) Subsection (1) has effect subject to this Chapter but despite section 294.

Note

See the notes at the end of section 294.

S. 296B inserted by No. 26/2021 s. 24.

296B Permit area of cross-boundary greenhouse gas assessment permit

(1) If any part of the permit area of a cross-boundary greenhouse gas assessment permit is included in the Commonwealth defined offshore area, the whole of the permit area is taken, for all purposes of—

(a) this Chapter and regulations made for the purposes of this Chapter; and

(b) the remaining provisions of this Act and the regulations, so far as they relate to—

(i) this Chapter; or

(ii) exploring for a potential greenhouse gas storage formation; or

(iii) exploring for a potential greenhouse gas injection site; or

(iv) the injection of a greenhouse gas substance; or

(v) the storage of a greenhouse gas substance—

to be included in the Commonwealth defined offshore area.

(2) If a cross-boundary greenhouse gas assessment permit ceases to be in force, any part of the permit area included in the offshore area is no longer taken to be included in the Commonwealth defined offshore area under subsection (1).

(3) Nothing in this section limits the grant of the following titles in relation to any part of the permit area of a cross-boundary greenhouse gas assessment permit that but for this section would be included in the offshore area—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) an infrastructure licence;

(e) a pipeline licence;

(f) a petroleum special prospecting authority;

(g) a petroleum access authority.

Division 2—Obtaining a work-bid greenhouse gas assessment permit

297 Application for work-bid greenhouse gas assessment permit—advertising of blocks

(1) The Minister may, by notice published in the Government Gazette—

(a) invite applications for the grant of a greenhouse gas assessment permit over the block, or any or all of the blocks, specified in the notice; and

(b) specify a period within which applications may be made.

(2) If the Minister has published a notice under section 306(1) inviting applications for the grant of a greenhouse gas assessment permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the section 306(1) notice.

Note

Section 306(1) deals with cash-bid greenhouse gas assessment permits.

(3) An application under this section must be accompanied by details of—

(a) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and

(b) the technical qualifications of the applicant and of the applicant's employees; and

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

(d) the financial resources available to the applicant.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(4) The blocks specified in an application under this section must 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.

(5) Subsection (4) does not apply to applications if the Minister, for reasons that the Minister thinks sufficient, includes in the subsection (1) notice a direction that subsection (4) does not apply to those applications.

298 Retention lessee or production licensee to be notified of proposal to advertise blocks

(1) This section applies if—

(a) the Minister proposes to publish a notice under section 297(1) specifying a block that is the subject of a petroleum retention lease or petroleum production licence; and

(b) at the time of the proposal, the lessee or licensee is entitled to make an application for the grant of a greenhouse gas holding lease over the block.

(2) The Minister must, at least 60 days before the proposed publication of the section 297(1) notice, notify the lessee or licensee of the proposed publication.

(3) If, during the period—

(a) beginning when the lessee or licensee is given the notification under subsection (2); and

(b) ending at the end of the day of proposed publication of the section 297(1) notice—

the lessee or licensee makes an application for the grant of a greenhouse gas holding lease over the block, the Minister must not publish the section 297(1) notice until—

(c) the application lapses; or

(d) the lessee or licensee withdraws the application; or

(e) the Minister refuses to grant the greenhouse gas holding lease or greenhouse gas injection licence.

299 Grant of work-bid greenhouse gas assessment permit—offer document

(1) This section applies if an application for the grant of a greenhouse gas assessment permit has been made under section 297.

(2) The Minister may—

(a) give the applicant a notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas assessment permit over the block or blocks specified in the offer document; or

(b) by written notice given to the applicant, refuse to grant a greenhouse gas assessment permit to the applicant.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

(3) The Minister must make a decision under subsection (2) within 12 months after the end of the period specified in the relevant notice under section 297(1).

300 Granting of offer document for work-bid greenhouse gas assessment permit

(1) This section applies if—

(a) the Minister publishes a notice under section 297(1) inviting applications for the grant of a greenhouse gas assessment permit; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 297 for the grant of a greenhouse gas assessment permit over the same block or blocks.

(2) The Minister may give an offer document under section 299 to whichever applicant, in the Minister's opinion, is most deserving of the grant of the greenhouse gas assessment permit.

(3) In determining which of the applicants is most deserving of the grant of the greenhouse gas assessment permit, the Minister—

(a) must have regard to the criteria made publicly available under section 301; and

(b) may rank the applicants in accordance with section 302.

301 Criteria for determining most deserving applicant for work-bid greenhouse gas assessment permit

(1) The Minister must make publicly available the criteria for determining which applicant is most deserving of a greenhouse gas assessment permit.

(2) Criteria under subsection (1) must consist of, or include, criteria relating to proposals for work and expenditure in relation to the block or blocks concerned.

(3) Criteria under subsection (1) may include criteria relating to any or all of the following matters—

(a) economic matters;

(b) commercial matters;

(c) public interest matters.

(4) Subsection (2) does not limit section 300(3).

302 Ranking of applicants for work-bid greenhouse gas assessment permit

(1) For the purposes of section 300, the Minister may rank the applicants for a greenhouse gas assessment permit in the order in which, in the Minister's opinion, they are deserving of the grant of the greenhouse gas assessment permit, with the most deserving applicant being ranked highest.

(2) The Minister may exclude from the ranking any applicant who, in the Minister's opinion, is not deserving of the grant of the greenhouse gas assessment permit.

(3) If the Minister—

(a) has considered the information accompanying the applications; and

(b) is of the opinion that 2 or more of the applicants are equally deserving of the grant of the greenhouse gas assessment permit—

the Minister may, by written notice given to each of those applicants, invite them to give the Minister—

(c) details (the ***work/expenditure details***) of their proposals for additional work and expenditure in relation to the block or blocks concerned; and

(d) any other information that is relevant in determining which of the applicants is most deserving of the grant of the greenhouse gas assessment permit.

(4) A notice under subsection (3) must specify—

(a) the kinds of work/expenditure details that the Minister considers to be relevant in determining which of the applicants is most deserving of the grant of the greenhouse gas assessment permit; and

(b) the kinds of other information that the Minister considers to be relevant in determining which of the applicants is most deserving of the grant of the greenhouse gas assessment permit; and

(c) the period within which the work/expenditure details and the other information must be given to the Minister.

(5) If an applicant gives work/expenditure details or other information to the Minister, and those details are or that information is—

(a) of a kind specified in the notice; and

(b) given within the period specified in the notice—

the Minister must have regard to the details or information in determining which of the applicants is most deserving of the grant of the greenhouse gas assessment permit.

Note

See also section 305, which deals with the effect of the withdrawal or lapse of an application.

303 Grant of work-bid greenhouse gas assessment permit

If—

(a) an applicant has been given an offer document under section 299; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas assessment permit over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

304 Withdrawal of application

(1) This section applies if the Minister publishes a notice under section 298(1) inviting applications for the grant of a greenhouse gas assessment permit.

(2) If a person has made an application, the person may, by written notice given to the Minister, withdraw the application at any time before a greenhouse gas assessment permit is granted as a result of the application.

(3) If 2 or more persons have made a joint application, all of those persons may, by written notice given to the Minister, withdraw the application at any time before a greenhouse gas assessment permit is granted as a result of the application.

(4) If—

(a) a joint application was made under section 297 for the grant of a greenhouse gas assessment permit; and

(b) all of the joint applicants, by written notice given to the Minister, tell the Minister that one or more, but not all, of them, as specified in the notice, withdraw from the application—

then—

(c) the application continues in force as if it had been made by the remaining applicant or applicants; and

(d) if the Minister had given the joint applicants an offer document in relation to the application—the Minister is taken not to have given the offer document to the joint applicants.

305 Effect of withdrawal or lapse of application

(1) This section applies if—

(a) 2 or more applications have been made under section 297 for the grant of a greenhouse gas assessment permit over the same block or blocks; and

(b) one or more, but not all, of the applications are withdrawn or have lapsed.

(2) A withdrawn or lapsed application is taken not to have been made.

(3) If the Minister gave an offer document in relation to a withdrawn or lapsed application, the Minister is taken not to have given an offer document in relation to the withdrawn or lapsed application.

(4) If the applicant, or one of the applicants, whose application had been withdrawn had requested the Minister under section 463 to grant a greenhouse gas assessment permit to the applicant concerned, the request is taken not to have been made.

(5) If—

(a) the offer document in relation to a withdrawn application specified the form and amount of a security to be lodged by the applicant; and

(b) the applicant had lodged the security—

the security is discharged.

(6) If the following conditions are satisfied in relation to a remaining applicant—

(a) the Minister had refused to grant a greenhouse gas assessment permit to the remaining applicant;

(b) the Minister did not exclude the remaining applicant from the ranking under section 302(2)—

the refusal is taken not to have occurred.

Division 2A—Consolidated work-bid greenhouse gas assessment permits

Pt 3.2 Div. 2A (Heading and ss 305A–305C) inserted by No. 26/2021 s. 25.

305A Application for a consolidated work-bid greenhouse gas assessment permit

S. 305A inserted by No. 26/2021 s. 25.

(1) This section applies if—

(a) 2 work-bid greenhouse gas assessment permits (the ***existing work-bid greenhouse gas assessment permits***) are in force; and

(b) a person is the registered holder of the existing work-bid greenhouse gas assessment permits; and

(c) at least one block of the permit area of one of the existing work-bid greenhouse gas assessment permits has a side in common with at least one block of the permit area of the other existing greenhouse gas assessment permit; and

(d) the person has informed the Minister, under section 486A, that—

(i) a part of a geological formation is wholly situated in the area (the ***combined area***) that consists of the combination of the permit areas of the existing work-bid greenhouse gas assessment permits; and

(ii) the part extends to the permit area of each existing work-bid greenhouse gas assessment permit; and

(iii) the person has reasonable grounds to suspect that the part could be an eligible greenhouse gas storage formation; and

(e) there is no identified greenhouse gas storage formation that is wholly situated within the permit area of either of the existing work-bid greenhouse gas assessment permits.

(2) The person may apply to the Minister for the grant of a greenhouse gas assessment permit over all the blocks in the permit areas of the existing work-bid greenhouse gas assessment permits.

(3) An application under subsection (2) for a greenhouse gas assessment permit must be accompanied by—

(a) details of the applicant's proposals for work and expenditure in relation to the combined area; and

(b) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

(4) If—

(a) the person makes an application under subsection (2) for a greenhouse gas assessment permit; and

(b) one or both of the existing work-bid greenhouse gas assessment permits would, apart from this subsection, expire before the Minister grants, or refuses to grant, a greenhouse gas assessment permit in response to the application—

that existing work-bid greenhouse gas assessment permit, or those existing work-bid greenhouse gas assessment permits, continue in force until the Minister grants, or refuses to grant, a greenhouse gas assessment permit in response to the application.

(5) Subsection (4) has effect subject to this Chapter but despite section 294.

Note

See the notes at the end of section 294.

305B Grant of consolidated work-bid greenhouse gas assessment permit

S. 305B inserted by No. 26/2021 s. 25.

If an application for a greenhouse gas assessment permit has been made under section 305A, the Minister may—

(a) grant the greenhouse gas assessment permit; or

(b) by written notice given to the applicant, refuse to grant a greenhouse gas assessment permit to the applicant.

305C Consequences of grant of consolidated work-bid greenhouse gas assessment permit

S. 305C inserted by No. 26/2021 s. 25.

(1) This section applies if a greenhouse gas assessment permit (the ***new greenhouse gas assessment permit***) is granted under section 305B over all the blocks in the permit areas of the existing work-bid greenhouse gas assessment permits mentioned in section 305A.

(2) The existing work-bid greenhouse gas assessment permits cease to be in force when the new greenhouse gas assessment permit comes into force.

Division 3—Obtaining a cash-bid greenhouse gas assessment permit

306 Application for cash-bid greenhouse gas assessment permit

(1) The Minister may, by notice published in the Government Gazette—

(a) invite applications by way of cash bidding for the grant of a greenhouse gas assessment permit over the block or blocks specified in the notice; and

(b) specify a period within which applications may be made.

(2) If the Minister has published a notice under section 297(1) inviting applications for the grant of a greenhouse gas assessment permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the section 297(1) notice.

Note

Section 297(1) deals with work-bid greenhouse gas assessment permits.

(3) A notice under subsection (1) must—

(a) contain a summary of the conditions to which the permit will be subject; and

(b) specify the matters that the Minister will take into account in deciding whether to reject an application.

(4) If a notice under subsection (1) specifies more than one block, those blocks must be 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.

(5) If a notice under subsection (1) specifies more than one block, an application under this section must be for a greenhouse gas assessment permit over all of the specified blocks.

(6) An application under this section must—

(a) be accompanied by details of—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(b) specify the amount that the applicant would be prepared to pay for the grant of the permit.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

307 Retention lessee or production licensee to be notified of proposal to advertise blocks

(1) This section applies if—

(a) the Minister proposes to publish a notice under section 306(1) specifying a block that is the subject of a petroleum retention lease or petroleum production licence; and

(b) at the time of the proposal, the lessee or licensee is entitled to make an application for the grant of a greenhouse gas holding lease or a greenhouse gas injection licence over the block.

(2) The Minister must, at least 60 days before the proposed publication of the section 306(1) notice, notify the lessee or licensee of the proposed publication.

(3) If, during the period—

(a) beginning when the lessee or licensee is given the notification under subsection (2); and

(b) ending at the end of the day of proposed publication of the section 306(1) notice—

the lessee or licensee makes such an application, the Minister must not publish the section 306(1) notice until—

(c) the application lapses; or

(d) the lessee withdraws the application; or

(e) the Minister refuses to grant the greenhouse gas holding lease or greenhouse gas injection licence.

308 Grant of cash-bid greenhouse gas assessment permit—only one application

(1) This section applies if—

(a) the Minister publishes a notice under section 306(1) inviting applications for the grant of a greenhouse gas assessment permit over a block or blocks; and

(b) at the end of the period specified in the notice, only one application has been made under section 306 in relation to the block or blocks.

(2) The Minister may—

(a) give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas assessment permit over that block or those blocks; or

(b) by written notice given to the applicant, reject the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

309 Grant of cash-bid greenhouse gas assessment permit—2 or more applications

(1) This section applies if—

(a) the Minister publishes a notice under section 306(1) inviting applications for the grant of a greenhouse gas assessment permit over a block or blocks; and

(b) at the end of the period specified in the notice, 2 or more applications have been made under section 306 in relation to the block or blocks.

(2) The Minister may reject any or all of the applications.

(3) If the Minister does not reject all of the applications, the table has effect—

Unrejected applications

Item	*If...*	*the Minister may give a written notice (called an offer document) to...*
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 306(6)(b) are equal	one of those applicants.
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under section 306(6)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under section 306(6)(b) are— (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

(4) An offer document given to an applicant must tell the applicant that the Minister is prepared to grant the applicant a greenhouse gas assessment permit over the block or blocks.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If an applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

(5) If—

(a) an applicant is given an offer document under this section; and

(b) the application lapses as provided by section 463, 464 or 465; and

(c) there are one or more remaining unrejected applications—

subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

(6) If the Minister does not give an offer document to an applicant, the Minister must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

310 Grant of cash-bid greenhouse gas assessment permit

(1) If—

(a) an applicant has been given an offer document under section 308 or 309; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) the applicant has paid the specified amount within the period applicable under section 464; and

(d) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas assessment permit over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not paid the specified amount within the period applicable under section 464, the application lapses at the end of that period—see section 464.

3 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

(2) For the purposes of this section, the ***specified amount*** is the amount specified in the offer document as the amount that the applicant must pay for the grant of the greenhouse gas assessment permit.

Division 4—Renewal of greenhouse gas assessment permits

311 Application for renewal of greenhouse gas assessment permit

(1) The registered holder of a greenhouse gas assessment permit may apply to the Minister for the renewal by the Minister of the permit.

(1A) Despite subsection (1), an application to renew a consolidated work-bid greenhouse gas assessment permit must not be made if each of the existing work-bid greenhouse gas assessment permits mentioned in section 305A was granted by way of second renewal.

S. 311(1A) inserted by No. 26/2021 s. 26(1).

(2) A greenhouse gas assessment permit cannot be renewed more than twice.

S. 311(2) amended by No. 26/2021 s. 26(2).

(2A) However, a consolidated work-bid greenhouse gas assessment permit cannot be renewed more than once if—

S. 311(2A) inserted by No. 26/2021 s. 26(3).

(a) each of the existing work-bid greenhouse gas assessment permits mentioned in section 305A was granted by way of first renewal; or

(b) both—

(i) one of the existing work-bid greenhouse gas assessment permits mentioned in section 305A was granted by way of first renewal; and

(ii) the other existing work-bid greenhouse gas assessment permit mentioned in section 305A was granted by way of second renewal.

(3) An application to renew a greenhouse gas assessment permit must be made—

(a) not more than 12 months before the expiry date of the permit; and

(b) at least 180 days before the expiry date of the permit.

(4) Despite subsection (3), the Minister may accept an application to renew a greenhouse gas assessment permit if the application is made—

(a) later than 180 days before the expiry date of the permit; and

(b) before the expiry date of the permit.

(5) An application to renew a greenhouse gas assessment permit must be accompanied by details of—

(a) the permittee's proposals for work and expenditure in relation to the permit area; and

(b) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(6) If—

(a) a greenhouse gas assessment permittee makes an application to renew the permit; and

(b) the permit would, apart from this subsection, expire—

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

(ii) before the application lapses as provided by section 463—

the permit continues in force—

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

(d) until the application so lapses—

whichever happens first.

(7) Subsection (6) has effect subject to this Chapter but despite section 294.

Note

See the notes at the end of section 294.

312 Renewal of greenhouse gas assessment permit—offer document

(1) This section applies if an application to renew a greenhouse gas assessment permit has been made under section 311.

(2) The Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the permit if—

(a) each of the following has been complied with—

(i) the conditions to which the greenhouse gas assessment permit is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(iii) the provisions of the regulations; and

(b) during the period when the permit was in force, at least one notice was given under section 486 about a part of a geological formation wholly situated in the permit area.

Note

Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(3) The Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the permit if—

(a) any of—

(i) the conditions to which the greenhouse gas assessment permit is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) in a case where—

(i) the permit is a work-bid greenhouse gas assessment permit; and

(ii) the permit is subject to one or more conditions of the kind mentioned in section 289; and

(iii) one or more of those conditions have not been complied with—

the Minister is satisfied that the noncompliance is attributable to unavoidable delays caused by the unavailability of essential services or essential equipment, or both; and

(c) the Minister is satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas assessment permit.

Note

Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(4) The Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the permit if—

(a) each of the following has been complied with—

(i) the conditions to which the greenhouse gas assessment permit is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(iii) the provisions of the regulations; and

(b) during the period when the greenhouse gas assessment permit was in force, no notice under section 486 was given about a part of a geological formation wholly situated in the permit area; and

(c) the Minister is satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas assessment permit.

Note

Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(5) For the purposes of this section, if—

(a) the greenhouse gas assessment permit is subject to a condition requiring the permittee to carry out work in, or in relation to, the permit area during a particular period; and

(b) the application for renewal of the permit was made during that period—

then, in determining whether the condition has been complied with, assume that the period had ended immediately before the application for renewal was made.

313 Refusal to renew greenhouse gas assessment permit

(1) This section applies if an application to renew a greenhouse gas assessment permit has been made under section 311.

(2) The Minister must, by written notice given to the applicant, refuse to renew the permit if—

(a) any of—

(i) the conditions to which the greenhouse gas assessment permit is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) in a case where—

(i) the permit is a work-bid greenhouse gas assessment permit; and

(ii) the permit is subject to one or more conditions of the kind mentioned in section 289; and

(iii) one or more of those conditions have not been complied with—

the Minister is not satisfied that the noncompliance is attributable to unavoidable delays caused by the unavailability of essential services or essential equipment or both; and

(c) the Minister is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas assessment permit.

Note

Consultation procedures apply—see section 466.

(3) The Minister must, by written notice given to the applicant, refuse to renew the permit if—

(a) each of the following has been complied with—

(i) the conditions to which the greenhouse gas assessment permit is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(iii) the provisions of the regulations; and

(b) during the period when the permit was in force, no notice was given under section 486 about a part of a geological formation wholly situated in the permit area; and

(c) the Minister is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas assessment permit.

Note

Consultation procedures apply—see section 466.

(4) For the purposes of this section, if—

(a) the greenhouse gas assessment permit is subject to a condition requiring the permittee to carry out work in, or in relation to, the permit area during a particular period; and

(b) the application for renewal of the permit was made during that period—

then, in determining whether the condition has been complied with, assume that the period had ended immediately before the application for renewal was made.

314 Renewal of greenhouse gas assessment permit

The Minister must renew a greenhouse gas assessment permit to which an application for renewal under section 311 relates if—

(a) an applicant has been given an offer document under section 312; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

Division 5—Declaration of identified greenhouse gas storage formation

315 Application for declaration of identified greenhouse gas storage formation

(1) This section applies if—

(a) a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, petroleum retention lease or petroleum production licence is in force; and

(b) the permittee, lessee or licensee has reasonable grounds to believe that—

(i) a part of a geological formation is an eligible greenhouse gas storage formation; and

(ii) that part is wholly situated in the permit area, lease area or licence area.

(2) The permittee, lessee or licensee may apply to the Minister for the declaration of the part referred to in subsection (1)(b) as an identified greenhouse gas storage formation.

(3) An application under this section must set out—

(a) the applicant's reasons for believing that the part referred to in subsection (1)(b) is an eligible greenhouse gas storage formation; and

(b) assuming that the part referred to in subsection (1)(b) is an eligible greenhouse gas storage formation—

(i) the fundamental suitability determinants of the eligible greenhouse gas storage formation; and

(ii) an estimate of the spatial extent of the eligible greenhouse gas storage formation; and

(c) such other information (if any) as is specified in the regulations.

(4) An estimate of spatial extent must comply with such requirements as are specified in the regulations.

316 Request for further information or further analysis

(1) The Minister may, by written notice given to an applicant under section 315, require the applicant—

(a) to give the Minister, within the period specified in the notice, further information in connection with the application; or

(b) to—

(i) carry out such further analysis of relevant information as is specified in the notice; and

(ii) give the Minister, within the period specified in the notice, a written report of the results of that analysis.

(2) If the applicant breaches a requirement under subsection (1), the Minister may, by written notice given to the applicant—

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

317 Variation of applications under section 315

(1) At any time before the Minister makes a decision on an application under section 315, the applicant may, by written notice given to the Minister, vary—

(a) any or all of the fundamental suitability determinants specified in the application; or

(b) the spatial extent estimated in the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) If an application under this section is varied, a reference in this Act to the application is a reference to the application as varied.

318 Declaration of identified greenhouse gas storage formation

(1) If—

(a) an application is made under section 315 in relation to a part of a geological formation; and

(b) the Minister is satisfied that, using the fundamental suitability determinants set out in the application—

(i) that part is an eligible greenhouse gas storage formation; and

(ii) the estimate of the spatial extent set out in the application is a reasonable estimate of the spatial extent of the eligible greenhouse gas storage formation—

the Minister must, by writing—

(c) declare that part to be an ***identified greenhouse gas storage formation*** for the purposes of this Act; and

(d) declare that, for the purposes of this Act, the spatial extent of the identified greenhouse gas storage formation is the spatial extent estimated in the application; and

(e) declare that the fundamental suitability determinants specified in the application are the ***fundamental suitability determinants*** of the identified greenhouse gas storage formation for the purposes of this Act.

(2) A declaration under subsection (1)(d) must set out the estimate of the spatial extent specified in the application.

(3) A declaration under subsection (1)(e) must set out the fundamental suitability determinants specified in the application.

(4) A copy of a declaration under subsection (1) must be published in the Government Gazette.

(5) If—

(a) an application is made under section 315 in relation to a part of a geological formation; and

(b) the Minister is not required by subsection (1) to make declarations under that subsection in relation to that part—

the Minister must, by written notice given to the applicant, refuse to declare that part to be an identified greenhouse gas storage formation.

319 Variation of declaration of identified greenhouse gas storage formation

(1) This section applies if a declaration is in force under section 318 in relation to a part of a geological formation.

(2) The Minister may, by writing, vary the declaration.

(3) A variation of the declaration may be made—

(a) if the part is wholly situated in—

(i) the permit area of a greenhouse gas assessment permit; or

(ii) the lease area of a greenhouse gas holding lease; or

(iii) the licence area of a greenhouse gas injection licence; or

(iv) the licence area of a petroleum production licence; or

(v) the lease area of a petroleum retention lease—

on the application of the registered holder of the permit, lease or licence; or

(b) on the Minister's own initiative.

(4) An application for a variation of the declaration must—

(a) set out the proposed variation; and

(b) specify the reasons for the proposed variation.

(5) In deciding whether to vary the declaration, the Minister must have regard to—

(a) any new information; and

(b) any new analysis; and

(c) any relevant scientific or technological developments; and

(d) such other matters (if any) as the Minister considers relevant.

(6) Before varying a declaration under subsection (2) on the Minister's own initiative, the Minister must consult—

(a) if the part is wholly situated in the permit area of a greenhouse gas assessment permit—the permittee; or

(b) if the part is wholly situated in the lease area of a greenhouse gas holding lease—the lessee; or

(c) if the part is wholly situated in the licence area of a greenhouse gas injection licence—the licensee; or

(d) if the part is wholly situated in the licence area of a petroleum production licence—the licensee; or

(e) if the part is wholly situated in the lease area of a petroleum retention lease—the lessee.

(7) A copy of a variation under subsection (2) must be published in the Government Gazette.

(8) If a declaration in force under section 318 is varied, a reference in this Act to the declaration is a reference to the declaration as varied.

320 Revocation of declaration of identified greenhouse gas storage formation

(1) This section applies if a declaration is in force under section 318 in relation to a part of a geological formation.

(2) The Minister may revoke the declaration if the Minister is satisfied that, using any set of fundamental suitability determinants, the part is not an eligible greenhouse gas storage formation.

(3) A copy of a revocation under subsection (2) must be published in the Government Gazette.

(4) Before revoking a declaration under subsection (2), the Minister must consult—

(a) if the part is wholly situated in the permit area of a greenhouse gas assessment permit—the permittee; or

(b) if the part is wholly situated in the lease area of a greenhouse gas holding lease—the lessee; or

(c) if the part is wholly situated in the licence area of a greenhouse gas injection licence—the licensee; or

(d) if the part is wholly situated in the licence area of a petroleum production licence—the licensee; or

(e) if the part is wholly situated in the lease area of a petroleum retention lease—the lessee.

(5) If the Minister proposes to revoke a declaration under subsection (2), the Minister must consider whether the Minister should instead vary the declaration under section 319.

321 Register of Identified Greenhouse Gas Storage Formations

(1) The Minister is to maintain a register, to be known as the Register of Identified Greenhouse Gas Storage Formations, in which the Minister includes particulars of—

(a) declarations made under section 318; and

(b) variations of such declarations; and

(c) revocations of such declarations.

(2) The Register may be maintained by electronic means.

(3) The Register is to be made available for inspection on the Internet.

Division 6—Directions

322 Minister may give directions to greenhouse gas assessment permittees

(1) The Minister may, by written notice given to a greenhouse gas assessment permittee, give the permittee a direction for the purpose of—

(a) eliminating; or

(b) mitigating; or

(c) managing—

the risk that operations carried on under the permit could have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(d) an existing petroleum exploration permit; or

(e) an existing petroleum retention lease; or

(f) an existing petroleum production licence; or

(g) a future petroleum exploration permit; or

(h) a future petroleum retention lease; or

(i) a future petroleum production licence.

(2) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations or the applied provisions.

(3) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(4) To avoid doubt, subsection (3) applies to an instrument, whether issued or made in Australia or outside Australia.

(5) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

323 Compliance with directions

A person who is given a direction under section 322 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

Part 3.3—Greenhouse gas holding leases

Division 1—General provisions

324 Simplified outline

(1) This section sets out a simplified outline of this Chapter.

(2) This Part provides for the grant of greenhouse gas holding leases over blocks in the offshore area.

(3) A greenhouse gas holding lease authorises the lessee to explore in the lease area for potential greenhouse gas storage formations and potential greenhouse gas injection sites.

(4) A greenhouse gas holding lease may be granted to—

(a) the holder of a greenhouse gas assessment permit; or

(b) the holder of a greenhouse gas injection licence, where no greenhouse gas injection or permanent storage operations have been carried on under the licence; or

(c) an unsuccessful applicant for a greenhouse gas injection licence; or

(d) the holder of a petroleum retention lease.

(5) The main criteria for granting a greenhouse gas holding lease are—

(a) an identified greenhouse gas storage formation is wholly situated in the lease area; and

(b) the applicant is not currently in a position to inject and permanently store a greenhouse gas substance, but is likely to be in such a position within 15 years.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Chapter.

325 Rights conferred by greenhouse gas holding lease

(1) A greenhouse gas holding lease authorises the lessee, in accordance with the conditions (if any) to which the lease is subject—

(a) to explore in the lease area for a potential greenhouse gas storage formation; and

(b) to explore in the lease area for a potential greenhouse gas injection site; and

(c) to inject, on an appraisal basis, a greenhouse gas substance into a part of a geological formation, so long as the relevant well is situated in the lease area; and

(d) to store, on an appraisal basis, a greenhouse gas substance in a part of a geological formation, so long as the injection of the stored greenhouse gas substance takes place at a well situated in the lease area; and

(e) to inject, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

into a part of a geological formation for purposes in connection with the exploration authorised by paragraph (a) or (b), so long as the relevant well is situated in the lease area; and

(f) to store, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

in a part of a geological formation for purposes in connection with the exploration authorised by paragraph (a) or (b), so long as the injection of the stored air, petroleum or water takes place at a well situated in the lease area; and

(g) with the written consent of the Minister, to recover petroleum in the lease area for the sole purpose of appraising a discovery of petroleum that was made as an incidental consequence of—

(i) the exploration authorised by paragraph (a) or (b); or

(ii) the injection authorised by paragraph (c) or (e); and

(h) to carry on such operations, and execute such works, in the lease area as are necessary for those purposes.

(2) The rights conferred on the lessee by subsection (1) are subject to this Act and the regulations.

(3) If petroleum is recovered by the lessee in the lease area as authorised by subsection (1)(g), the petroleum does not become the property of the lessee.

(4) A greenhouse gas holding lease does not authorise the lessee to make a well outside the lease area.

326 Conditions of greenhouse gas holding leases

(1) The Minister may grant a greenhouse gas holding lease subject to whatever conditions the Minister thinks appropriate.

(2) The conditions determined by the Minister (if any) must be specified in the lease.

(3) This section applies subject to section 497.

327 Standard conditions of greenhouse gas holding leases

(1) A greenhouse gas holding lease is subject to the conditions that—

(a) the lessee will not carry on key greenhouse gas operations under the lease unless—

(i) the Minister has approved the operations under section 329; and

(ii) the lessee complies with the conditions (if any) to which the approval is subject; and

(b) if the lessee is given a notice under section 489, the lessee will comply with the notice.

(2) Despite section 326(2), the conditions mentioned in this section do not need to be specified in the lease.

328 Conditions on greenhouse gas holding lease

Without limiting section 326(1), any or all of the following conditions may be specified in a greenhouse gas holding lease—

(a) conditions requiring the lessee to carry out work in, or in relation to, the lease area;

(b) conditions about the amounts that the lessee must spend in carrying out such work;

(c) conditions requiring the lessee to comply with directions that—

(i) relate to the matters covered by paragraphs (a) and (b); and

(ii) are given in accordance with the lease.

329 Approval by Minister of key greenhouse gas operations

(1) A greenhouse gas holding lessee may apply to the Minister for approval to carry on one or more key greenhouse gas operations under the lease.

(2) If an application for approval is made under subsection (1), the Minister may—

(a) give the approval, with or without conditions to which the approval is subject; or

(b) by written notice given to the applicant, refuse to give the approval.

(3) In deciding whether to give the approval, the Minister must comply with sections 330 and 331.

(4) For the purposes of this section, a suspension of rights under section 262 must be disregarded.

(5) To avoid doubt, section 325 does not imply that a greenhouse gas holding lessee who applies for approval under subsection (1) of this section is entitled to be given the approval.

330 Minister must have regard to certain matters

(1) The Minister must have regard to the impact (if any) that any of the key greenhouse gas operations to which an application under section 329 relates could have on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit; or

(b) an existing petroleum retention lease; or

(c) an existing petroleum production licence; or

(d) a future petroleum exploration permit; or

(e) a future petroleum retention lease; or

(f) a future petroleum production licence.

(2) If the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application under section 329 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing petroleum exploration permit held by a person other than the applicant; or

(b) an existing petroleum retention lease held by a person other than the applicant; or

(c) an existing petroleum production licence held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence, as the case may be, has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(3) If—

(a) the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application under section 329 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be carried on under—

(i) a future petroleum exploration permit over a block or blocks; or

(ii) a future petroleum retention lease over a block or blocks; or

(iii) a future petroleum production licence over a block or blocks; and

(b) a petroleum exploration permit, petroleum retention lease or petroleum production licence is in force over the block or any of the blocks; and

(c) the petroleum exploration permit, petroleum retention lease or petroleum production licence is held by a person other than the applicant—

the Minister must have regard to—

(d) whether the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence covered by paragraph (b) has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied; and

(e) if so—the terms of that agreement.

(4) If any of the key greenhouse gas operations to which an application under section 329 relates is—

(a) an operation to inject, on an appraisal basis, a substance into a part of a geological formation; or

(b) an operation to store, on an appraisal basis, a substance in a part of a geological formation—

the Minister must have regard to the composition of the substance.

(5) The Minister must have regard to the public interest.

(6) Subsections (1), (2), (3) and (4) do not limit subsection (5).

(7) This section does not limit the matters to which the Minister may have regard to in deciding whether to give an approval under section 329.

331 Circumstances in which the approval must not be given

(1) If the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application under section 329 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(a) an existing pre-commencement petroleum title held by a person other than the applicant; or

(b) an existing post-commencement petroleum production licence held by a person other than the applicant—

the Minister must not give the approval unless the registered holder of the pre-commencement petroleum title, or the post-commencement petroleum production licence, as the case may be, has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied.

(2) If—

(a) the Minister is satisfied that there is a significant risk that any of the key greenhouse gas operations to which an application under section 329 relates will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be

carried on under a future pre-commencement petroleum title over a block or blocks; and

(b) the existing pre-commencement petroleum title in force over the block or any of the blocks is held by a person other than the applicant—

the Minister must not give the approval under section 329 unless the registered holder of the existing pre-commencement petroleum title has agreed, in writing, to the applicant carrying on the key greenhouse gas operations in respect of which the Minister is so satisfied.

332 Duration of greenhouse gas holding lease

(1) A greenhouse gas holding lease (other than a special greenhouse gas holding lease) remains in force for the period of 5 years beginning on—

(a) the day on which the lease is granted; or

(b) if a later day is specified in the lease as the day on which the lease is to come into force—that later day.

(2) A special greenhouse gas holding lease remains in force indefinitely.

(3) Subsections (1) and (2) have effect subject to this Chapter.

Notes

1 For a special rule about the extension of the duration of a greenhouse gas holding lease if the lessee applies for a special greenhouse gas holding lease or greenhouse gas injection licence, see section 333.

2 For a special rule about the cancellation of a special greenhouse gas holding lease, see section 368.

3 For a special rule about the cancellation of a greenhouse gas holding lease granted to the holder of a petroleum retention lease, see section 369.

4 For a special rule about the extension of the duration of a greenhouse gas holding lease pending a decision on a renewal application, see section 362(6).

5 For a special rule about the extension of the duration of a greenhouse gas holding lease once a decision has been made refusing to renew the lease, see section 364(4) and (5).

6 For special rules about the extension of the duration of a greenhouse gas holding lease following a suspension or exemption decision, see sections 469 and 471.

7 For a special rule about when a greenhouse gas holding lease ceases to be in force following the grant of a greenhouse gas injection licence, see section 389.

8 For the surrender of a greenhouse gas holding lease, see Part 3.10.

9 For the cancellation of a greenhouse gas holding lease, see Part 3.11.

333 Extension of greenhouse gas holding lease if lessee applies for a special greenhouse gas holding lease or greenhouse gas injection licence

(1) If—

(a) a greenhouse gas holding lease (other than a special greenhouse gas holding lease) is in force over a block or blocks; and

(b) before the time when the lease would, apart from this subsection, expire, the lessee applies to the Minister for the grant of a special greenhouse gas holding lease or greenhouse gas injection licence over the block or one or more of the blocks—

the table has effect—

Extension of lease		
Item	*In this case...*	*the lease continues in force over the block or blocks covered by the application until...*
1	the Minister gives the lessee an offer document relating to a special greenhouse gas holding lease or greenhouse gas injection licence over the block or one or more of the blocks	the special greenhouse gas holding lease or greenhouse gas injection licence is granted, the lessee withdraws the application or the application lapses.
2	the application is for a special greenhouse gas holding lease and the Minister refuses to grant the lease to the lessee	notice of the refusal is given to the lessee.
3	the application is for a greenhouse gas injection licence and the Minister refuses to grant the licence to the lessee on a ground covered by section 383(1)(c), (d), (e), (f) or (g)	the end of the period of 90 days after the day on which the notice of the refusal was given to the lessee.
4	the application is for a greenhouse gas injection licence and the Minister refuses to grant the licence to the lessee on a ground not mentioned in item 3	notice of refusal is given to the lessee.

(2) Subsection (1) has effect subject to this Chapter but despite section 332.

Note

See the notes at the end of section 332.

S. 333A inserted by No. 26/2021 s. 27.

333A Lease area of cross-boundary greenhouse gas holding lease

(1) If any part of the lease area of a cross-boundary greenhouse gas holding lease is included in the Commonwealth defined offshore area, the whole of the lease area is taken, for all purposes of—

(a) this Chapter and regulations made for the purposes of this Chapter; and

(b) the remaining provisions of this Act and the regulations, so far as they relate to—

(i) this Chapter; or

(ii) exploring for a potential greenhouse gas storage formation; or

(iii) exploring for a potential greenhouse gas injection site; or

(iv) the injection of a greenhouse gas substance; or

(v) the storage of a greenhouse gas substance—

to be included in the Commonwealth defined offshore area.

(2) If a cross-boundary greenhouse gas holding lease ceases to be in force, any part of the lease area included in the offshore area is no longer taken to be included in the Commonwealth defined offshore area under subsection (1).

(3) Nothing in this section limits the grant of the following titles in relation to any part of the lease area of a cross-boundary greenhouse gas holding lease that but for this section would be included in the offshore area—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) an infrastructure licence;

(e) a pipeline licence;

(f) a petroleum special prospecting authority;

(g) a petroleum access authority.

Division 2—Obtaining a greenhouse gas holding lease

Subdivision 1—Application for greenhouse gas holding lease by the holder of a greenhouse gas assessment permit

334 Application for greenhouse gas holding lease by the holder of a greenhouse gas assessment permit

(1) This section applies if—

(a) a greenhouse gas assessment permit is in force; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the permit area.

(2) If a single identified greenhouse gas storage formation extends to—

(a) only one block in the permit area; or

(b) 2 or more blocks in the permit area—

the permittee may, within the application period, apply to the Minister for the grant of a greenhouse gas holding lease over the block or blocks to which the identified greenhouse gas storage formation extends.

(3) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to only one block in the permit area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations—

the permittee may, within the application period, apply to the Minister for the grant of a greenhouse gas holding lease over the block to which the identified greenhouse gas storage formations, when considered together, extend.

(4) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to—

(i) only one block in the permit area; or

(ii) 2 or more blocks in the permit area; and

(b) a vertical line would pass through a point in each of those identified greenhouse gas storage formations—

the permittee may, within the application period, apply to the Minister for the grant of a greenhouse gas holding lease over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(5) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to 2 or more blocks in the permit area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) for each identified greenhouse gas storage formation, at least one of the blocks to which the identified greenhouse gas storage formation extends immediately adjoins a

block to which the other, or another, of those identified greenhouse gas storage formations extends—

the permittee may, within the application period, apply to the Minister for the grant of a greenhouse gas holding lease over the blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(6) For the purposes of subsection (5), 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 joined together at one point only.

(7) In this section, application period has the meaning given by section 335(2).

335 Applications under section 334

(1) An application under section 334 must be accompanied by—

(a) details of the applicant's proposals for work and expenditure in relation to—

(i) if there is a single identified greenhouse gas storage formation—the block or blocks, as the case may be, to which the identified greenhouse gas storage formation extends; or

(ii) if there are 2 or more identified greenhouse gas storage formations—the block or blocks, as the case may be, to which the identified greenhouse gas storage formations, when considered together, extend; and

(b) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(2) The ***application period*** for an application under section 334 is—

(a) the period of 12 months after—

(i) if there is a single identified greenhouse gas storage formation—the day on which the declaration of the identified greenhouse gas storage formation was made by the Minister; or

(ii) if there are 2 or more identified greenhouse gas storage formations—the earliest day on which a declaration of any of the identified greenhouse gas storage formations was made by the Minister; or

(b) such longer period, not more than 180 days after that day, as the Minister allows.

(3) The Minister may allow a longer period under subsection (2)(b) only on written application made by the permittee within the period of 12 months mentioned in subsection (2)(a).

336 Variation of applications under section 334

(1) At any time before an offer document, or notice of refusal, relating to an application under section 334 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If the application under section 334 is varied, a reference in this Act to the application is a reference to the application as varied.

337 Grant of greenhouse gas holding lease—offer document

(1) If—

(a) an application for a greenhouse gas holding lease has been made under section 334(2); and

(b) the Minister is satisfied that the applicant is not, at the time of the application, in a position to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation concerned—

but is likely to be in such a position within 15 years—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas holding lease over the block or blocks specified in the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

(2) If—

(a) an application for a greenhouse gas holding lease has been made under section 334(3), (4) or (5); and

(b) the Minister is satisfied that the applicant is not, at the time of the application, in a position to—

(i) inject a greenhouse gas substance into at least one of the identified greenhouse gas storage formations concerned; and

(ii) permanently store the greenhouse gas substance in at least one of the identified greenhouse gas storage formations concerned—

but is likely to be in such a position within 15 years—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas holding lease over the block or blocks specified in the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

338 Refusal to grant greenhouse gas holding lease

(1) This section applies if an application for a greenhouse gas holding lease has been made under section 334.

(2) The Minister must, by written notice given to the applicant, refuse to grant a greenhouse gas holding lease to the applicant if the Minister is not satisfied as to—

(a) in the case of an application made under section 334(2)—a matter referred to in section 337(1)(b); or

(b) in the case of an application made under section 334(3), (4) or (5)—a matter referred to in section 337(2)(b).

339 Grant of greenhouse gas holding lease

If—

(a) an applicant has been given an offer document under section 337; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas holding lease over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

340 Greenhouse gas assessment permit ceases to be in force when greenhouse gas holding lease comes into force

When a greenhouse gas holding lease under section 339 comes into force in relation to one or more blocks, a greenhouse gas assessment permit ceases to be in force to the extent to which it relates to those blocks.

341 Greenhouse gas assessment permit transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas assessment permit is registered under section 572—

(a) after an application has been made under section 334 for the grant of a greenhouse gas holding lease over a block or blocks in relation to which the greenhouse gas assessment permit is in force; and

(b) before any action has been taken by the Minister under section 337 or 338 in relation to the application.

(2) After the transfer, sections 334 to 339 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Subdivision 2—Application for greenhouse gas holding lease by the holder of a greenhouse gas injection licence

342 Application for greenhouse gas holding lease by the holder of a greenhouse gas injection licence

(1) If—

(a) a greenhouse gas injection licence is in force over a block or blocks; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the licence area—

the licensee may, within the application period, apply to the Minister for the grant of a greenhouse gas holding lease over the block or blocks.

Note

For ***application period***, see subsection (3).

(2) An application under this section must be accompanied by details of—

(a) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and

(b) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(3) The ***application period*** for an application under this section by a licensee is the period of 5 years that began on the day on which the licence was granted.

343 Variation of applications under section 342

(1) At any time before an offer document, or a notice of refusal, relating to an application under section 342 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If an application under section 342 is varied, a reference in this Act to the application is a reference to the application as varied.

344 Grant of greenhouse gas holding lease—offer document

If—

(a) an application for a greenhouse gas holding lease has been made under section 342; and

(b) the Minister is satisfied that the applicant is not, at the time of the application, in a position to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the

identified greenhouse gas storage formations, concerned; and

(ii) store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned—

but is likely to be in such a position within 15 years—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas holding lease over the block or blocks specified in the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

345 Refusal to grant greenhouse gas holding lease

If—

(a) an application for a greenhouse gas holding lease has been made under section 342; and

(b) the Minister is not satisfied as to the matter referred to in section 344(b) in relation to the block or blocks specified in the application—

the Minister must, by written notice given to the applicant, refuse to grant a greenhouse gas holding lease to the applicant.

Note

Consultation procedures apply—see section 466.

346 Grant of greenhouse gas holding lease

If—

(a) an applicant has been given an offer document under section 344; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas holding lease over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

347 Greenhouse gas injection licence ceases to be in force when greenhouse gas holding lease comes into force

When a greenhouse gas holding lease under section 346 comes into force in relation to one or more blocks, a greenhouse gas injection licence ceases to be in force to the extent to which it relates to those blocks.

348 Greenhouse gas injection licence transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas injection licence is registered under section 572—

(a) after an application has been made under section 342 for the grant of a greenhouse gas holding lease over the block or blocks in relation to which the greenhouse gas injection licence is in force; and

(b) before any action has been taken by the Minister under section 344 or 345 in relation to the application.

(2) After the transfer, sections 342 to 346 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Subdivision 3—Application for special greenhouse gas holding lease by an unsuccessful applicant for a greenhouse gas injection licence

349 Application for special greenhouse gas holding lease by an unsuccessful applicant for a greenhouse gas injection licence

(1) If—

(a) either of the following is in force—

(i) a greenhouse gas assessment permit;

(ii) a greenhouse gas holding lease (other than a special greenhouse gas holding lease); and

(b) one or more identified greenhouse gas storage formations are wholly situated in the permit area or lease area; and

(c) the permittee or lessee makes an application under section 379 for the grant of a greenhouse gas injection licence over the block or blocks in which the identified greenhouse gas storage formation or formations are wholly situated; and

(d) if the applicant holds a greenhouse gas assessment permit—the Minister refuses to grant the greenhouse gas injection licence on a ground covered by section 382(1)(c), (d), (e), (f) or (g); and

(e) if the applicant holds a greenhouse gas holding lease—the Minister refuses to grant the greenhouse gas injection licence on a ground covered by section 383(1)(c), (d), (e), (f) or (g)—

the permittee or lessee may, within the application period, apply to the Minister for the grant of a special greenhouse gas holding lease over the block or blocks covered by the unsuccessful application for the greenhouse gas injection licence.

Note

For ***application period***, see subsection (3).

(2) An application under this section must be accompanied by such information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(3) The ***application period*** for an application under this section by a permittee or lessee is the period of 90 days that began on the day on which the permittee or lessee was notified of the refusal to grant the greenhouse gas injection licence.

350 Variation of applications under section 349

(1) At any time before an offer document relating to an application under section 349 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If an application under section 349 is varied, a reference in this Act to the application is a reference to the application as varied.

351 Grant of special greenhouse gas holding lease—offer document

(1) This section applies if an application for a special greenhouse gas holding lease has been made under section 349.

(2) The Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a special greenhouse gas holding lease over the block or blocks covered by the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

352 Grant of special greenhouse gas holding lease

(1) If—

(a) an applicant has been given an offer document under section 351; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas holding lease over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

(2) A greenhouse gas holding lease granted under subsection (1) is to be known as a ***special greenhouse gas holding lease***.

353 Greenhouse gas assessment permit ceases to be in force when special greenhouse gas holding lease comes into force

When a special greenhouse gas holding lease under section 352 comes into force in relation to one or more blocks, a greenhouse gas assessment permit ceases to be in force to the extent to which it relates to those blocks.

354 Ordinary greenhouse gas holding lease ceases to be in force when special greenhouse gas holding lease comes into force

When a special greenhouse gas holding lease under section 352 comes into force in relation to one or more blocks, a greenhouse gas holding lease (other than a special greenhouse gas holding lease) ceases to be in force to the extent to which it relates to those blocks.

355 Greenhouse gas assessment permit transfer—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas assessment permit is registered under section 572—

(a) after an application has been made under section 349 for the grant of a special greenhouse gas holding lease over a block or blocks in relation to which the greenhouse gas assessment permit is in force; and

(b) before any action has been taken by the Minister under section 351 in relation to the application.

(2) After the transfer, sections 351 and 352 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

356 Greenhouse gas holding lease transfer—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas holding lease is registered under section 572—

(a) after an application has been made under section 349 for the grant of a special greenhouse gas holding lease over a block or blocks in relation to which the first-mentioned greenhouse gas holding lease is in force; and

(b) before any action has been taken by the Minister under section 351 in relation to the application.

(2) After the transfer, sections 351 and 352 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Subdivision 4—Application for greenhouse gas holding lease by the holder of a petroleum retention lease

357 Application for greenhouse gas holding lease by the holder of a petroleum retention lease

(1) This section applies if—

S. 357(1) substituted by No. 26/2021 s. 28.

(a) a petroleum retention lease is in force; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the lease area.

(1A) If—

S. 357(1A) inserted by No. 26/2021 s. 28.

(a) a single identified greenhouse gas storage formation extends to—

(i) only one block in the lease area; or

(ii) 2 or more blocks in the lease area; and

(b) none of the following is in force over the block or blocks to which the identified greenhouse gas storage formation extends—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum retention lessee may apply to the Minister for the grant of a greenhouse gas holding lease over the block or blocks to which the identified greenhouse gas storage formation extends.

S. 357(1B) inserted by No. 26/2021 s. 28.

(1B) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to only one block in the lease area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) none of the following is in force over the block to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum retention lessee may apply to the Minister for the grant of a greenhouse gas holding lease over the block to which the identified greenhouse gas storage formations, when considered together, extend.

(1C) If—

S. 357(1C) inserted by No. 26/2021 s. 28.

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to—

(i) only one block in the lease area; or

(ii) 2 or more blocks in the lease area; and

(b) a vertical line would pass through a point in each of those identified greenhouse gas storage formations; and

(c) none of the following is in force over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum retention lessee may apply to the Minister for the grant of a greenhouse gas holding lease over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(1D) If—

S. 357(1D) inserted by No. 26/2021 s. 28.

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to 2 or more blocks in the lease area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) for each identified greenhouse gas storage formation, at least one of the blocks to which the identified greenhouse gas storage formation extends immediately adjoins a

block to which the other, or another, of those identified greenhouse gas storage formations extends; and

(d) none of the following is in force over the blocks to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum retention lessee may apply to the Minister for the grant of a greenhouse gas holding lease over the blocks to which the identified greenhouse gas storage formations, when considered together, extend.

S. 357(1E) inserted by No. 26/2021 s. 28.

(1E) For the purposes of subsection (1D), 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 joined together at one point only.

(2) An application under this section must be accompanied by such information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

358 Variation of applications under section 357

(1) At any time before an offer document relating to an application under section 357 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If an application under section 357 is varied, a reference in this Act to the application is a reference to the application as varied.

359 Grant of greenhouse gas holding lease—offer document

(1) This section applies if an application for a greenhouse gas holding lease has been made under section 357.

(2) The Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas holding lease over the block or blocks covered by the application.

Notes

1 Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

2 If the applicant breaches a requirement under section 461 to provide further information, the Minister may refuse to give the applicant an offer document—see section 461(3).

360 Grant of greenhouse gas holding lease

If—

(a) an applicant has been given an offer document under section 359; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas holding lease over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

361 Retention lease transfer—transferee to be treated as applicant

(1) This section applies if a transfer of a petroleum retention lease is registered under section 514—

(a) after an application has been made under section 357 for the grant of a greenhouse gas holding lease over a block or blocks in relation to which the petroleum retention lease is in force; and

(b) before any action has been taken by the Minister under section 359 in relation to the application.

(2) After the transfer, sections 359 and 360 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Division 3—Renewal of greenhouse gas holding leases

362 Application for renewal of greenhouse gas holding lease

(1) The registered holder of a greenhouse gas holding lease (other than a special greenhouse gas holding lease) may apply to the Minister for the renewal by the Minister of the lease.

(2) A greenhouse gas holding lease cannot be renewed more than once.

(3) An application to renew a greenhouse gas holding lease must be made—

(a) not more than 12 months before the expiry date of the lease; and

(b) at least 180 days before the expiry date of the lease.

(4) Despite subsection (3), the Minister may accept an application to renew a greenhouse gas holding lease if the application is made—

(a) later than 180 days before the expiry date of the lease; and

(b) before the expiry date of the lease.

(5) An application to renew a greenhouse gas holding lease must be accompanied by details of—

(a) the lessee's proposals for work and expenditure in relation to the lease area; and

(b) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(6) If—

(a) a greenhouse gas holding lessee makes an application to renew the lease; and

(b) the lease would, apart from this subsection, expire—

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

(ii) before the application lapses as provided by section 463—

the lease continues in force until—

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

(d) the application lapses—

whichever happens first.

(7) Subsection (6) has effect subject to this Chapter but despite section 332.

Note

See the notes at the end of section 332.

363 Renewal of greenhouse gas holding lease—offer document

(1) This section applies if an application to renew a greenhouse gas holding lease has been made under section 362.

(2) The Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the lease if—

(a) each of the following has been complied with—

(i) the conditions to which the greenhouse gas holding lease is, or has from time to time been, subject;

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(iii) the regulations; and

(b) the Minister is satisfied that the applicant is not, at the time of the application, in a position to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned—

but is likely to be in such a position within 10 years.

Note

Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

(3) The Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to renew the lease if—

(a) any of—

(i) the conditions to which the greenhouse gas holding lease is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas holding lease; and

(c) the Minister is satisfied that the applicant is not, at the time of the application, in a position to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned—

but is likely to be in such a position within 10 years.

Note

Section 462 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

364 Refusal to renew greenhouse gas holding lease

(1) This section applies if an application to renew a greenhouse gas holding lease has been made under section 362.

(2) The Minister must, by written notice given to the applicant, refuse to renew the lease if—

(a) any of—

(i) the conditions to which the greenhouse gas holding lease is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the greenhouse gas holding lease.

Note

Consultation procedures apply—see section 466.

(3) The Minister must, by written notice given to the applicant, refuse to renew the lease if the Minister is satisfied that the applicant is, at the time of the application, in a position to—

(a) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(b) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned.

Note

Consultation procedures apply—see section 466.

(4) If—

(a) the Minister makes a decision under subsection (3) refusing to renew the lease; and

(b) a notice of refusal is given to the applicant; and

(c) within 12 months after the notice was given, the lessee applies for a greenhouse gas injection licence over one or more of the blocks comprised in the lease; and

(d) the lease would, apart from this subsection, expire—

(i) before the Minister grants, or refuses to grant, the greenhouse gas injection licence; or

(ii) before the application lapses—

the lease continues in force until—

(e) the Minister grants, or refuses to grant, the greenhouse gas injection licence; or

(f) the application lapses—

whichever happens first.

(5) If—

(a) the Minister makes a decision under subsection (3) refusing to renew the lease; and

(b) a notice of refusal is given to the applicant; and

(c) subsection (4) does not apply; and

(d) the lease would, apart from this subsection, expire within 12 months after the notice was given—

the lease continues in force until the end of the 12-month period beginning on the day on which the notice was given.

(6) Subsections (4) and (5) have effect subject to this Chapter but despite section 332.

Note

See the notes at the end of section 332.

365 Renewal of greenhouse gas holding lease

The Minister must renew a greenhouse gas holding lease if—

(a) an applicant has been given an offer document under section 363; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

Division 4—Directions

366 Minister may give directions to greenhouse gas holding lessees

(1) The Minister may, by written notice given to a greenhouse gas holding lessee, give the lessee a direction for the purpose of—

(a) eliminating; or

(b) mitigating; or

(c) managing—

the risk that operations carried on under the lease could have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(d) an existing petroleum exploration permit; or

(e) an existing petroleum retention lease; or

(f) an existing petroleum production licence; or

(g) a future petroleum exploration permit; or

(h) a future petroleum retention lease; or

(i) a future petroleum production licence.

(2) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations or the applied provisions.

(3) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(4) To avoid doubt, subsection (3) applies to an instrument, whether issued or made in Australia or outside Australia.

(5) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

367 Compliance with directions

A person who is given a direction under section 366 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

Division 5—Special greenhouse gas holding lessee may be requested to apply for a greenhouse gas injection licence

368 Minister may request special greenhouse gas holding lessee to apply for a greenhouse gas injection licence

(1) If—

(a) a special greenhouse gas holding lease is in force; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the lease area; and

(c) the Minister is satisfied that, if the lessee were to apply under section 379 for the grant of a greenhouse gas injection licence over the block or blocks in which the identified greenhouse gas storage formation or formations are wholly situated, the Minister would not refuse to grant the greenhouse gas injection licence on a ground covered by section 383(1)(c), (d), (e), (f) or (g)—

the Minister may, by written notice given to the lessee—

(d) request the lessee to notify the Minister, within 180 days after the day on which the notice is given to the lessee, of the lessee's intention to apply for the greenhouse gas injection licence; and

(e) request the lessee to apply for the greenhouse gas injection licence within 2 years after the day on which the notice is given to the lessee.

(2) If the lessee does not comply with a request under subsection (1), the Minister may cancel the lease.

Division 6—Cancellation of certain greenhouse gas holding leases granted to the holders of petroleum retention leases

369 Cancellation of certain greenhouse gas holding leases granted to the holders of petroleum retention leases

(1) This section applies if—

(a) a greenhouse gas holding lease is tied to a petroleum retention lease; and

(b) the petroleum retention lease is cancelled, surrendered or wholly revoked.

(2) The Minister must cancel the greenhouse gas holding lease.

Part 3.4—Greenhouse gas injection licences

Division 1—General provisions

370 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) It is an offence to—

(a) inject a substance into the seabed or subsoil of the offshore area; or

(b) store (whether on a permanent basis or otherwise) a substance in the seabed or subsoil of the offshore area—

except—

(c) under a greenhouse gas injection licence; or

(d) as otherwise authorised or required by or under this Act or any other law of the Commonwealth; or

(e) if the injection or storage operations are specified in the regulations.

(3) This Part provides for the grant of greenhouse gas injection licences over blocks in the offshore area.

(4) A greenhouse gas injection licence authorises the licensee to carry out operations for the injection and permanent storage of greenhouse gas substances in the licence area, so long as the greenhouse gas substance is injected into, or permanently stored in, an identified greenhouse gas storage formation.

(5) There are 2 ways in which a greenhouse gas injection licence can be granted—

(a) grant of a greenhouse gas injection licence as a result of an application made by a greenhouse gas assessment permittee or greenhouse gas holding lessee;

(b) grant of a greenhouse gas injection licence as a result of an application made by a petroleum production licensee.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

371 Prohibition of unauthorised injection and storage of substances in offshore area

A person must not intentionally carry on operations—

(a) to inject a substance into the seabed or subsoil of the offshore area; or

(b) to store (whether on a permanent basis or otherwise) a substance in the seabed or subsoil of the offshore area—

unless the operations are authorised by a greenhouse gas injection licence or are otherwise authorised or required by or under this Act, a law of the State or the regulations.

Penalty: Imprisonment for 5 years.

372 Rights conferred by greenhouse gas injection licence

(1) A greenhouse gas injection licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject—

(a) to inject a greenhouse gas substance into an identified greenhouse gas storage formation that is wholly situated in the licence area, so long as the relevant well is situated in the licence area; and

(b) to permanently store a greenhouse gas substance in an identified greenhouse gas storage formation that is wholly situated in the licence area, so long as the injection of the stored greenhouse gas substance takes place at a well situated in the licence area; and

(c) to explore in the licence area for a potential greenhouse gas storage formation; and

(d) to explore in the licence area for a potential greenhouse gas injection site; and

(e) to inject, on an appraisal basis, a greenhouse gas substance into a part of a geological formation, so long as the relevant well is situated in the licence area; and

(f) to store, on an appraisal basis, a greenhouse gas substance in a part of a geological formation, so long as the injection of the stored greenhouse gas substance takes place at a well situated in the licence area; and

(g) to inject, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

into a part of a geological formation for purposes in connection with the exploration authorised by paragraph (c) or (d), so long as the relevant well is situated in the licence area; and

(h) to store, on an appraisal basis—

(i) air; or

(ii) petroleum; or

(iii) water—

in a part of a geological formation for purposes in connection with the exploration authorised by paragraph (c) or (d), so long as the injection of the stored air, petroleum or water takes place at a well situated in the licence area; and

(i) with the written consent of the Minister, to recover petroleum in the licence area for the sole purpose of appraising a discovery of petroleum that was made as an incidental consequence of—

(i) the injection authorised by paragraph (a), (e) or (g); or

(ii) the exploration authorised by paragraph (c) or (d); and

(j) to carry on such operations, and execute such works, in the licence area as are necessary for those purposes.

(2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.

(3) If petroleum is recovered by the licensee in the licence area as authorised by subsection (1)(i), the petroleum does not become the property of the licensee.

(4) A greenhouse gas injection licence does not authorise the licensee to make a well outside the licence area.

373 Conditions of greenhouse gas injection licences

(1) The Minister may grant a greenhouse gas injection licence subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the licence.

(3) This section applies subject to section 497.

374 Injection and storage of greenhouse gas substance

(1) A greenhouse gas injection licence is subject to the condition that the licensee will not—

(a) inject a greenhouse gas substance into an identified greenhouse gas storage formation that is wholly situated in the licence area; or

(b) permanently store a greenhouse gas substance in an identified greenhouse gas storage formation that is wholly situated in the licence area—

unless—

(c) the identified greenhouse gas storage formation is specified in the licence; and

(d) the greenhouse gas substance is of a kind that is specified in the licence; and

(e) the greenhouse gas substance complies with such requirements (if any) as are specified in the licence; and

(f) the origin or origins of the greenhouse gas substance are as specified in the licence; and

(g) the greenhouse gas substance is injected at a potential greenhouse gas injection site or sites specified in the licence; and

(h) the greenhouse gas substance is injected during a period specified in the licence; and

(i) the sum of—

(i) the total amount of greenhouse gas substance that has already been injected into the identified greenhouse gas storage formation; and

(ii) the total amount of greenhouse gas substance that is proposed to be injected into the identified greenhouse gas storage formation—

does not exceed the amount specified in the licence; and

(j) the rate, or range of rates, of injection of the greenhouse gas substance is as specified in the licence; and

(k) in a case where the fundamental suitability determinants of the identified greenhouse gas storage formation include particular engineering enhancements—those engineering enhancements have been made.

(2) The matters specified in the licence as mentioned in subsection (1)(d) to (k) must not be inconsistent with the fundamental suitability determinants of the identified greenhouse gas storage formation concerned.

(3) To avoid doubt, 2 or more identified greenhouse gas storage formations may be specified in a greenhouse gas injection licence as mentioned in subsection (1)(c).

(4) If 2 or more identified greenhouse gas storage formations are specified in a greenhouse gas injection licence, different matters may be specified in the licence as mentioned in subsection (1)(d) to (j) for different identified greenhouse gas storage formations.

(5) For the purposes of subsection (1)(f), disregard any incidental greenhouse gas-related substances in determining the origin of a greenhouse gas substance.

(6) If a greenhouse gas injection licence is granted under section 397 to the registered holder of a petroleum production licence, the origin or origins

specified under subsection (1)(f) of this section must be situated in the licence area of the petroleum production licence.

(7) If a greenhouse gas injection licence is tied to a petroleum production licence, the origin or origins specified under subsection (1)(f) of this section must be situated in the licence area of the petroleum production licence.

(8) The condition mentioned in subsection (1) must be specified in the licence.

(9) Subsection (1) does not limit sections 373 or 376.

375 Other standard conditions of greenhouse gas injection licences

(1) A greenhouse gas injection licence is subject to the condition that, if the licensee is given a notice under section 489, the licensee will comply with the notice.

(2) A greenhouse gas injection licence is subject to the condition that, if—

(a) regulations are made for the purposes of subsection (3); and

(b) those regulations impose requirements on the licensee—

the licensee will comply with those requirements.

(3) The regulations may establish a regime for third party access to services provided by means of the use of—

(a) identified greenhouse gas storage formations; or

(b) wells, equipment or structures for use in injecting greenhouse gas substances into identified greenhouse gas storage formations; or

(c) equipment or structures for use in the processing, compressing or storing of greenhouse gas substances prior to the injection of the substances into identified greenhouse gas storage formations.

(4) Despite section 373(2), the conditions in this section do not need to be specified in the licence.

(5) Subsections (1) and (2) do not limit sections 373(1) or 376(1).

376 Imposition of additional conditions

(1) The Minister may, by written notice given to the registered holder of a greenhouse gas injection licence, vary the licence by imposing one or more conditions to which the licence is subject.

(2) A variation of a greenhouse gas injection licence under subsection (1) takes effect on the day on which notice of the variation is given to the licensee.

(3) If—

(a) a greenhouse gas injection licence is subject to a condition; and

(b) the condition was imposed under subsection (1)—

the Minister may, by written notice given to the licensee, vary or revoke the condition.

(4) A variation of a greenhouse gas injection licence under subsection (3) takes effect on the day on which notice of the variation is given to the licensee.

(5) Subsection (4) does not limit section 468.

377 Duration of greenhouse gas injection licence

(1) A greenhouse gas injection licence remains in force indefinitely.

(2) Subsection (1) has effect subject to this Chapter.

Notes

1 For a special rule about when a greenhouse gas injection licence ceases to be in force following the grant of a greenhouse gas holding lease, see section 347.

2 For the termination of a greenhouse gas injection licence if there have been no injection operations for 5 years, see section 378.

3 For the surrender of a greenhouse gas injection licence, see Part 3.10.

4 For the cancellation of a greenhouse gas injection licence, see Part 3.11.

378 Termination of greenhouse gas injection licence if no injection operations for 5 years

(1) This section applies to a greenhouse gas injection licence if—

(a) both—

(i) a single identified greenhouse gas storage formation is specified in the licence; and

(ii) no operations to inject a greenhouse gas substance into the identified greenhouse gas storage formation have been carried on under the licence at any time during a continuous period of at least 5 years; or

(b) both—

(i) 2 or more identified greenhouse gas storage formations are specified in the licence; and

(ii) no operations to inject a greenhouse gas substance into any of those identified greenhouse gas storage formations have been carried on under the licence at any time during a continuous period of at least 5 years.

(2) The Minister may, by written notice given to the licensee, tell the licensee that the Minister proposes to terminate the licence after the end of 30 days after the notice is given.

(3) At any time after the end of 30 days after the notice is given to the licensee, the Minister may, by written notice given to the licensee, terminate the licence.

Note

For remedial directions following termination, see section 643.

(4) In working out, for the purposes of this section, the period in which no operations to inject a greenhouse gas substance into an identified greenhouse gas storage formation were carried on under a greenhouse gas injection licence—

(a) any period in which no such operations were carried on because of circumstances beyond the licensee's control; and

(b) any period in which no such operations were carried on because of a suspension under section 410—

must be disregarded.

(5) For the purposes of subsection (4)(a), the failure to obtain a greenhouse gas substance for injection into an identified greenhouse gas storage formation is not a circumstance beyond the licensee's control.

(6) The Minister may give a copy of a notice under subsection (2) to such other persons (if any) as the Minister thinks fit.

(7) A notice under subsection (2) must—

(a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal to terminate the licence; and

(b) specify a time limit for making that submission.

(8) In deciding whether to terminate the licence, the Minister must take into account any submissions made in accordance with the notice.

S. 378A inserted by No. 26/2021 s. 29.

378A Licence area of cross-boundary greenhouse gas injection licence

(1) If any part of the licence area of a cross-boundary greenhouse gas injection licence is included in the Commonwealth defined offshore area, the whole of the licence area is taken, for all purposes of—

(a) this Chapter and regulations made for the purposes of this Chapter; and

(b) the remaining provisions of this Act and the regulations, so far as they relate to—

(i) this Chapter; or

(ii) exploring for a potential greenhouse gas storage formation; or

(iii) exploring for a potential greenhouse gas injection site; or

(iv) the injection of a greenhouse gas substance; or

(v) the storage of a greenhouse gas substance—

to be included in the Commonwealth defined offshore area.

(2) Subject to subsection (3), if a cross-boundary greenhouse gas injection licence ceases to be in force, any part of the licence area included in the offshore area is no longer taken to be included in the Commonwealth defined offshore area under subsection (1).

(3) Despite subsection (2), if a cross-boundary greenhouse gas injection licence ceases to be in force, any identified greenhouse gas storage formation specified in the licence is taken to be included in the Commonwealth defined offshore area for the purposes of Divisions 7 and 8 of Part 3.4 of the Commonwealth Act.

(4) Nothing in this section limits the grant of the following titles in relation to any part of the licence area of a cross-boundary greenhouse gas injection licence that but for this section would be included in the offshore area—

(a) a petroleum exploration permit;

(b) a petroleum retention lease;

(c) a petroleum production licence;

(d) an infrastructure licence;

(e) a pipeline licence;

(f) a petroleum special prospecting authority;

(g) a petroleum access authority.

Division 2—Obtaining a greenhouse gas injection licence

Subdivision 1—Application for greenhouse gas injection licence by the holder of a greenhouse gas assessment permit or greenhouse gas holding lease

379 Application for greenhouse gas injection licence by greenhouse gas assessment permittee or greenhouse gas holding lessee

(1) This section applies if—

(a) a greenhouse gas assessment permit or greenhouse gas holding lease is in force; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the permit area or lease area.

(2) If a single identified greenhouse gas storage formation extends to—

(a) only one block in the permit area or lease area; or

(b) 2 or more blocks in the permit area or lease area—

the permittee or lessee may apply to the Minister for the grant of a greenhouse gas injection licence over the block or blocks to which the identified greenhouse gas storage formation extends.

(3) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to only one block in the permit area or lease area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations—

the permittee or lessee may apply to the Minister for the grant of a greenhouse gas injection licence over the block to which the identified greenhouse gas storage formations extend.

(4) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to—

(i) only one block in the permit area or lease area; or

(ii) 2 or more blocks in the permit area or lease area; and

(b) a vertical line would pass through a point in each of those identified greenhouse gas storage formations—

the permittee or lessee may apply to the Minister for the grant of a greenhouse gas injection licence over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(5) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to 2 or more blocks in the permit area or lease area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) for each identified greenhouse gas storage formation, at least one of the blocks to which the identified greenhouse gas storage formation extends immediately adjoins a block to which the other, or another, of those identified greenhouse gas storage formations extends—

the permittee or lessee may apply to the Minister for the grant of a greenhouse gas injection licence over the blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(6) For the purposes of subsection (5), 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 joined together at one point only.

(7) If a greenhouse gas holding lease was granted under section 360 (or was granted by way of renewal of such a lease), the lessee is not entitled to make an application under this section unless—

(a) the greenhouse gas holding lease is tied to a petroleum production licence; and

(b) the lessee is the registered holder of the petroleum production licence.

380 Applications under section 379

(1) An application under section 379 must set out, for each identified greenhouse gas storage formation, each of the matters which the applicant seeks to have specified in the licence as mentioned in section 374(1)(d) to (k).

(2) The matters set out in the application in accordance with subsection (1) must not be inconsistent with the fundamental suitability determinants of the identified greenhouse gas storage formation concerned.

(3) An application under this section must be accompanied by—

(a) a draft site plan for the identified greenhouse gas storage formation or draft site plans for each of the identified greenhouse gas storage formations; and

(b) details of the applicant's proposals for work and expenditure in relation to—

(i) if there is a single identified greenhouse gas storage formation—the block or blocks, as the case may be, to which the identified greenhouse gas storage formation extends; or

(ii) if there are 2 or more identified greenhouse gas storage formations—the block or blocks, as the case may be, to which the identified greenhouse gas storage formations, when considered together, extend; and

(c) details of—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(d) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

381 Variation of applications under section 379

(1) At any time before an offer document, or a notice of refusal, relating to an application under section 379 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If an application under section 379 is varied, a reference in this Act to the application is a reference to the application as varied.

382 Offer document for application by permittee

(1) If—

(a) an application for the grant of a greenhouse gas injection licence has been made under section 379 by a greenhouse gas assessment permittee; and

(b) the Minister is satisfied that, if the greenhouse gas injection licence were granted to the applicant, the applicant will, within 5 years after the grant, commence operations to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(c) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(i) an existing post-commencement petroleum exploration permit; or

(ii) an existing post-commencement petroleum retention lease (other than a petroleum retention lease granted under section 139); or

(iii) a future post-commencement petroleum production licence over the block or any of the blocks to which an existing post-commencement petroleum exploration permit, or an existing post-commencement petroleum retention lease (other than a petroleum

retention lease granted under section 139), relates—

the Minister is satisfied that the grant of the greenhouse gas injection licence is in the public interest; and

(d) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(i) an existing pre-commencement petroleum title held by a person other than the applicant; or

(ii) an existing petroleum production licence held by a person other than the applicant—

the Minister is satisfied that—

(iii) the registered holder of the pre-commencement petroleum title or the petroleum production licence, as the case may be, has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(iv) to the extent to which the agreement is a dealing to which Part 4.6 applies—the dealing has been approved under section 528 or is reasonably likely to be approved under that section; and

(v) to the extent to which the agreement is a dealing to which Part 5.6 would apply if the greenhouse gas injection licence were to come into existence—it is reasonably likely that the dealing

would, after the greenhouse gas injection licence comes into existence, be approved under section 585; and

(e) if—

(i) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be carried on under a future pre-commencement petroleum title over a block or blocks; and

(ii) the existing pre-commencement petroleum title in force over the block or any of the blocks is held by a person other than the applicant—

the Minister is satisfied that—

(iii) the registered holder of the existing pre-commencement petroleum title has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(iv) to the extent to which the agreement is a dealing to which Part 4.6 applies—the dealing has been approved under section 528 or is reasonably likely to be approved under that section; and

(v) to the extent to which the agreement is a dealing to which Part 4.6 would apply if the future pre-commencement petroleum title were to come into existence—it is reasonably likely that the dealing would, after the future pre-commencement petroleum title

comes into existence, be approved under section 528; and

(vi) to the extent to which the agreement is a dealing to which Part 5.6 would apply if the greenhouse gas injection licence were to come into existence—it is reasonably likely that the dealing would, after the greenhouse gas injection licence comes into existence, be approved under section 585; and

(f) if—

(i) the Minister is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and

(ii) the block or blocks as to which the Minister is so satisfied are within the licence area of a petroleum production licence, the permit area of a pre-commencement petroleum exploration permit or the lease area of a pre-commencement petroleum retention lease; and

(iii) the recovery of the petroleum passes the commercial viability test set out in section 385—

the Minister is satisfied that there is no significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on operations to recover the petroleum; and

(g) the Minister is satisfied that—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

(iii) the financial resources available to the applicant—

are adequate; and

(h) the Minister is satisfied that the draft site plan that accompanied the application satisfies the criteria specified in the regulations—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas injection licence over the block or blocks specified in the application, on the basis that the matters to be specified in the greenhouse gas injection licence as mentioned in section 374(1)(d) to (k) will be in accordance with the application.

(2) This section has effect subject to section 388.

383 Offer document for application by lessee

(1) If—

(a) an application for the grant of a greenhouse gas injection licence has been made under section 379 by a greenhouse gas holding lessee; and

(b) the Minister is satisfied that, if the greenhouse gas injection licence were granted to the applicant, the applicant will, within 5 years after the grant, commence operations to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation, or at least one of the identified greenhouse gas storage formations, concerned; and

(c) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(i) an existing post-commencement petroleum exploration permit; or

(ii) an existing post-commencement petroleum retention lease (other than a petroleum retention lease granted under section 139); or

(iii) a future post-commencement petroleum production licence over the block or any of the blocks to which an existing post-commencement petroleum exploration permit, or an existing post-commencement petroleum retention lease (other than a petroleum retention lease granted under section 139), relates—

the Minister is satisfied that the grant of the greenhouse gas injection licence is in the public interest; and

(d) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration

operations, or petroleum recovery operations, that are being, or could be, carried on under—

(i) an existing pre-commencement petroleum title held by a person other than the applicant; or

(ii) an existing petroleum production licence held by a person other than the applicant—

the Minister is satisfied that—

(iii) the registered holder of the pre-commencement petroleum title or the petroleum production licence, as the case may be, has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(iv) to the extent to which the agreement is a dealing to which Part 4.6 applies—the dealing has been approved under section 528 or is reasonably likely to be approved under that section; and

(v) to the extent to which the agreement is a dealing to which Part 5.6 would apply if the greenhouse gas injection licence were to come into existence—it is reasonably likely that the dealing would, after the greenhouse gas injection licence comes into existence, be approved under section 585; and

(e) if—

(i) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration

operations, or petroleum recovery operations, that could be carried on under a future pre-commencement petroleum title over a block or blocks; and

(ii) the existing pre-commencement petroleum title in force over the block or any of the blocks is held by a person other than the applicant—

the Minister is satisfied that—

(iii) the registered holder of the existing pre-commencement petroleum title has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(iv) to the extent to which the agreement is a dealing to which Part 4.6 applies—the dealing has been approved under section 528 or is reasonably likely to be approved under that section; and

(v) to the extent to which the agreement is a dealing to which Part 4.6 would apply if the future pre-commencement petroleum title were to come into existence—it is reasonably likely that the dealing would, after the future pre-commencement petroleum title comes into existence, be approved under section 528; and

(vi) to the extent to which the agreement is a dealing to which Part 5.6 would apply if the greenhouse gas injection licence were to come into existence—it is reasonably likely that the dealing would, after the greenhouse gas injection licence comes into existence, be approved under section 585; and

(f) if—

(i) the Minister is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and

(ii) the block or blocks as to which the Minister is so satisfied are within the licence area of a petroleum production licence, the permit area of a pre-commencement petroleum exploration permit or the lease area of a pre-commencement petroleum retention lease; and

(iii) the recovery of the petroleum passes the commercial viability test set out in section 385—

the Minister is satisfied that there is no significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on operations to recover the petroleum; and

(g) the Minister is satisfied that—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

(iii) the financial resources available to the applicant—

are adequate; and

(h) the Minister is satisfied that the draft site plan that accompanied the application satisfies the criteria specified in the regulations—

the Minister must give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas injection licence over the block or blocks specified in the application, on the basis that the matters to be specified in the greenhouse gas injection licence as mentioned in section 374(1)(d) to (k) will be in accordance with the application.

(2) This section has effect subject to section 388.

384 Public interest in grant of greenhouse gas injection licence

(1) For the purposes of sections 382(1)(c) and 383(1)(c), in considering whether the grant of the greenhouse gas injection licence is in the public interest, the Minister must have regard to—

(a) whether the registered holder of the existing post-commencement petroleum exploration permit or existing post-commencement petroleum retention lease, as the case may be, has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(b) if so—the terms of that agreement.

(2) Subsection (1) does not limit the matters to which the Minister may have regard.

385 Commercial viability test

For the purposes of sections 382(1)(f)(iii) and 383(1)(f)(iii), the recovery of petroleum ***passes the commercial viability test*** if, and only if, the Minister is satisfied that—

(a) the recovery is commercially viable; or

(b) the recovery is not commercially viable, but is likely to become commercially viable within 15 years.

386 Refusal to grant greenhouse gas injection licence

(1) This section applies if—

(a) an application for a greenhouse gas injection licence has been made under section 379; and

(b) the Minister is not required by section 382 or 383 to give the applicant an offer document.

(2) The Minister must, by written notice given to the applicant, refuse to grant the applicant a greenhouse gas injection licence.

(3) This section has effect subject to section 388.

387 Grant of greenhouse gas injection licence

If—

(a) an applicant has been given an offer document under section 382 or 383; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas injection licence over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

388 Deferral of decision to grant greenhouse gas injection licence—pending application for post-commencement petroleum exploration permit

(1) This section applies if—

(a) an application for the grant of a greenhouse gas injection licence has been made under section 379; and

(b) when the application for the greenhouse gas injection licence was made, an application for a post-commencement petroleum exploration permit was being considered by the Minister; and

(c) the Minister considers that it would be in the public interest to defer taking any action under section 382, 383 or 386 in relation to the application for the grant of the greenhouse gas injection licence until the application for the post-commencement petroleum exploration permit is finalised.

(2) The Minister must not take any action under section 382, 383 or 386 in relation to the application for the greenhouse gas injection licence until 24 hours after whichever of the following events happens first—

(a) the Minister grants the post-commencement petroleum exploration permit to the applicant for the permit;

(b) the application for the post-commencement petroleum exploration permit lapses;

(c) the Minister refuses to grant the post-commencement petroleum exploration permit to the applicant for the permit.

389 Greenhouse gas assessment permit or greenhouse gas holding lease ceases to be in force when greenhouse gas injection licence comes into force

When a greenhouse gas injection licence under section 387 comes into force in relation to one or more blocks, a greenhouse gas assessment permit or greenhouse gas holding lease ceases to be in force to the extent to which it relates to those blocks.

390 Greenhouse gas assessment permit transfer—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas assessment permit is registered under section 572—

(a) after an application has been made under section 379 for the grant of a greenhouse gas injection licence over a block or blocks in relation to which the greenhouse gas assessment permit is in force; and

(b) before any action has been taken by the Minister under section 382, 383 or 386 in relation to the application.

(2) After the transfer, sections 379 to 387 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

391 Greenhouse gas holding lease transfer—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas holding lease is registered under section 572—

(a) after an application has been made under section 379 for the grant of a greenhouse gas injection licence over a block or blocks in relation to which the greenhouse gas holding lease is in force; and

(b) before any action has been taken by the Minister under section 382, 383 or 386 in relation to the application.

(2) After the transfer, sections 379 to 387 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Subdivision 2—Application for greenhouse gas injection licence by the holder of a petroleum production licence

392 Application for greenhouse gas injection licence by the holder of a petroleum production licence

(1) This section applies if—

(a) a petroleum production licence is in force; and

(b) one or more identified greenhouse gas storage formations are wholly situated in the licence area.

(2) If—

(a) a single identified greenhouse gas storage formation extends to—

(i) only one block in the licence area; or

(ii) 2 or more blocks in the licence area; and

(b) none of the following is in force over the block or blocks to which the identified greenhouse gas storage formation extends—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum production licensee may apply to the Minister for the grant of a greenhouse gas injection licence over the block or blocks to which the identified greenhouse gas storage formation extends.

(3) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to only one block in the licence area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) none of the following is in force over the block to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum production licensee may apply to the Minister for the grant of a greenhouse gas injection licence over the block to which the identified greenhouse gas storage

formations, when considered together, extend.

(4) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to—

(i) only one block in the licence area; or

(ii) 2 or more blocks in the licence area; and

(b) a vertical line would pass through a point in each of those identified greenhouse gas storage formations; and

(c) none of the following is in force over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum production licensee may apply to the Minister for the grant of a greenhouse gas injection licence over the block or blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(5) If—

(a) 2 or more identified greenhouse gas storage formations, when considered together, extend to 2 or more blocks in the licence area; and

(b) a vertical line would not pass through a point in each of those identified greenhouse gas storage formations; and

(c) for each identified greenhouse gas storage formation, at least one of the blocks to which the identified greenhouse gas storage formation extends immediately adjoins a block to which the other, or another, of those identified greenhouse gas storage formations extends; and

(d) none of the following is in force over the blocks to which the identified greenhouse gas storage formations, when considered together, extend—

(i) a greenhouse gas injection licence;

(ii) a greenhouse gas holding lease;

(iii) a greenhouse gas assessment permit—

the petroleum production licensee may apply to the Minister for the grant of a greenhouse gas injection licence over the blocks to which the identified greenhouse gas storage formations, when considered together, extend.

(6) For the purposes of subsection (5), 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 joined together at one point only.

393 Applications under section 392

(1) An application under section 392 must set out, for each identified greenhouse gas storage formation, each of the matters which the applicant seeks to have specified in the licence as mentioned in section 374(1)(d) to (k).

(2) The matters set out in the application in accordance with subsection (1) must not be inconsistent with the fundamental suitability determinants of the identified greenhouse gas storage formation concerned.

(3) An application under this section must be accompanied by—

(a) a draft site plan for the identified greenhouse gas storage formation or draft site plans for each of the identified greenhouse gas storage formations; and

(b) details of the applicant's proposals for work and expenditure in relation to—

(i) if there is a single identified greenhouse gas storage formation—the block or blocks, as the case may be, to which the identified greenhouse gas storage formation extends; or

(ii) if there are 2 or more identified greenhouse gas storage formations—the block or blocks, as the case may be, to which the identified greenhouse gas storage formations, when considered together, extend; and

(c) details of—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

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

(d) such other information (if any) as is specified in the regulations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

394 Variation of applications under section 392

(1) At any time before an offer document, or a notice of refusal, relating to an application under section 392 is given to the applicant, the applicant may, by written notice given to the Minister, vary the application.

(2) A variation of an application must be made in the approved manner.

(3) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(4) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(5) If an application under section 392 is varied, a reference in this Act to the application is a reference to the application as varied.

395 Grant of greenhouse gas injection licence—offer document

If—

(a) an application for a greenhouse gas injection licence has been made under section 392 by the registered holder of a petroleum production licence; and

(b) the Minister is satisfied that, if the greenhouse gas injection licence were granted to the applicant, the applicant will, within 5 years after the grant, commence operations to—

(i) inject a greenhouse gas substance into the identified greenhouse gas storage formation or formations concerned; and

(ii) permanently store the greenhouse gas substance in the identified greenhouse gas storage formation or formations concerned; and

(c) either—

(i) the Minister is satisfied that all of the greenhouse gas substance injected into the identified greenhouse gas storage formation or formations concerned will be obtained as a by-product of petroleum recovery operations carried on under the petroleum production licence; or

(ii) the Minister is satisfied that some or all of the greenhouse gas substance injected into the identified greenhouse gas storage formation or formations concerned will be obtained as a by-product of petroleum recovery operations carried on under any petroleum production licence, and that the grant of the greenhouse gas injection licence is in the public interest; and

(d) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant

adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under—

(i) an existing post-commencement petroleum exploration permit; or

(ii) an existing post-commencement petroleum retention lease (other than a petroleum retention lease granted under section 139); or

(iii) a future post-commencement petroleum production licence over the block or any of the blocks to which an existing post-commencement petroleum exploration permit, or an existing post-commencement petroleum retention lease (other than a petroleum retention lease granted under section 139), relates—

the Minister is satisfied that—

(iv) the grant of the greenhouse gas injection licence is in the public interest; or

(v) the registered holder of the petroleum exploration permit or petroleum retention lease, as the case may be, has agreed, in writing, to the grant of the greenhouse gas injection licence to the applicant; and

(e) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be,

carried on under an existing pre-commencement petroleum title—

the Minister is satisfied that the registered holder of the pre-commencement petroleum title has agreed, in writing, to the grant of the greenhouse gas injection licence to the applicant; and

(f) if—

(i) the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that could be carried on under a future pre-commencement petroleum title over a block or blocks; and

(ii) a petroleum exploration permit, petroleum retention lease or petroleum production licence is in force over the block or any of the blocks—

the Minister is satisfied that the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence covered by subparagraph (ii) has agreed, in writing, to the grant of the greenhouse gas injection licence; and

(g) if the Minister is satisfied that there is a significant risk that any of the operations that could be carried on under the greenhouse gas injection licence will have a significant adverse impact on—

(i) petroleum explorations operations; or

(ii) petroleum recovery operations—

that are being, or could be, carried on under an existing petroleum production licence held by a person other than the applicant—

the Minister is satisfied that the registered holder of the petroleum production licence has agreed, in writing, to the grant of the greenhouse gas injection licence to the applicant; and

(h) the Minister is satisfied that—

(i) the technical qualifications of the applicant and of the applicant's employees; and

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

(iii) the financial resources available to the applicant—

are adequate; and

(i) the Minister is satisfied that the draft site plan that accompanied the application satisfies the criteria specified in the regulations—

the Minister may give the applicant a written notice (called an ***offer document***) telling the applicant that the Minister is prepared to grant the applicant a greenhouse gas injection licence over the block or blocks specified in the application, on the basis that the matters to be specified in the greenhouse gas injection licence as mentioned in section 374(1)(d) to (k) will be in accordance with the application.

396 Refusal to grant greenhouse gas injection licence

(1) This section applies if—

(a) an application for a greenhouse gas injection licence has been made under section 392; and

(b) the Minister refuses to give the applicant an offer document.

(2) The Minister must, by written notice given to the applicant, refuse to grant the applicant a greenhouse gas injection licence.

397 Grant of greenhouse gas injection licence

If—

(a) an applicant has been given an offer document under section 395; and

(b) the applicant has made a request under section 463 in relation to the offer document within the period applicable under that section; and

(c) if the offer document specified the form and amount of a security to be lodged by the applicant—the applicant has lodged the security within the period applicable under section 465—

the Minister must grant the applicant a greenhouse gas injection licence over the block or blocks specified in the offer document.

Notes

1 If the applicant does not make a request under section 463 within the period applicable under that section, the application lapses at the end of that period—see section 463(4).

2 If the applicant has not lodged the security within the period applicable under section 465, the application lapses at the end of that period—see section 465.

398 Petroleum production licence transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a petroleum production licence is registered under section 514—

(a) after an application has been made under section 392 for the grant of a greenhouse gas injection licence over a block or blocks in relation to which the petroleum production licence is in force; and

(b) before any action has been taken by the Minister under section 395 or 396 in relation to the application.

(2) After the transfer, sections 392 to 397 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Division 3—Variations

399 Variation of matters specified in greenhouse gas injection licence—general

(1) A greenhouse gas injection licensee may apply to the Minister for the variation by the Minister of a matter specified in the licence as mentioned in any of section 374(1)(c) to (k).

Notes

1 Consultation procedures apply—see section 466.

2 Part 3.8 contains additional provisions about application procedures.

3 Section 459 requires the application to be accompanied by an application fee.

4 Section 461 enables the Minister to require the applicant to give further information.

(2) An application under subsection (1) must—

(a) set out the proposed variation; and

(b) specify the reasons for the proposed variation.

(3) If an application is made under subsection (1), the Minister may, by written notice given to the licensee—

(a) vary the matter in accordance with the application; or

(b) refuse to vary the matter in accordance with the application.

(4) If a matter specified in the licence as mentioned in any of section 374(1)(c) to (k) is varied under this section, the varied matter must not be inconsistent with the fundamental suitability determinants of the identified greenhouse gas storage formation concerned.

(5) A variation of a matter under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 754.

400 Variation of matters specified in greenhouse gas injection licence—declaration of identified greenhouse gas storage formation varied

(1) This section applies in relation to a greenhouse gas injection licence if—

(a) a declaration is in force under section 318 in relation to an identified greenhouse gas storage formation that is wholly situated in the licence area; and

(b) the declaration is varied under section 319; and

(c) apart from this section, a matter specified in the declaration would be inconsistent with a matter specified in the licence as mentioned in any of section 374(1)(c) to (k).

(2) The Minister must, by written notice given to the licensee, vary the matter specified in the licence as mentioned in any of section 374(1)(c) to (k) for the purposes of removing that inconsistency.

(3) A variation of a matter under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 754.

Division 4—Directions

401 Minister may give greenhouse gas injection licensee directions to protect geological formations containing petroleum pools etc.

(1) The Minister may, by written notice given to a greenhouse gas injection licensee, give the licensee a direction for the purpose of—

(a) eliminating; or

(b) mitigating; or

(c) managing—

the risk that operations carried out under the licence could—

(d) have a significant adverse impact on a geological formation, or a part of a geological formation, that contains, or is likely to contain, a petroleum pool; or

(e) otherwise compromise the exploitation of any petroleum that occurs as a natural resource.

(2) A direction under this section may require the licensee to do something—

(a) in the licence area; or

(b) in the offshore area but outside the licence area.

(3) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations or the applied provisions.

(4) A direction under this section prevails over—

(a) anything in an approved site plan for an identified greenhouse gas storage formation specified in the licence; or

(b) anything specified in the licence as mentioned in any of section 374(1)(c) to (k)—

to the extent of any inconsistency.

(5) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(6) To avoid doubt, subsection (5) applies to an instrument, whether issued or made in Australia or outside Australia.

(7) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

402 Variation of matters inconsistent with direction to protect geological formations

(1) If—

(a) a direction under section 401 is in force in relation to a greenhouse gas injection licence; and

(b) apart from section 401(4), the direction would be inconsistent with a matter specified in the licence as mentioned in any of section 374(1)(c) to (k)—

the Minister may, by written notice given to the licensee, vary the matter for the purposes of removing that inconsistency.

(2) A variation of a matter under subsection (1) takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 754.

(3) The regulations may provide that, if—

(a) a direction under section 401 is in force in relation to a greenhouse gas injection licence; and

S. 402(3)(a) amended by No. 43/2012 s. 3(Sch. item 35.1).

(b) apart from section 401(4), the direction would be inconsistent with anything in an approved site plan for an identified greenhouse gas storage formation specified in the licence—

then—

(c) the licensee must, within the period ascertained in accordance with the regulations—

(i) prepare a draft variation of the approved site plan for the purposes of removing that inconsistency; and

(ii) give the draft variation to the Minister; and

(d) the Minister must, by written notice given to the licensee—

(i) approve the variation; or

(ii) refuse to approve the variation; and

(e) if the Minister approves the variation—
the approved site plan is varied accordingly.

(4) If an approved site plan is varied, a reference in this Act to the approved site plan is a reference to the approved site plan as varied.

S. 403 (Heading) amended by No. 26/2021 s. 40(1).

403 Consultation—directions

(1) This section applies if—

(a) the Minister proposes to give a direction under section 401 to a greenhouse gas injection licensee; and

S. 403(1)(b) amended by No. 26/2021 s. 40(2).

(b) the direction requires the licensee to do something in an area (the ***action area***); and

(c) the action area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a petroleum exploration permit; or

(vi) a petroleum retention lease; or

(vii) a petroleum production licence; or

(viii) a petroleum special prospecting authority; and

(d) the licensee mentioned in paragraph (a) is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (c); and

(e) the registered holder of the permit, lease, licence or authority mentioned in paragraph (c) has not given written consent to the giving of the direction.

(2) Before giving the direction, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c), give at least 30 days notice of the Minister's intention to give the direction; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the direction that is proposed to be given; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to give the direction, the Minister must take into account any submissions made in accordance with the notice.

(5) However, if the Minister is satisfied that the direction is required to deal with an emergency—

(a) subsections (2), (3) and (4) do not apply to the direction; and

(b) as soon as practicable after the direction is given, the Minister must give a copy of the direction to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c).

404 Compliance with directions

A person who is given a direction under section 401 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

Division 5—Dealing with serious situations

405 Serious situation

(1) For the purposes of this Act, a ***serious situation*** exists in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence if—

(a) a greenhouse gas substance injected into the identified greenhouse gas storage formation—

(i) has leaked; or

(ii) is leaking—

from the identified greenhouse gas storage formation; or

(b) there is a significant risk that a greenhouse gas substance injected into the identified greenhouse gas storage formation will leak from the identified greenhouse gas storage formation; or

(c) a greenhouse gas substance—

(i) has leaked; or

(ii) is leaking—

in the course of being injected into the identified greenhouse gas storage formation; or

(d) there is a significant risk that a greenhouse gas substance will leak in the course of being injected into the identified greenhouse gas storage formation; or

(e) a greenhouse gas substance injected into the identified greenhouse gas storage formation—

(i) has behaved; or

(ii) is behaving—

otherwise than as predicted in Part A of the approved site plan for the identified greenhouse gas storage formation; or

(f) there is a significant risk that a greenhouse gas substance injected into the identified greenhouse gas storage formation will behave otherwise than as predicted in Part A of the approved site plan for the identified greenhouse gas storage formation; or

(g) either—

(i) the injection of a greenhouse gas substance into the identified greenhouse gas storage formation; or

(ii) the storage of a greenhouse gas substance in the identified greenhouse gas storage formation—

has had, or is having, a significant adverse impact on the geotechnical integrity of the whole or a part of a geological formation or geological structure; or

(h) there is a significant risk that—

(i) the injection of a greenhouse gas substance into the identified greenhouse gas storage formation; or

(ii) the storage of a greenhouse gas substance in an identified greenhouse gas storage formation—

will have a significant adverse impact on the geotechnical integrity of the whole or a part of a geological formation or geological structure; or

(i) the identified greenhouse gas storage formation is not suitable (with or without engineering enhancements) for the permanent storage of the relevant amount of the relevant greenhouse gas substance injected at the relevant point or points over the relevant period.

(2) For the purposes of subsection (1)(i)—

(a) the ***relevant amount*** is the total amount of greenhouse gas substance authorised to be injected into the identified greenhouse gas storage formation under the licence; and

(b) the ***relevant greenhouse gas substance*** is the kind of greenhouse gas substance that is authorised to be injected into the identified greenhouse gas storage formation under the licence; and

(c) the ***relevant point or points*** is the potential greenhouse gas injection site or sites at which the greenhouse gas substance is authorised to be injected into the identified greenhouse gas storage formation under the licence; and

(d) the ***relevant period*** is the period during which the greenhouse gas substance is authorised to be injected into the identified greenhouse gas storage formation under the licence.

Note

See section 374(1).

406 Powers of Minister to deal with serious situations

(1) If the Minister is satisfied that a serious situation exists in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence, the Minister may, by written notice given to the licensee, direct the licensee—

(a) to take all reasonable steps to ensure that operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation are carried on in a manner specified in the direction; or

(b) to take all reasonable steps to ensure that operations for the storage of a greenhouse gas substance in the identified greenhouse gas storage formation are carried on in a manner specified in the direction; or

(c) to cease or suspend the injection of a greenhouse gas substance at a site or sites specified in the direction; or

(d) to inject a greenhouse gas substance into the identified greenhouse gas storage formation at a site or sites specified in the direction; or

(e) to cease or suspend operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation; or

(f) to undertake such activities as are specified in the direction for the purpose of—

(i) eliminating; or

(ii) mitigating; or

(iii) managing; or

(iv) remediating—

the serious situation; or

(g) to take such action as is specified in the direction; or

(h) not to take such action as is specified in the direction.

(2) A direction under this section may require the licensee to do something—

(a) in the licence area; or

(b) in the offshore area but outside the licence area.

(3) Subsection (1)(a) to (f) does not limit subsection (1)(g).

(4) Subsection (1)(a) to (f) does not limit subsection (1)(h).

(5) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations or the applied provisions.

(6) A direction under this section prevails over—

(a) anything in an approved site plan for the identified greenhouse gas storage formation; or

(b) anything specified in the licence as mentioned in any of section 374(1)(c) to (k)—

to the extent of any inconsistency.

(7) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(8) To avoid doubt, subsection (7) applies to an instrument, whether issued or made in Australia or outside Australia.

(9) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

407 Variation of matters inconsistent with direction to deal with serious situation

(1) If—

(a) a direction under section 406 is in force in relation to a greenhouse gas injection licence; and

(b) apart from section 406(6), the direction would be inconsistent with a matter specified in the licence as mentioned in any of section 374(1)(c) to (k)—

the Minister may, by written notice given to the licensee, vary the matter for the purposes of removing that inconsistency.

(2) A variation of a matter under subsection (1) takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 754.

(3) The regulations may provide that, if—

S. 407(3)(a) amended by No. 43/2012 s. 3(Sch. item 35.2).

(a) a direction under section 406 is in force in relation to a greenhouse gas injection licence; and

(b) apart from section 406(6), the direction would be inconsistent with anything in an approved site plan for the identified greenhouse gas storage formation—

then—

(c) the licensee must, within the period ascertained in accordance with the regulations—

(i) prepare a draft variation of the approved site plan for the purposes of removing that inconsistency; and

(ii) give the draft variation to the Minister; and

(d) the Minister must, by written notice given to the licensee—

(i) approve the variation; or

(ii) refuse to approve the variation; and

(e) if the Minister approves the variation—the approved site plan is varied accordingly.

(4) If an approved site plan is varied, a reference in this Act to the approved site plan is a reference to the approved site plan as varied.

408 Consultation—directions to do something outside the licence area

(1) This section applies if—

(a) the Minister proposes to give a direction under section 406 to a greenhouse gas injection licensee; and

(b) the direction requires the licensee to do something in an area (the ***action area***) in the offshore area but outside the licence area; and

(c) the action area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a petroleum exploration permit; or

(vi) a petroleum retention lease; or

(vii) a petroleum production licence; or

(viii) a petroleum special prospecting authority; and

(d) the licensee mentioned in paragraph (a) is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (c); and

(e) the registered holder of the permit, lease, licence or authority mentioned in paragraph (c) has not given written consent to the giving of the direction.

(2) Before giving the direction, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c), give at least 30 days notice of the Minister's intention to give the direction; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the direction that is proposed to be given; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to give the direction, the Minister must take into account any submissions made in accordance with the notice.

(5) However, if the Minister is satisfied that the direction is required to deal with an emergency—

(a) subsections (2), (3) and (4) do not apply to the direction; and

(b) as soon as practicable after the direction is given, the Minister must give a copy of the direction to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c).

409 Compliance with directions

A person who is given a direction under section 406 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

Division 6—Protection of petroleum discovered in the title area of a pre-commencement petroleum title

410 Powers of Minister to protect petroleum discovered in the title area of a pre-commencement petroleum title

(1) If—

(a) the licence area of a greenhouse gas injection licence overlaps, in whole or in part—

(i) the permit area of a pre-commencement petroleum exploration permit held by a person other than the registered holder of the greenhouse gas injection licence; or

(ii) the lease area of a pre-commencement petroleum retention lease held by a person other than the registered holder of the greenhouse gas injection licence; or

(iii) the licence area of a pre-commencement petroleum production licence held by a person other than the registered holder of the greenhouse gas injection licence; and

(b) petroleum is discovered in the area of overlap; and

(c) the Minister is satisfied that—

(i) the recovery of the petroleum is commercially viable; or

(ii) the recovery of the petroleum is not commercially viable, but is likely to become commercially viable at some time in the future; and

(d) the Minister is satisfied that there is a significant risk that any of the operations that are being, or could be, carried on under the greenhouse gas injection licence will have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum; and

(e) the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence, as the case may be, has not agreed, in writing, to the registered holder of the greenhouse gas injection licence carrying on those operations; and

(f) the Minister is satisfied that it is practicable to eliminate the risk that any of the operations that are being, or could be, carried on under the greenhouse gas injection licence will have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum—

the Minister must, by written notice given to the registered holder of the greenhouse gas injection licence—

(g) give the registered holder of the greenhouse gas injection licence a direction for the purpose of eliminating the risk that operations that are being, or could be, carried on under the greenhouse gas injection licence could have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum; or

(h) suspend, either—

(i) for a specified period; or

(ii) indefinitely—

any or all of the rights conferred by the greenhouse gas injection licence; or

(i) cancel the greenhouse gas injection licence.

(2) A direction under subsection (1)(g) may require the licensee to do something—

(a) in the licence area; or

(b) in the offshore area but outside the licence area.

(3) If—

(a) the licence area of a greenhouse gas injection licence overlaps, in whole or in part—

(i) the permit area of a pre-commencement petroleum exploration permit held by a person other than the registered holder of the greenhouse gas injection licence; or

(ii) the lease area of a pre-commencement petroleum retention lease held by a person other than the registered holder of the greenhouse gas injection licence; or

(iii) the licence area of a pre-commencement petroleum production licence held by a person other than the registered holder of the greenhouse gas injection licence; and

(b) petroleum is discovered in the area of overlap; and

(c) the Minister is satisfied that—

(i) the recovery of the petroleum is commercially viable; or

(ii) the recovery of the petroleum is not commercially viable, but is likely to become commercially viable at some time in the future; and

(d) the Minister is satisfied that there is a significant risk that any of the operations that are being, or could be, carried on under the greenhouse gas injection licence will have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum; and

(e) the registered holder of the petroleum exploration permit, petroleum retention lease or petroleum production licence, as the case may be, has not agreed, in writing, to the registered holder of the greenhouse gas injection licence carrying on those operations; and

(f) the Minister is satisfied that it is not practicable to eliminate the risk that any of the operations that are being, or could be, carried on under the greenhouse gas injection licence will have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum—

the Minister must, by written notice given to the registered holder of the greenhouse gas injection licence—

(g) give the registered holder of the greenhouse gas injection licence a direction for the purpose of mitigating, managing or remediating the risk that operations that are being, or could be, carried on under the greenhouse gas injection licence could have a significant adverse impact on—

(i) operations to recover the petroleum; or

(ii) the commercial viability of the recovery of the petroleum; or

(h) suspend, either—

(i) for a specified period; or

(ii) indefinitely—

any or all of the rights conferred by the greenhouse gas injection licence; or

(i) cancel the greenhouse gas injection licence.

(4) A direction under subsection (3)(g) may require the licensee to take action—

(a) in the licence area; or

(b) in the offshore area but outside the licence area.

(5) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations or the applied provisions.

(6) A direction under this section prevails over—

(a) anything in an approved site plan for an identified greenhouse gas storage formation specified in the greenhouse gas injection licence; or

(b) anything specified in the greenhouse gas injection licence as mentioned in any of section 374(1)(c) to (k)—

to the extent of any inconsistency.

(7) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(8) To avoid doubt, subsection (7) applies to an instrument, whether issued or made in Australia or outside Australia.

(9) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

411 Variation of matters inconsistent with direction to protect petroleum discovered in the title area of a pre-commencement petroleum title

(1) If—

(a) a direction under section 410 is in force in relation to a greenhouse gas injection licence; and

(b) apart from section 410(6), the direction would be inconsistent with a matter specified in the licence as mentioned in any of section 374(1)(c) to (k)—

the Minister may, by written notice given to the licensee, vary the matter for the purposes of removing that inconsistency.

(2) A variation of a matter under subsection (1) takes effect on the day on which notice of the variation is published in the Government Gazette.

Note

For publication in the Government Gazette of notice of the variation, see section 754.

(3) The regulations may provide that, if—

(a) a direction under section 410 is in force in relation to a greenhouse gas injection licence; and

(b) apart from section 410(6), the direction would be inconsistent with anything in an approved site plan for an identified greenhouse gas storage formation specified in the licence—

then—

(c) the licensee must, within the period ascertained in accordance with the regulations—

(i) prepare a draft variation of the approved site plan for the purposes of removing that inconsistency; and

(ii) give the draft variation to the Minister; and

(d) the Minister must, by written notice given to the licensee—

(i) approve the variation; or

(ii) refuse to approve the variation; and

(e) if the Minister approves the variation—
the approved site plan is varied accordingly.

(4) If an approved site plan is varied, a reference in this Act to the approved site plan is a reference to the approved site plan as varied.

412 Consultation—directions to do something outside the licence area

(1) This section applies if—

(a) the Minister proposes to give a direction under section 410 to a greenhouse gas injection licensee; and

(b) the direction requires the licensee to do something in an area (the ***action area***) in the offshore area but outside the licence area; and

(c) the action area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a petroleum exploration permit; or

(vi) a petroleum retention lease; or

(vii) a petroleum production licence; or

(viii) a petroleum special prospecting authority; and

(d) the licensee mentioned in paragraph (a) is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (c); and

(e) the registered holder of the permit, lease, licence or authority mentioned in paragraph (c) has not given written consent to the giving of the direction.

(2) Before giving the direction, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c), give at least 30 days notice of the Minister's intention to give the direction; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the direction that is proposed to be given; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to give the direction, the Minister must take into account any submissions made in accordance with the notice.

(5) However, if the Minister is satisfied that the direction is required to deal with an emergency—

(a) subsections (2), (3) and (4) do not apply to the direction; and

(b) as soon as practicable after the direction is given, the Minister must give a copy of the direction to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c).

413 Compliance with directions

A person who is given a direction under section 410 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

Division 7—Site closing certificates

414 Application for site closing certificate

(1) A greenhouse gas injection licensee may apply to the Minister for a site closing certificate in relation to a particular identified greenhouse gas storage formation specified in the licence.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

3 Section 461 enables the Minister to require the applicant to give further information.

(2) An application under this section must be accompanied by—

(a) a written report that sets out—

(i) the applicant's modelling of the behaviour of the greenhouse gas substance injected into the identified greenhouse gas storage formation; and

(ii) information relevant to that modelling; and

(iii) the applicant's analysis of that information; and

(b) a written report that sets out the applicant's assessment of—

(i) the behaviour of the greenhouse gas substance injected into the identified greenhouse gas storage formation; and

(ii) the expected migration pathway or pathways of that greenhouse gas substance; and

(iii) the short-term consequences of the migration of that greenhouse gas substance; and

(iv) the long-term consequences of the migration of that greenhouse gas substance; and

(c) the applicant's suggestions for the approach to be taken by the Commonwealth, after the issue of the certificate, to the monitoring of the behaviour of a greenhouse gas substance stored in the identified greenhouse gas storage formation; and

(d) such other information (if any) as is specified in the regulations.

(3) Subsection (2) does not apply if there have not been any operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation.

415 Mandatory application—cessation of injection operations

(1) If—

(a) a greenhouse gas injection licence is in force; and

(b) operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation concerned have ceased—

the licensee must, within the application period, make an application under section 414(1) for a site closing certificate in relation to the identified greenhouse gas storage formation.

Penalty: 120 penalty units.

(2) The ***application period*** for an application referred to in subsection (1) is—

(a) the period of 30 days after the day on which the cessation referred to in subsection (1)(b) occurred; or

(b) such longer period, not more than 90 days after that day, as the Minister allows.

(3) The Minister may allow a longer period under subsection (2)(b) only on written application made by the licensee within the period of 30 days mentioned in subsection (2)(a).

416 Mandatory application—grounds for cancellation of licence

(1) If—

(a) a greenhouse gas injection licence is in force; and

(b) under Division 1 of Part 3.11, there is a ground for cancelling the licence—

the Minister may, by written notice given to the licensee, direct the licensee—

(c) to make an application under section 414(1) for a site closing certificate in relation to each identified greenhouse gas storage formation specified in the licence; and

(d) to do so within the period specified in the notice.

(2) A period specified under subsection (1)(d) must not be shorter than 30 days.

417 Compliance with direction to apply for site closing certificate

A person who is given a direction under section 416(1) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

418 Mandatory application—greenhouse gas injection licence tied to a petroleum retention lease or petroleum production licence

(1) If—

(a) a greenhouse gas injection licence is in force; and

(b) the greenhouse gas injection licence is tied to a petroleum retention lease or petroleum production licence; and

(c) the petroleum retention lease or petroleum production licence ceases to be in force as a result of being surrendered, cancelled, terminated or wholly revoked—

the licensee of the greenhouse gas injection licence must, within the application period, make an application under section 414(1) for a site closing certificate in relation to the identified greenhouse gas storage formation, or each of the identified greenhouse gas storage formations, specified in the greenhouse gas injection licence.

Penalty: 120 penalty units.

(2) The ***application period*** for an application referred to in subsection (1) is—

(a) the period of 30 days after the day on which the cessation referred to in subsection (1)(c) occurred; or

(b) such longer period, not more than 90 days after that day, as the Minister allows.

(3) The Minister may allow a longer period under subsection (2)(b) only on written application made by the licensee within the period of 30 days mentioned in subsection (2)(a).

418A Applications in relation to cross-boundary greenhouse gas injection licences prohibited

S. 418A inserted by No. 26/2021 s. 30.

An application under section 414, 415, 416 or 418 may not be made for a site closing certificate in relation to an identified greenhouse gas storage formation that is, or has been, specified in a cross-boundary greenhouse gas injection licence.

419 Variation of applications for site closing certificate

(1) This section applies if an application for a site closing certificate has been made under section 414, 415, 416 or 418.

(2) At any time before a decision on the application is made by the Minister, the applicant may, by written notice given to the Minister, vary the application.

(3) A variation of an application must be made in the approved manner.

(4) A variation of an application may be made—

(a) on the applicant's own initiative; or

(b) at the request of the Minister.

(5) A variation of an application may set out any additional matters that the applicant wishes to be considered.

(6) If an application under this section is varied, a reference in this Act to the application is a reference to the application as varied.

420 Issue of site closing certificate—pre-certificate notice

(1) If—

(a) an application for a site closing certificate has been made under section 414, 415, 416 or 418; and

(b) either—

(i) the Minister is satisfied that operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation concerned have ceased; or

(ii) the Minister is satisfied that there have not been any operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation concerned—

the Minister may give the applicant a written notice (called a ***pre-certificate notice***) telling the applicant that the Minister is prepared to issue to the applicant a site closing certificate in relation to the identified greenhouse gas storage formation.

Note

See also section 426.

(2) If an application for a site closing certificate has been made under section 414, 415, 416 or 418, the Minister must make a decision on the application within 5 years after the application was made.

421 Matters to which the Minister must have regard—pre-certificate notice

(1) If the Minister is satisfied that there is a significant risk that a greenhouse gas substance injected into the identified greenhouse gas storage formation will have a significant adverse impact on—

(a) navigation; or

(b) fishing; or

(c) any activities being lawfully carried on, or that could be lawfully carried on, by way of the construction or operation of a pipeline; or

(d) the enjoyment of native title rights (within the meaning of the Native Title Act 1993 of the Commonwealth)—

then, in deciding whether to give the applicant a pre-certificate notice, the Minister must have regard to that significant risk.

(2) Subsection (1) does not limit the matters to which the Minister may have regard.

422 Circumstances in which a pre-certificate notice may be refused

(1) The Minister may refuse to give the applicant a pre-certificate notice in relation to the identified greenhouse gas storage formation if—

(a) the Minister is not satisfied that the greenhouse gas substance injected into the identified greenhouse gas storage formation is behaving as predicted in Part A of the approved site plan for the identified greenhouse gas storage formation; or

(b) the Minister is satisfied that there is a significant risk that a greenhouse gas substance injected into the identified greenhouse gas storage formation will have a significant adverse impact on—

(i) the conservation or exploitation of natural resources (whether in the offshore area or elsewhere); or

(ii) the geotechnical integrity of the whole or a part of a geological formation or geological structure; or

(iii) the environment; or

(iv) human health or safety.

(2) Subsection (1) does not limit the matters to which the Minister may have regard in deciding whether to refuse to give the applicant a pre-certificate notice.

423 Circumstances in which a pre-certificate notice must not be given

(1) The Minister must not give the applicant a pre-certificate notice in relation to the identified greenhouse gas storage formation unless the Minister is satisfied that—

(a) either—

(i) the relevant statutory requirements have been complied with; or

(ii) any of the relevant statutory requirements have not been complied with, but there are sufficient grounds to warrant the issue of the site closing certificate; or

(b) if any conditions are specified in the regulations—those conditions have been satisfied.

(2) For the purposes of subsection (1)(a), each of the following is a ***relevant statutory requirement***—

(a) the conditions to which the greenhouse gas injection licence is, or has from time to time been, subject;

(b) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1;

(c) the provisions of the regulations.

424 Acknowledgement of receipt of application for site closing certificate

(1) This section applies if an application has been made under section 414, 415, 416 or 418 for a site closing certificate.

(2) The Minister must give the applicant notice of receipt of the application.

425 Refusal to give pre-certificate notice

(1) This section applies if—

(a) an application has been made under section 414, 415, 416 or 418 for a site closing certificate; and

(b) the Minister refuses to give a pre-certificate notice to the applicant.

(2) The Minister must give written notice of the refusal to the applicant.

426 Pre-certificate notice—security etc.

(1) A pre-certificate notice that relates to an application for a site closing certificate must—

(a) specify a program of operations proposed to be carried out by the Commonwealth for the purposes of monitoring the behaviour of a greenhouse gas substance stored in the identified greenhouse gas storage formation concerned; and

(b) set out an estimate of the total costs and expenses of carrying out the program; and

(c) specify the form and amount of a security to be lodged by the applicant in respect of the compliance, by the holder for the time being of the site closing certificate, with the holder's obligations under section 433 in relation to the costs and expenses of carrying out the program; and

(d) contain a statement to the effect that the application will lapse if the applicant does not lodge the security with the Minister within the period applicable under subsection (3).

(2) The amount of the security must equal the estimate referred to in subsection (1)(b).

(3) The period for lodging the security is—

(a) 60 days after the pre-certificate notice was given to the applicant; or

(b) such longer period, not more than 180 days after the pre-certificate notice was given to the applicant, as the Minister allows.

(4) If the applicant does not lodge the security with the Minister within the period applicable under subsection (3), the application lapses at the end of that period.

(5) The regulations may provide that an estimate referred to in subsection (1)(b) is to be made on the basis of—

(a) an assumption that costs and expenses will increase at an annual rate specified in the regulations; and

(b) such other assumptions (if any) as are specified in the regulations.

(6) Subsection (1) does not apply if the Minister is satisfied that there have not been any operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation concerned.

427 Issue of site closing certificate

If—

(a) an applicant has been given a pre-certificate notice under section 420(1); and

(b) if section 426(1) applies—the applicant has lodged the specified security within the period applicable under section 426(3)—

the Minister must issue to the applicant a site closing certificate in relation to the identified greenhouse gas storage formation specified in the pre-certificate notice.

Note

If the applicant does not lodge the security with the Minister within the period applicable under section 426(3), the application lapses at the end of that period—see section 426(4).

428 Greenhouse gas injection licence transferred—transferee to be treated as applicant

(1) This section applies if a transfer of a greenhouse gas injection licence is registered under section 572—

(a) after an application has been made under section 414, 415, 416 or 418 for a site closing certificate in relation to an identified greenhouse gas storage formation specified in the greenhouse gas injection licence; and

(b) before any action has been taken by the Minister under section 420 or 425 in relation to the application.

(2) After the transfer, sections 414 to 427 and Part 3.8 have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

429 Duration of site closing certificate

(1) A site closing certificate remains in force indefinitely.

(2) Subsection (1) has effect subject to this Chapter.

430 Transfer of site closing certificate

If—

(a) a site closing certificate is held by the registered holder of a greenhouse gas injection licence; and

(b) a transfer of the licence is registered under section 572—

the site closing certificate is, by force of this section, transferred to the transferee of the licence.

431 Transfer of securities

If—

(a) a security is in force in relation to a site closing certificate; and

(b) the site closing certificate is transferred—

then—

(c) the interest of the transferor in the security is, by force of this section, transferred to the transferee; and

(d) a document setting out or relating to the security has effect, after the transfer, as if a reference in the document to the transferor were a reference to the transferee.

432 Discharge of securities

The regulations may make provision in relation to the discharge, in whole or in part, by the Minister of securities in force in relation to site closing certificates.

433 Recovery of the State's costs and expenses

(1) This section applies if—

(a) a site closing certificate is in force in relation to an identified greenhouse gas storage formation; and

(b) the State incurs reasonable costs or expenses in carrying out the program specified in the pre-certificate notice for the site closing certificate.

(2) The costs or expenses—

(a) are a debt due to the State by the holder of the certificate; and

(b) are recoverable in a court of competent jurisdiction.

(3) The total of the costs and expenses recoverable under subsection (2) must not exceed the estimate set out in the pre-certificate notice.

Part 3.5—Greenhouse gas search authorities

Division 1—General provisions

434 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of greenhouse gas search authorities over blocks in the offshore area.

(3) A greenhouse gas search authority may be granted over a block so long as none of the following is in force over the block—

(a) a greenhouse gas assessment permit;

(b) a greenhouse gas holding lease;

(c) a greenhouse gas injection licence;

(d) a petroleum exploration permit;

(e) a petroleum retention lease;

(f) a petroleum production licence.

(4) A greenhouse gas search authority authorises the holder to carry on the following operations in the authority area—

(a) operations relating to the exploration for potential greenhouse gas storage formations;

(b) operations relating to the exploration for potential greenhouse gas injection sites.

(5) A greenhouse gas search authority does not authorise the holder to make a well.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

435 Rights conferred by greenhouse gas search authority

(1) A greenhouse gas search authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the operations relating to—

(a) the exploration for potential greenhouse gas storage formations; and

(b) the exploration for potential greenhouse gas injection sites—

that are specified in the authority.

(2) A greenhouse gas search authority does not authorise the registered holder to make a well.

(3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

436 Conditions of greenhouse gas search authorities

(1) The Minister may grant a greenhouse gas search authority subject to whatever conditions the Minister thinks appropriate.

Note

See also section 620, which deals with insurance.

(2) The conditions (if any) must be specified in the greenhouse gas search authority.

437 Duration of greenhouse gas search authority

(1) A greenhouse gas search authority comes into force on the day specified in the authority as the day on which the authority is to come into force.

(2) A greenhouse gas search authority remains in force for the period specified in the authority.

(3) The period specified under subsection (2) must not be longer than 180 days.

(4) Subsection (2) has effect subject to this Chapter.

Notes

1 For the surrender of a greenhouse gas search authority, see Part 3.10.

2 For the cancellation of a greenhouse gas search authority, see Part 3.11.

438 Greenhouse gas search authority cannot be transferred

A greenhouse gas search authority cannot be transferred.

Division 2—Obtaining a greenhouse gas search authority

439 Application for greenhouse gas search authority

(1) A person may apply to the Minister for the grant of a greenhouse gas search authority over a block or blocks, so long as none of the following is in force over that block or any of those blocks—

(a) a greenhouse gas assessment permit;

(b) a greenhouse gas holding lease;

(c) a greenhouse gas injection licence;

(d) a petroleum exploration permit;

(e) a petroleum retention lease;

(f) a petroleum production licence.

(2) An application under this section must specify—

(a) the operations relating to—

(i) the exploration for potential greenhouse gas storage formations; and

(ii) the exploration for potential greenhouse gas injection sites—

that the applicant proposes to carry on; and

(b) the block or blocks within which the applicant proposes to carry on those operations.

Notes

1 Part 3.8 contains additional provisions about application procedures.

2 Section 459 requires the application to be accompanied by an application fee.

440 Grant or refusal of greenhouse gas search authority

If an application for a greenhouse gas search authority has been made under section 439, the Minister may—

(a) grant the applicant a greenhouse gas search authority; or

(b) by written notice given to the applicant, refuse to grant a greenhouse gas search authority to the applicant.

441 Holders to be informed of the grant of another greenhouse gas search authority

(1) This section applies if—

(a) a person (the ***first person***) is the registered holder of a greenhouse gas search authority over a block; and

(b) another greenhouse gas search authority is granted to another person (the ***second person***) over the block.

(2) The Minister must, by written notice given to the first person, inform the first person of—

(a) the operations authorised by the greenhouse gas search authority granted to the second person; and

(b) the conditions of the greenhouse gas search authority granted to the second person.

(3) The Minister must, by written notice given to the second person, inform the second person of—

(a) the operations authorised by the greenhouse gas search authority granted to the first person; and

(b) the conditions of the greenhouse gas search authority granted to the first person.

442 Holders to be informed of the grant of a petroleum special prospecting authority

(1) This section applies if—

(a) a person (the ***first person***) is the registered holder of a greenhouse gas search authority over a block; and

(b) a petroleum special prospecting authority is granted to another person (the ***second person***) over the block.

(2) The Minister must, by written notice given to the first person, inform the first person of—

(a) the operations authorised by the petroleum special prospecting authority granted to the second person; and

(b) the conditions of the petroleum special prospecting authority granted to the second person.

(3) The Minister must, by written notice given to the second person, inform the second person of—

(a) the operations authorised by the greenhouse gas search authority granted to the first person; and

(b) the conditions of the greenhouse gas search authority granted to the first person.

Part 3.6—Greenhouse gas special authorities

Division 1—General provisions

443 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of greenhouse gas special authorities over blocks in the offshore area.

(3) A greenhouse gas special authority authorises the holder to carry on certain operations in the authority area (but not to make a well, other than a deviation well that enters an adjacent permit area, lease area or licence area that is the subject of a permit, licence or lease held by that holder).

S. 443(3) amended by No. 64/2012 s. 66.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

444 Rights conferred by greenhouse gas special authority

(1) A greenhouse gas special authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the operations specified in the authority.

(2) A greenhouse gas special authority does not authorise the registered holder to make a well.

(2A) However, a greenhouse gas special authority authorises the registered holder to make a deviation well that enters—

S. 444(2A) inserted by No. 64/2012 s. 67.

(a) an adjacent permit area that is the subject of a greenhouse gas assessment permit held by the registered holder; or

(b) an adjacent lease area that is the subject of a greenhouse gas holding lease held by the registered holder; or

(c) an adjacent licence area that is the subject of a greenhouse gas injection licence held by the registered holder.

(3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

445 Conditions of greenhouse gas special authorities

(1) The Minister may grant a greenhouse gas special authority subject to whatever conditions the Minister thinks appropriate.

Note

See also section 620, which deals with insurance.

(2) The conditions (if any) must be specified in the greenhouse gas special authority.

446 Duration of greenhouse gas special authority

(1) A greenhouse gas special authority comes into force on the day specified in the authority as the day on which the authority is to come into force.

(2) A greenhouse gas special authority remains in force for the period specified in the authority, but may be extended by the Minister for a further specified period.

(3) Subsection (2) has effect subject to this Chapter.

Note

1 For the surrender of a greenhouse gas special authority, see Part 3.10.

2 For the revocation of a greenhouse gas special authority, see section 453.

Division 2—Obtaining a greenhouse gas special authority

447 Application for greenhouse gas special authority

(1) The table has effect—

Application for greenhouse gas special authority

Item	*Column 1*	*Column 2*	*Column 3*
	This person...	*may apply to...*	*for the grant of a greenhouse gas special authority to enable the person to...*
1	the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence relating to a particular offshore area	the Minister	carry on, in an area that is— (a) part of that offshore area but outside the permit area, lease area or licence area; or (b) part of an adjoining offshore area— any or all of the following— (c) operations relating to the exploration for potential greenhouse gas storage formations; (d) operations relating to the exploration for potential greenhouse gas injection sites; (e) operations relating to the injection of a greenhouse gas substance into a part of a geological formation;

Application for greenhouse gas special authority

Item	*Column 1*	*Column 2*	*Column 3*
	This person...	*may apply to...*	*for the grant of a greenhouse gas special authority to enable the person to...*
			(f) operations relating to the storage of a greenhouse gas substance in a part of a geological formation; (g) operations to carry out baseline investigations relating to the storage of a greenhouse gas substance in a part of a geological formation; (h) operations relating to the monitoring of the behaviour of a greenhouse gas substance stored in a part of a geological formation.
2	the registered holder of a greenhouse gas search authority relating to a particular offshore area	the Minister	carry on either or both of the following— (a) operations relating to the exploration for potential greenhouse gas storage formations;

Application for greenhouse gas special authority			
Item	*Column 1*	*Column 2*	*Column 3*
	This person...	*may apply to...*	*for the grant of a greenhouse gas special authority to enable the person to...*
			(b) operations relating to the exploration for potential greenhouse gas injection sites— in an area that is— (c) part of that offshore area but outside the authority area of the greenhouse gas search authority; or (d) part of an adjoining offshore area.

(2) An application under this section must specify—

(a) the operations that the applicant proposes to carry on; and

(b) the area in which the applicant proposes to carry on those operations.

Note

Part 3.8 contains additional provisions about application procedures.

448 Grant or refusal of greenhouse gas special authority

If—

(a) an application for a greenhouse gas special authority has been made under section 447; and

(b) the Minister is satisfied that it is necessary or desirable to grant the greenhouse gas special authority for—

(i) the more effective exercise of the applicant's rights; or

(ii) the proper performance of the applicant's duties—

in the applicant's capacity as the registered holder of—

(iii) a greenhouse gas assessment permit; or

(iv) a greenhouse gas holding lease; or

(v) a greenhouse gas injection licence; or

(vi) a greenhouse gas search authority—

the Minister may—

(c) grant the applicant a greenhouse gas special authority; or

(d) by written notice given to the applicant, refuse to grant a greenhouse gas special authority to the applicant.

Note

Consultation procedures apply—see section 449.

449 Consultation—grant of greenhouse gas special authority

(1) This section applies if—

(a) an application for a greenhouse gas special authority has been made under section 447 in relation to an area (the ***application area***); and

(b) the application area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; and

(c) the applicant is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (b); and

(d) the registered holder of the permit, lease, licence or authority mentioned in paragraph (b) has not given written consent to the grant of the greenhouse gas special authority.

(2) Before granting the greenhouse gas special authority, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(b), give at least 30 days notice of the Minister's intention to grant the greenhouse gas special authority; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the greenhouse gas special authority that is proposed to be granted; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding—

(a) whether to grant the greenhouse gas special authority; and

(b) the conditions (if any) to which the greenhouse gas special authority should be subject—

the Minister must take into account any submissions made in accordance with the notice.

Division 3—Variation of greenhouse gas special authorities

450 Variation of greenhouse gas special authority

The Minister may, by written notice given to the registered holder of a greenhouse gas special authority, vary the greenhouse gas special authority.

Note

Consultation procedures apply—see section 451.

451 Consultation—variation of greenhouse gas special authority

(1) This section applies if—

(a) the Minister proposes to vary a greenhouse gas special authority; and

(b) the authority area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; and

(c) the applicant is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (b); and

(d) the registered holder of the permit, lease, licence or authority mentioned in paragraph (b) has not given written consent to the variation of the greenhouse gas special authority.

(2) Before varying the greenhouse gas special authority, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in paragraph (1)(b) give at least 30 days notice of the Minister's intention to vary the greenhouse gas special authority; and

(b) give a copy of the notice to—

(i) the registered holder of the greenhouse gas special authority; and

(ii) such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the variation that is proposed to be made; and

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to vary the greenhouse gas special authority, the Minister must take into account any submissions made in accordance with the notice.

Division 4—Reporting obligations of holders of greenhouse gas special authorities

452 Reporting obligations of holders of greenhouse gas special authorities

If—

(a) at any time during a particular month, a greenhouse gas special authority is in force in relation to an area that consists of, or includes, a block that is the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; and

(b) the registered holder of the greenhouse gas special authority is not the registered holder of the permit, lease or licence—

the registered holder of the greenhouse gas special authority must, within 30 days after the end of that month, give the registered holder of the permit, lease or licence—

(c) a written report about the operations carried on in that block during that month; and

(d) a written summary of the facts ascertained from those operations.

Penalty: 20 penalty units.

Division 5—Revocation of greenhouse gas special authorities

453 Revocation of greenhouse gas special authority

(1) The Minister may, by written notice given to the registered holder of a greenhouse gas special authority, revoke the greenhouse gas special authority.

(2) If—

(a) the Minister revokes a greenhouse gas special authority; and

(b) the greenhouse gas special authority authorised operations in—

(i) a greenhouse gas assessment permit area; or

(ii) a greenhouse gas holding lease area; or

(iii) a greenhouse gas injection licence area—

the Minister must give written notice of the revocation to the permittee, lessee or licensee.

Part 3.7—Greenhouse gas research consents

454 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part provides for the grant of greenhouse gas research consents.

(3) A greenhouse gas research consent authorises the holder to carry on the following operations in the course of a scientific investigation—

(a) operations relating to the exploration for potential greenhouse gas storage formations;

(b) operations relating to the exploration for potential greenhouse gas injection sites.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

455 Rights conferred by greenhouse gas research consent

(1) A greenhouse gas research consent authorises the holder, in accordance with the conditions (if any) to which the consent is subject, to carry on, in the offshore area specified in the consent, the operations relating to—

(a) the exploration for potential greenhouse gas storage formations; and

(b) the exploration for potential greenhouse gas injection sites—

that are specified in the consent in the course of the scientific investigation specified in the consent.

(2) The rights conferred on the holder by subsection (1) are subject to section 496.

Note

Section 496 deals with interference with other rights.

456 Conditions of greenhouse gas research consents

(1) The Minister may grant a greenhouse gas research consent subject to whatever conditions the Minister thinks appropriate.

(2) The conditions (if any) must be specified in the consent.

457 Grant of greenhouse gas research consent

(1) The Minister may grant a written greenhouse gas research consent authorising a person to carry on, in the offshore area, the following operations in the course of a scientific investigation—

(a) operations relating to the exploration for potential greenhouse gas storage formations;

(b) operations relating to the exploration for potential greenhouse gas injection sites.

(2) The person is the ***holder*** of the consent.

Part 3.8—Standard procedures

458 Application to be made in an approved manner

(1) This section applies to an application for—

(a) the grant or renewal of a greenhouse gas assessment permit; or

(b) the grant or renewal of a greenhouse gas holding lease; or

(c) the grant or variation of a greenhouse gas injection licence; or

(d) the grant of a greenhouse gas search authority; or

(e) the grant of a greenhouse gas special authority; or

(f) a site closing certificate.

(2) The application must be made in an approved manner.

459 Application fee

(1) This section applies to an application for—

(a) the grant or renewal of a greenhouse gas assessment permit; or

(b) the grant or renewal of a greenhouse gas holding lease; or

(c) the grant or variation of a greenhouse gas injection licence; or

(d) the grant of a greenhouse gas search authority; or

(e) a site closing certificate.

(2) The application must be accompanied by the fee (if any) prescribed by the regulations.

(3) Different fees may be prescribed for different applications.

(4) To avoid doubt, a fee is in addition to—

(a) the amount that a person specifies in an application as the amount that the person is prepared to pay for a cash-bid greenhouse gas assessment permit; and

(b) the amount specified in an offer document as the amount that a person must pay for a cash-bid greenhouse gas assessment permit.

460 Application may set out additional matters

(1) This section applies to the following—

(a) an application for the grant of a greenhouse gas assessment permit (otherwise than by way of renewal);

(b) an application for the grant of a greenhouse gas holding lease (otherwise than by way of renewal);

(c) an application for the grant or variation of a greenhouse gas injection licence;

(d) an application for the grant of a greenhouse gas special authority;

(e) an application for a site closing certificate.

(2) The application may set out any additional matters that the applicant wishes to be considered.

461 Minister may require further information

(1) This section applies to an application for—

(a) the grant or renewal of a greenhouse gas assessment permit; or

(b) the grant or renewal of a greenhouse gas holding lease; or

(c) the grant or variation of a greenhouse gas injection licence; or

(d) a site closing certificate.

(2) The Minister may, by written notice given to the applicant, require the applicant to give the Minister further information in connection with the application.

(3) If the applicant breaches the requirement, the Minister may, by written notice given to the applicant—

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

(4) Subsection (3) has effect despite any provision of this Act that requires the Minister to—

(a) consider the application; or

(b) take any particular action in relation to the application.

(5) A reference in this section to taking action in relation to the application includes a reference to giving an offer document in relation to the application.

462 Offer documents

(1) This section applies to an offer document that relates to an application for—

(a) the grant or renewal of a greenhouse gas assessment permit; or

(b) the grant or renewal of a greenhouse gas holding lease; or

(c) the grant of a greenhouse gas injection licence.

(2) The offer document must contain—

(a) a summary of the conditions to which the permit, lease or licence will be subject; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under section 463.

(3) If the offer document relates to an application for the grant of a cash-bid greenhouse gas assessment permit, the offer document must—

(a) specify the amount that the applicant must pay for the permit; and

(b) contain a statement to the effect that the application will lapse if the applicant does not pay the amount to the Commonwealth within the period allowed for making a request under section 463.

(4) The offer document may—

(a) specify the form and amount of a security to be lodged by the applicant in respect of compliance with the applicable statutory obligations by the registered holder for the time being of the permit, lease or licence; and

(b) contain a statement to the effect that the application will lapse if the applicant does not lodge the security with the Minister within the period allowed for making a request under section 463.

(5) For the purposes of subsection (4), the ***applicable statutory obligations*** are as follows—

(a) the obligation of the registered holder to comply with a condition to which the permit, lease or licence is subject;

(b) the obligation of the registered holder to comply with a direction given to the registered holder by the Minister under this Chapter, Chapter 6 or Part 8.1;

(c) the obligation of the registered holder to comply with the provisions of—

(i) this Chapter; or

(ii) Chapter 5; or

(iii) Chapter 6; or

(iv) Part 8.1; or

(v) the regulations.

463 Acceptance of offer—request by applicant

(1) The table has effect—

Acceptance of offer by applicant

Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
1	a work-bid greenhouse gas assessment permit	whichever of the following periods is applicable— (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Minister allows;	the permit.

Acceptance of offer by applicant			
Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
2	a cash-bid greenhouse gas assessment permit	30 days after the offer document was given to the applicant;	the permit.
3	the renewal of a greenhouse gas assessment permit	30 days after the offer document was given to the applicant;	the renewal of the permit.
4	a greenhouse gas holding lease	whichever of the following periods is applicable— (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Minister allows;	the lease.
5	the renewal of a greenhouse gas holding lease	30 days after the offer document was given to the applicant;	the renewal of the lease.
6	a greenhouse gas injection licence	whichever of the following periods is applicable— (a) 90 days after the offer document was given to the applicant;	the licence.

Acceptance of offer by applicant			
Item	*Column 1* *If an offer document relates to an application for the grant of...*	*Column 2* *the applicant may, within...*	*Column 3* *by written notice given to the Minister, request the Minister to grant the applicant...*
		(b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Minister allows;	

(2) The Minister may allow a longer period under paragraph (b) of column 2 of item 1 or 4 of the table only on written application made by the applicant within the period of 30 days mentioned in paragraph (a) of that column.

(3) The Minister may allow a longer period under paragraph (b) of column 2 of item 6 of the table only on written application made by the applicant within the period of 90 days mentioned in paragraph (a) of that column.

(4) If an applicant does not make a request under an item of the table within the period applicable under column 2 of the table, the application lapses at the end of that period.

464 Acceptance of offer—payment

If—

(a) an offer document specifies an amount that the applicant must pay to the Commonwealth for the grant of a cash-bid greenhouse gas assessment permit; and

(b) the applicant has not paid that amount within the period applicable under column 2 of the table in section 463(1)—

the application lapses at the end of that period.

465 Acceptance of offer—lodgment of security

If—

(a) an offer document specifies the form and amount of a security that the applicant must lodge with the Minister; and

(b) the applicant has not lodged that security within the period applicable under section 463—

the application lapses at the end of that period.

466 Consultation—adverse decisions

(1) This section applies to a decision set out in the table, and the ***affected person*** in relation to that decision is set out in the table—

Decisions and affected persons

Item	*Column 1*	*Column 2*	*Column 3*
	Provision under which decision is made	*Decision of the Minister*	*Affected person*
1	section 313	refusal to renew a greenhouse gas assessment permit	the permittee.
2	section 345	refusal to grant a greenhouse gas holding lease to a greenhouse gas injection licensee	the licensee.
3	section 364	refusal to renew a greenhouse gas holding lease	the lessee.
4	section 399	refusal to vary a greenhouse gas injection licence	the licensee.

(2) Before making the decision, the Minister must—

(a) by written notice given to the affected person, give at least 30 days notice of the Minister's intention to make the decision; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the decision that is proposed to be made; and

(b) set out the reasons for the proposal; and

(c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(d) specify a time limit for making that submission.

(4) In deciding whether to make the decision, the Minister must take into account any submissions made in accordance with the notice.

467 Minister may require information about negotiations for a designated agreement

(1) This section applies to the following applications—

(a) an application under section 287(1) for approval to carry on one or more key greenhouse gas operations under a greenhouse gas assessment permit;

(b) an application under section 329(1) for approval to carry on one or more key greenhouse gas operations under a greenhouse gas holding lease;

(c) an application under section 379 for the grant of a greenhouse gas injection licence;

(d) an application under section 392 for the grant of a greenhouse gas injection licence—

where either or both of the following are relevant to the Minister's decision on the application—

(e) the existence or non-existence of a designated agreement;

(f) the terms of a designated agreement.

(2) The Minister may, by written notice given to the applicant, require the applicant to give to the Minister, within the period specified in the notice, a written report about negotiations, or attempts at negotiations, relating to—

(a) the entering into of the designated agreement; and

(b) the terms of the designated agreement.

(3) If the applicant breaches the requirement, the Minister may, by written notice given to the applicant—

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

(4) Subsection (3) has effect despite any provision of this Act that requires the Minister to—

(a) consider the application; or

(b) take any particular action in relation to the application.

Part 3.9—Variation, suspension and exemption

Division 1—Variation, suspension and exemption decisions relating to greenhouse gas assessment permits, greenhouse gas holding leases and greenhouse gas injection licences

468 Variation, suspension and exemption—conditions of titles

(1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists—

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
1	a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence	the permittee, lessee or licensee applies in writing to the Minister for— (a) a variation or suspension of any of the conditions to which the permit, lease or licence is subject; or (b) exemption from compliance with any of the conditions to which the permit, lease or licence is subject.
2	a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence	the Minister gives a direction or consent to the permittee, lessee or licensee under— (a) this Chapter; or (b) Chapter 6; or (c) Part 8.1; or (d) the regulations.
3	greenhouse gas injection licence	the licence is partly surrendered.

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
4	a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence	the permittee, lessee or licensee consents to the making of a determination under section 498.
5	a greenhouse gas assessment permit	the permit is taken to continue in force until the Minister grants, or refuses to grant, the renewal of the permit (see section 311(6)).
6	a greenhouse gas holding lease	the lease is taken to continue in force until the Minister grants, or refuses to grant, the renewal of the lease (see section 362(6)).

S. 468(2) amended by No. 55/2010 s. 80(4).

(2) The Minister may, by written notice given to the permittee, lessee or licensee—

(a) vary; or

(b) suspend; or

(c) exempt the permittee, lessee or licensee from compliance with—

any of the conditions to which the permit, lease or licence is subject, on such conditions (if any) as are specified in the notice.

(3) Subsection (2) does not authorise the giving of a notice to the extent that it would affect the term of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence.

Note

See also section 469 (extension of term).

(4) A variation of a greenhouse gas injection licence under this section takes effect on the day on which notice of the variation is published in the Government Gazette.

(5) A variation of a greenhouse gas assessment permit or greenhouse gas holding lease under this section takes effect on the day on which notice of the variation is given to the permittee or lessee.

469 Extension of term of greenhouse gas assessment permit or greenhouse gas holding lease—suspension or exemption

(1) This section applies if, under section 468, the Minister—

(a) suspends any of the conditions to which a greenhouse gas assessment permit or greenhouse gas holding lease is subject; or

(b) exempts a greenhouse gas assessment permittee or greenhouse gas holding lessee from compliance with any of the conditions to which the permit or lease is subject.

(2) Despite section 468(3), if the Minister considers that the circumstances make it reasonable to do so, the Minister may extend the term of the permit or lease by a period not more than the period of the suspension or exemption.

(3) The extension may be—

(a) in the notice of suspension or exemption; or

(b) by a later written notice given to the permittee or lessee.

470 Suspension of rights—greenhouse gas assessment permit or greenhouse gas holding lease

(1) If the Minister is satisfied that it is necessary to do so in the public interest, the Minister must, by written notice given to a greenhouse gas assessment permittee or greenhouse gas holding lessee, suspend, either—

(a) for a specified period; or

(b) indefinitely—

any or all of the rights conferred by the permit or lease.

(2) If any rights are suspended under subsection (1), any conditions that must be complied with in the exercise of those rights are also suspended.

(3) The Minister may, by written notice given to the permittee or lessee, terminate a suspension of rights under subsection (1).

471 Extension of term of greenhouse gas assessment permit or greenhouse gas holding lease—suspension of rights

(1) This section applies if rights conferred by a greenhouse gas assessment permit or greenhouse gas holding lease are suspended under section 470.

(2) The Minister may extend the term of the permit or lease by a period not more than the period of the suspension.

(3) The extension may be—

(a) in the notice of suspension; or

(b) by a later written notice given to the permittee or lessee.

Division 2—Variation, suspension and exemption decisions relating to greenhouse gas search authorities and greenhouse gas special authorities

472 Variation, suspension and exemption—conditions of greenhouse gas search authorities and greenhouse gas special authorities

(1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists—

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	*Title*	*Event or circumstance*
1	a greenhouse gas special authority	a greenhouse gas special authority is in force over the whole or a part of a block that is the subject of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence.
2	a greenhouse gas special authority	the Minister varies a greenhouse gas special authority over a block that is the subject of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence.
3	a greenhouse gas search authority or greenhouse gas special authority	the registered holder of the authority applies in writing to the Minister for— (a) a variation or suspension of any of the conditions to which the authority is subject; or (b) exemption from compliance with any of the conditions to which the authority is subject.
4	a greenhouse gas search authority or greenhouse gas special authority	the Minister gives a direction or consent to the registered holder of the authority under— (a) this Chapter; or (b) Chapter 6; or (c) Part 8.1; or (d) the regulations.

(2) The Minister may, by written notice given to the registered holder of the authority—

(a) vary; or

(b) suspend; or

(c) exempt the registered holder from compliance with—

any of the conditions to which the authority is subject, on such conditions (if any) as are specified in the notice.

Part 3.10—Surrender of titles

Division 1—Surrender of greenhouse gas assessment permits, greenhouse gas holding leases and greenhouse gas injection licences

473 Application for consent to surrender title

(1) The table has effect—

Surrender		
Item	*The registered holder of...*	*may apply to the Minister for consent to surrender...*
1	a greenhouse gas assessment permit	the permit.
2	a greenhouse gas holding lease	the lease.
3	a greenhouse gas injection licence	the licence as to some or all of the blocks in relation to which the licence is in force.

(2) An application under subsection (1) must be in writing.

474 Consent to surrender title

(1) This section applies if an application is made under section 473 for a consent.

(2) The Minister may, by written notice given to the applicant—

(a) give consent; or

(b) refuse to consent.

(3) The Minister may consent to the surrender sought by the application only if—

(a) the registered holder of the permit, lease or licence has paid all fees and amounts payable by the holder under this Act or has made arrangements that are satisfactory to the

Minister for the payment of those fees and amounts; and

(b) the registered holder of the permit, lease or licence has complied with the conditions to which the permit, lease or licence is subject and with the provisions of—

(i) this Chapter; and

(ii) Chapter 5; and

(iii) Chapter 6; and

(iv) Part 8.1; and

(v) the regulations; and

(c) the registered holder of the permit, lease or licence has—

(i) to the satisfaction of the Minister, removed or caused to be removed from the surrender area (defined by section 477) all property brought into the surrender area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or

(ii) made arrangements that are satisfactory to the Minister in relation to that property; and

(d) the registered holder of the permit, lease or licence has, to the satisfaction of the Minister, plugged or closed off all wells made in the surrender area by any person engaged or concerned in the operations authorised by the permit, lease or licence; and

(e) the registered holder of the permit, lease or licence has provided, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the surrender area; and

(f) the registered holder of the permit, lease or licence has, to the satisfaction of the Minister, made good any damage to the seabed or subsoil in the surrender area caused by any person engaged or concerned in the operations authorised by the permit, lease or licence; and

(g) in the case of an application for consent to surrender a greenhouse gas injection licence as to all of the blocks in relation to which the licence is in force—a site closing certificate is in force in relation to each identified greenhouse gas storage formation specified in the licence; and

(h) in the case of an application for consent to surrender a greenhouse gas injection licence as to some of the blocks in relation to which the licence is in force—a site closing certificate is in force in relation to each identified greenhouse gas storage formation that—

(i) is specified in the licence; and

(ii) extends to those blocks.

(4) If—

(a) the registered holder has complied with the requirements mentioned in subsection (3)(a) to (f); and

(b) in the case of an application for consent to surrender a greenhouse gas injection licence as to all of the blocks in relation to which the licence is in force—the requirement

mentioned in subsection (3)(g) has been met; and

(c) in the case of an application for consent to surrender a greenhouse gas injection licence as to some of the blocks in relation to which the licence is in force—the requirement mentioned in subsection (3)(h) has been met—

the Minister must not unreasonably refuse consent to the surrender.

(5) Subsection (3)(e) has effect subject to—

(a) this Chapter; and

(b) Chapter 6; and

(c) the regulations.

(6) In attaining a state of satisfaction for the purposes of subsection (3)(d), the Minister must have regard to the principle that plugging or closing off wells should be carried out in a way that minimises damage to the petroleum-bearing qualities of geological formations.

475 Sufficient grounds for surrender of title

Despite section 474(3), if—

(a) any of—

(i) the conditions to which the permit, lease or licence is subject; or

(ii) the provisions of this Chapter, Chapter 5, Chapter 6 and Part 8.1; or

(iii) the provisions of the regulations—

have not been complied with; and

(b) the Minister is satisfied that there are sufficient grounds to warrant the giving of consent to the surrender sought by the application—

the Minister may give consent under section 474(2) to the surrender sought by the application.

476 Work-bid greenhouse gas assessment permit—compliance with work condition

For the purposes of section 474, if—

(a) the application for consent relates to a work-bid greenhouse gas assessment permit; and

(b) a condition of the permit requires the registered holder to carry out specified work during a period specified in the permit; and

(c) the application is made during such a period—

the registered holder of the permit is taken not to have complied with the condition unless the holder has completed the work specified for the period mentioned in paragraph (c).

477 Surrender area

For the purposes of section 474, the ***surrender area*** for a surrender of a title referred to in column 2 for an item of the table is the area referred to in column 3 for that item of the table—

Surrender area		
Column 1	*Column 2*	*Column 3*
Item	*In the case of a surrender of...*	*the surrender area is...*
1	a greenhouse gas assessment permit	the permit area.
2	a greenhouse gas holding lease	the lease area.
3	a greenhouse gas injection licence	the area constituted by the blocks as to which the licence is proposed to be surrendered.

478 Surrender of title

(1) This section applies if the Minister consents under section 474 to—

(a) the surrender of a greenhouse gas assessment permit; or

(b) the surrender of a greenhouse gas holding lease; or

(c) the surrender, in whole or in part, of a greenhouse gas injection licence.

(2) The registered holder of the permit, lease or licence may, by written notice given to the Minister, surrender—

(a) in the case of a permit or lease—the permit or lease; or

(b) in the case of a licence—the whole or the part, as the case may be, of the licence.

(3) The surrender takes effect on the day on which notice of the surrender is published in the Government Gazette.

Division 2—Surrender of greenhouse gas search authorities and greenhouse gas special authorities

479 Surrender of greenhouse gas search authority

The registered holder of a greenhouse gas search authority may, by written notice given to the Minister, surrender the greenhouse gas search authority.

480 Surrender of greenhouse gas special authority

The registered holder of a greenhouse gas special authority may, by written notice given to the Minister, surrender the greenhouse gas special authority.

Part 3.11—Cancellation of titles

Division 1—Cancellation of greenhouse gas assessment permits, greenhouse gas holding leases and greenhouse gas injection licences

481 Grounds for cancellation of title

For the purposes of this Division, each of the following is a ground for cancelling a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence—

(a) the registered holder has not complied with a condition to which the permit, lease or licence is subject;

(b) the registered holder has not complied with a direction given to the holder by the Minister under this Chapter, Chapter 6 or Part 8.1;

(c) the registered holder has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 5; or

(iii) Chapter 6; or

(iv) Part 8.1; or

(v) the regulations;

(d) the registered holder has not paid an amount payable by the holder under this Act within the period of 90 days after the day on which the amount became payable;

(e) in the case of a greenhouse gas injection licence—

(i) if a single identified greenhouse gas storage formation is wholly situated in the licence area—the declaration under section 318 that relates to the identified

greenhouse gas storage formation is revoked under section 320; or

(ii) if 2 or more identified greenhouse gas storage formations are wholly situated in the licence area—each of the declarations under section 318 that relate to those identified greenhouse gas storage formations is revoked under section 320;

(f) in the case of a greenhouse gas holding lease—

(i) if a single identified greenhouse gas storage formation is wholly situated in the lease area—the declaration under section 318 that relates to the identified greenhouse gas storage formation is revoked under section 320; or

(ii) if 2 or more identified greenhouse gas storage formations are wholly situated in the lease area—each of the declarations under section 318 that relate to those identified greenhouse gas storage formations is revoked under section 320.

482 Cancellation of title

(1) The table has effect—

Cancellation		
Item	*If there is a ground for cancelling...*	*the Minister may, by written notice given to the registered holder,...*
1	a greenhouse gas assessment permit	cancel the permit.
2	a greenhouse gas holding lease	cancel the lease.

Cancellation		
Item	*If there is a ground for cancelling...*	*the Minister may, by written notice given to the registered holder,...*
3	a greenhouse gas injection licence	cancel the licence.

Note

Consultation procedures apply—see section 483.

(2) In exercising a power conferred by subsection (1), the Minister must take into account any action taken by the registered holder—

(a) to remove the ground of cancellation; or

(b) to prevent the recurrence of similar grounds.

(3) A cancellation takes effect on the day on which notice of the cancellation is published in the Government Gazette.

483 Consultation

(1) Before making a decision under section 482(1), the Minister must—

(a) by written notice given to the registered holder, give at least 30 days notice of the Minister's intention to make the decision; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(2) The notice must—

(a) set out details of the decision that is proposed to be made; and

(b) set out the reasons for the proposal; and

(c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(d) specify a time limit for making that submission.

(3) In deciding whether to make the decision, the Minister must take into account any submissions made in accordance with the notice.

484 Cancellation of title not affected by other provisions

(1) If—

(a) the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 5; or

(iii) Chapter 6; or

(iv) Part 8.1; or

(v) the regulations; and

(b) the holder has been convicted of an offence relating to that noncompliance—

the Minister may exercise a power of cancellation under section 482(1) on the ground of that noncompliance, even though the holder has been convicted of that offence.

(2) If—

(a) a person who was the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not complied with a provision of—

(i) this Chapter; or

(ii) Chapter 5; or

(iii) Chapter 6; or

(iv) Part 8.1; or

(v) the regulations; and

(b) the Minister has exercised a power of cancellation under section 482(1) on the ground of that noncompliance—

the person may be convicted of an offence relating to the noncompliance, even though the Minister has exercised that power of cancellation.

(3) If—

(a) the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not paid an amount payable by the holder under this Act within the period of 90 days after the day on which the amount became payable; and

(b) either—

(i) judgment for the amount has been obtained; or

(ii) the amount, or any part of the amount, has been paid or recovered—

the Minister may exercise a power of cancellation under section 482(1) on the ground of that nonpayment, even though—

(c) judgment for the amount has been obtained; or

(d) the amount, or a part of the amount, has been paid or recovered.

(4) If—

(a) a person who was the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence has not paid an amount payable by the person under this Act within the period of 90 days after the day on which the amount became payable; and

(b) the Minister has exercised a power of cancellation under section 482(1) on the ground of that nonpayment—

the person continues to be liable to pay—

(c) that amount; and

(d) any prescribed late payment penalty relating to that amount—

even though the Minister has exercised that power of cancellation.

Division 2—Cancellation of greenhouse gas search authorities

485 Cancellation of greenhouse gas search authority

The Minister may, by written notice given to the registered holder of a greenhouse gas search authority, cancel the greenhouse gas search authority if the holder has breached a condition of the greenhouse gas search authority.

Part 3.12—Other provisions

486 Notification of eligible greenhouse gas storage formation

(1) This section applies if—

(a) a part of a geological formation is wholly situated in the permit area of a greenhouse gas assessment permit, and the permittee has reasonable grounds to suspect that that part could be an eligible greenhouse gas storage formation; or

(b) a part of a geological formation is wholly situated in the lease area of a greenhouse gas holding lease, and the lessee has reasonable grounds to suspect that that part could be an eligible greenhouse gas storage formation; or

(c) a part of a geological formation is wholly situated in the licence area of a greenhouse gas injection licence, and the licensee has reasonable grounds to suspect that that part could be an eligible greenhouse gas storage formation.

(2) The permittee, lessee or licensee must, by written notice, inform the Minister about the matter as soon as practicable, and in any event within 30 days, after the day on which the permittee, lessee or licensee, as the case may be, forms the relevant suspicion.

(3) A notice under subsection (2) is not required to set out the fundamental suitability determinants of that part.

(4) Subsection (3) has effect subject to subsections (5) and (6).

(5) A notice under subsection (2) must be accompanied by a written statement that the permittee, lessee or licensee has reasonable grounds to suspect that the part is suitable for the permanent storage of a specified amount of a specified greenhouse gas substance.

(6) If the permittee, lessee or licensee has reasonable grounds to suspect that the part could be an eligible greenhouse gas storage formation because of section 23(1)(b), a notice under subsection (2) must be accompanied by a written statement describing the engineering enhancements referred to in that section.

(7) Subsections (2), (5) and (6) do not apply to a permittee, lessee or licensee in relation to a part of a geological formation if a former holder of the permit, lease or licence, as the case may be, previously complied with that subsection in relation to the part.

(8) A person who is subject to a requirement under subsection (2), (5) or (6) must comply with that requirement.

Penalty: 20 penalty units.

S. 486A inserted by No. 26/2021 s. 31.

486A Notification of eligible greenhouse gas storage formation—consolidation of work-bid greenhouse gas assessment permit

(1) This section applies if—

(a) 2 work-bid greenhouse gas assessment permits (the ***existing work-bid greenhouse gas assessment permits***) are in force; and

(b) a person is the registered holder of both existing work-bid greenhouse gas assessment permits; and

(c) at least one block of the permit area of one of the existing work-bid greenhouse gas assessment permits has a side in common with at least one block of the permit area of the other existing work-bid greenhouse gas assessment permit; and

(d) a part of a geological formation is wholly situated in the area that consists of the combination of the permit area of each of the work-bid greenhouse gas assessment permits; and

(e) the part extends to the permit area of each of the work-bid greenhouse gas assessment permits; and

(f) the person has reasonable grounds to suspect that the part could be an eligible greenhouse gas storage formation.

(2) The person may, by written notice, inform the Minister about the matter.

(3) A notice under subsection (2) is not required to set out the fundamental suitability determinants of that part.

(4) Subsection (3) has effect subject to subsections (5) and (6).

(5) A notice under subsection (2) must be accompanied by a written statement that the person has reasonable grounds to suspect that the part is suitable for the permanent storage of a specified amount of a specified greenhouse gas substance.

(6) If the person has reasonable grounds to suspect that the part could be an eligible greenhouse gas storage formation because of section 23(1)(b), a notice under subsection (2) of this section must be accompanied by a written statement describing the

engineering enhancements referred to in that section.

487 Notification of discovery of petroleum in greenhouse gas assessment permit area etc.

(1) This section applies if petroleum is discovered in—

(a) a greenhouse gas assessment permit area; or

(b) a greenhouse gas holding lease area; or

(c) a greenhouse gas injection licence area.

(2) The permittee, lessee or licensee must immediately inform the Minister of the discovery.

Penalty: 20 penalty units.

(3) The permittee, lessee or licensee must, within 3 days after the date of the discovery, give the Minister a written notice setting out—

(a) details of the discovery; and

(b) such other information (if any) about the discovery as is specified in the regulations.

Penalty: 20 penalty units.

(4) Subsections (2) and (3) do not apply if the petroleum is discovered by a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee.

488 Disposing of waste or other matter

(1) A person who adds waste or other matter to a greenhouse gas substance with the intention of disposing of the waste or other matter and the resulting mixture is injected into the seabed or subsoil of the offshore area is guilty of an offence and liable to a term of imprisonment not exceeding 5 years.

(2) Subsection (1) does not apply if—

(a) the waste or other matter resulted from petroleum recovery operations carried on under a petroleum production licence; and

(b) the injection takes place at a well situated in the licence area of the petroleum production licence; and

(c) the injection is carried out—

(i) with the written consent of the Minister or the Designated Authority; and

(ii) in accordance with the conditions (if any) specified in that consent.

(3) The Minister may—

(a) refuse to give a consent under subsection (2)(c); or

(b) make a consent under subsection (2)(c) subject to such conditions as are specified in the consent.

489 Additional securities etc.

(1) If—

(a) one or more securities are in force in relation to—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; and

(b) the Minister is satisfied that the total amount of the securities is insufficient—

the Minister may give the permittee, lessee or licensee a written notice—

(c) requiring the permittee, lessee or licensee to lodge with the Minister, within 60 days after the giving of the notice, an additional

security in respect of compliance with the applicable statutory obligations by the registered holder for the time being of the permit, lease or licence; and

(d) specifying the form and amount of the additional security.

(2) If—

(a) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force; and

(b) no security is in force in relation to the permit, lease or licence; and

(c) the Minister is satisfied that it would be appropriate to require the lodgment of a security in respect of compliance with the applicable statutory obligations by the registered holder for the time being of the permit, lease or licence—

the Minister may give the permittee, lessee or licensee a written notice—

(d) requiring the permittee, lessee or licensee to lodge with the Minister, within 60 days after the giving of the notice, a security in respect of compliance, by the registered holder for the time being of the permit, lease or licence, with the applicable statutory obligations; and

(e) specifying the form and amount of the security.

(3) For the purposes of this section, the ***applicable statutory obligations*** are as follows—

(a) the obligation of the registered holder to comply with a condition to which the permit, lease or licence is subject;

(b) the obligation of the registered holder to comply with a direction given to the registered holder by the Minister under this Chapter, Chapter 6 or Part 8.1;

(c) the obligation of the registered holder to comply with the provisions of—

(i) this Chapter; or

(ii) Chapter 5; or

(iii) Chapter 6; or

(iv) Part 8.1; or

(v) the regulations.

490 Transfer of securities

If—

(a) a security is in force in relation to—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; and

(b) a transfer of the permit, lease or licence is registered under section 572—

then—

(c) the interest of the transferor in the security is, by force of this section, transferred to the transferee; and

(d) a document setting out or relating to the security has effect, after the transfer, as if a reference in the document to the transferor were a reference to the transferee.

491 Discharge of securities

The regulations may make provision in relation to the discharge, in whole or in part, by the Minister of securities in force in relation to—

(a) greenhouse gas assessment permits; or

(b) greenhouse gas holding leases; or

(c) greenhouse gas injection licences.

492 Approved site plans

(1) The regulations may provide that a greenhouse gas injection licensee must not carry on any operations in relation to an identified greenhouse gas storage formation specified in the licence unless an approved site plan is in force in relation to the formation.

(2) The regulations may provide that, if an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence, the licensee must comply with the approved site plan.

(3) The regulations may make provision for the Minister to approve draft site plans.

(4) The regulations may provide that, if the Minister approves a draft site plan, the approved site plan—

(a) comes into force at the time of the approval; and

(b) remains in force—

(i) if, under the regulations, the Minister withdraws approval of the approved site plan—until the withdrawal; or

(ii) otherwise—indefinitely.

(5) The regulations may make provision for the Minister to withdraw approval of approved site plans.

493 Variation of approved site plans

(1) The regulations may make provision for and in relation to the variation of approved site plans.

(2) Regulations made for the purposes of subsection (1) may—

(a) require the registered holder of a greenhouse gas injection licence to prepare a draft variation of an approved site plan—

(i) periodically; or

(ii) in such circumstances as are specified in the regulations; or

(iii) when required to do so by the Minister; and

(b) require the registered holder of a greenhouse gas injection licence to give the draft variation to the Minister; and

(c) make provision for the Minister to approve the variation; and

(d) provide that, if the Minister approves the variation, the approved site plan is varied accordingly.

(3) If an approved site plan is varied, a reference in this Act to the approved site plan is a reference to the approved site plan as varied.

494 Co-existence of greenhouse gas titles and petroleum titles

(1) This Act does not prevent—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority—

from being in force over the whole or a part of an area in respect of which any of the following is in force—

(f) a petroleum exploration permit;

(g) a petroleum retention lease;

(h) a petroleum production licence;

(i) a petroleum special prospecting authority;

(j) a petroleum access authority.

(2) This Act does not prevent—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) a petroleum special prospecting authority; or

(e) a petroleum access authority—

from being in force over the whole or a part of an area in respect of which any of the following is in force—

(f) a greenhouse gas assessment permit;

(g) a greenhouse gas holding lease;

(h) a greenhouse gas injection licence;

(i) a greenhouse gas search authority;

(j) a greenhouse gas special authority.

Notes to s. 494(2) inserted by No. 26/2021 s. 32.

Notes

1 See section 296B(3) for the grant of petroleum titles in relation to the permit area of a cross-boundary greenhouse gas assessment permit.

2 See section 333A(3) for the grant of petroleum titles in relation to the lease area of a cross-boundary greenhouse gas holding lease.

3 See section 378A(4) for the grant of petroleum titles in relation to the licence area of a cross-boundary greenhouse gas injection licence.

495 Reservation of blocks

(1) If the following conditions are satisfied in relation to a particular block—

(a) there is no greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence over the block;

(b) there is no place in the block that is an infrastructure licence area;

(c) there is no pipeline over or in the block;

(d) there are no pending applications for the grant of a greenhouse gas assessment permit or greenhouse gas injection licence over the block;

(e) there are no pending applications for the grant of an infrastructure licence relating to a place in the block;

(f) there are no pending applications for the grant of a pipeline licence relating to a pipeline, or proposed pipeline, over or in the block—

the Minister may, by notice published in the Government Gazette, declare that—

(g) the block is not to be the subject of a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority; and

(h) an infrastructure licence is not to be granted in relation to a place within the block; and

(i) a pipeline licence is not to be granted in relation to a pipeline over or in the block.

(2) If a declaration under subsection (1) is in force in relation to a block—

(a) a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority must not be granted over that block; and

(b) an infrastructure licence must not be granted in relation to a place within that block; and

(c) a pipeline licence must not be granted in relation to a pipeline over or in that block.

(3) Subsection (2) has effect despite any other provision of this Act.

496 Interference with other rights

(1) This section applies to the following—

(a) a greenhouse gas assessment permit;

(b) a greenhouse gas holding lease;

(c) a greenhouse gas injection licence;

(d) a greenhouse gas search authority;

(e) a greenhouse gas special authority;

(f) a greenhouse gas research consent.

(2) A person (the ***first person***) carrying on activities in the offshore area under the permit, lease, licence, authority or consent must carry on those activities in a manner that does not interfere with—

(a) navigation; or

(b) fishing; or

(c) the conservation of the resources of the sea and seabed; or

(d) any activities of another person being lawfully carried on by way of—

(i) exploration for, recovery of or conveyance of a mineral (other than petroleum); or

(ii) construction or operation of a pipeline; or

(e) the enjoyment of native title rights and interests (within the meaning of the Native Title Act 1993 of the Commonwealth)—

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of the first person.

Penalty: 120 penalty units.

497 No conditions about payment of money

There must not be included in—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence—

a condition requiring the payment of money to the Minister or the Commonwealth.

498 Certain portions of blocks to be blocks

(1) This section applies if the area in relation to which a title is in force includes one or more portions of a section 37 block.

Note

This would be the case if the boundaries of a title area do not conform to the graticular system established by this Act.

(2) For the purposes of this Act—

(a) the area of that portion or those portions constitutes a block (a ***type A block***); and

(b) the area of the remaining portion or portions of the section 37 block (but not including any part of that area in relation to which another title is in force) constitutes a block (a ***type B block***).

(3) If a title ceases to be in force in relation to a type A block (the ***first type A block***), the Minister may, by written instrument, if the Minister considers it desirable to do so, determine that the first type A block be amalgamated with—

(a) another type A block or blocks, so long as the following conditions are satisfied in relation to the other type A block or blocks—

(i) the other type A block or blocks form part of the graticular section of which the first type A block forms part;

(ii) a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is in force in relation to the other type A block or blocks; or

(b) both—

(i) another type A block or blocks covered by paragraph (a); and

(ii) a type B block that forms part of the graticular section of which the first type A block forms part.

(4) If a determination is made under subsection (3), then, for the purposes of this Act—

(a) the blocks the subject of the determination cease to constitute blocks; and

(b) the areas of those blocks together constitute a block; and

(c) the block constituted as a result of the determination is, subject to this Act, for the remainder of the term of the permit, lease or licence concerned, a block in relation to which the permit, lease or licence is in force.

(5) The Minister must not make a determination under subsection (3) except with the consent of the permittee, lessee or licensee concerned.

(6) In this section—

section 37 block means a block constituted as provided by section 37;

title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a prescribed instrument.

499 Changes to the boundary of the offshore area

(1) If—

(a) a State title has been granted on the basis that an area (the ***first area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the first area—

(i) ceases to be within the offshore area; and

(ii) falls within the Commonwealth defined offshore area;

this Act applies in relation to the State title as if the first area were still within the offshore area.

(2) Subsection (1) continues to apply to the first area only while the State title remains in force.

S. 499(2A) inserted by No. 16/2018 s. 31(1).

(2A) If—

(a) a Commonwealth title has been granted on the basis that an area (the ***second area***) is within the Commonwealth defined offshore area; and

(b) as a result of a change to the boundary of the offshore area, the second area—

(i) ceases to be within the Commonwealth defined offshore area; and

(ii) falls within the offshore area—

then, so far as the Commonwealth title is concerned, this Act does not apply to the second area.

S. 499(2B) inserted by No. 16/2018 s. 31(1).

(2B) Subsection (2A) continues to apply to the second area only while the Commonwealth title remains in force.

(3) This section applies to a change to the boundary of the coastal waters of the State, whether occurring before, at or after the commencement of this section.

(4) In this section—

S. 499(4) def. of *Commonwealth title* inserted by No. 16/2018 s. 31(2).

Commonwealth title means an instrument under the Commonwealth Act that confers, in relation to the Commonwealth defined offshore area, some or all of the rights that a State title confers in relation to the offshore area;

State title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence.

500 Minister may monitor the behaviour of a greenhouse gas substance stored in a part of a geological formation

(1) The Minister may carry out in the offshore area operations for the purposes of monitoring the behaviour of a greenhouse gas substance stored in a part of a geological formation.

(2) Subsection (1) does not limit the executive power of the Minister.

501 Monitoring information may be made publicly available

(1) This section applies to information that—

(a) is held by the State; and

(b) relates to the monitoring of the behaviour of a greenhouse gas substance stored in a part of a geological formation, where the part is wholly or partly situated in one or more offshore areas.

(2) The regulations may authorise the Minister to make the information publicly available.

Chapter 4—Registration of transfers of, and dealings in, petroleum titles

Part 4.1—Introduction

502 Simplified outline

(1) This section sets out a simplified outline of this Chapter.

(2) The Minister must keep a Register of petroleum titles and petroleum special prospecting authorities.

(3) A transfer of a petroleum title must be approved by the Minister, and an instrument of transfer must be registered under this Part.

(4) A dealing in a petroleum title must be approved by the Minister, and the approval must be entered in the Register.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Chapter.

503 Definitions

In this Chapter—

Register means a Register kept under section 505;

title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) a petroleum access authority.

504 Dealing—series of debentures

For the purposes of this Chapter, if a dealing forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures are taken to be one dealing.

Part 4.2—Register of titles and petroleum special prospecting authorities

505 Register to be kept

The Minister must keep a Register of—

(a) titles; and

(b) petroleum special prospecting authorities—

relating to the offshore area.

506 Entries in Register—general

(1) The Minister must enter in the Register a memorial for each title and petroleum special prospecting authority.

(2) A memorial with the content referred to in column 2 for an item in the table must comply with requirements for that item set out in column 3 of the table—

Content of memorial

Column 1	*Column 2*	*Column 3*
Item	*In the case of...*	*the memorial must...*
1	a title or petroleum special prospecting authority	specify the name of the holder of the title or petroleum special prospecting authority.
2	a petroleum exploration permit, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority	set out an accurate description (including, where convenient, a map) of the permit area, lease area, licence area or authority area.
3	an infrastructure licence	set out details of the licence area.
4	a pipeline licence	set out an accurate description of the route of the pipeline.

Content of memorial		
Column 1	*Column 2*	*Column 3*
Item	*In the case of...*	*the memorial must...*
5	a title or petroleum special prospecting authority	specify the term of the title or petroleum special prospecting authority.
6	a title or petroleum special prospecting authority	set out such other matters and things as are required by this Act to be entered in the Register.
7	a title or petroleum special prospecting authority	set out such further matters relating to the registered holder, or to the conditions of the title or petroleum special prospecting authority, as the Minister thinks proper and expedient in the public interest.

(3) The Minister must enter in the Register a memorial of—

(a) a notice or instrument—

(i) varying; or

(ii) cancelling (to any extent); or

(iii) surrendering (to any extent); or

(iv) otherwise affecting—

a title or petroleum special prospecting authority; or

(b) a notice under section 184; or

(c) a notice or instrument varying or revoking a notice or instrument referred to in paragraph (a) or (b).

Notes

1 Paragraph (a)(iv) would cover, for example, a notice terminating a petroleum production licence, infrastructure licence or pipeline licence, or a notice revoking a petroleum retention lease or petroleum access authority.

2 Section 184 deals with unit development.

(4) It is a sufficient compliance with the requirements of subsection (1), (2) or (3) if the Minister enters a copy of the title, petroleum special prospecting authority, notice or instrument in the Register.

(5) The Minister must endorse on—

(a) the memorial; or

(b) the copy of the title, petroleum special prospecting authority, notice or instrument—

a memorandum of the date on which the memorial or copy was entered in the Register.

507 Entry in Register—cessation, revocation or expiry of title

If an event specified in the table happens, the Minister must enter in the Register a memorial of the fact.

Cessation of title etc.

Item	*Event*
1	A petroleum exploration permit or petroleum retention lease ceases to be in force over a block in relation to which a petroleum production licence is granted.
2	A petroleum exploration permit ceases to be in force over a block in relation to which a petroleum retention lease is granted.
3	A petroleum exploration permit is wholly or partly revoked.
4	A petroleum retention lease is wholly or partly revoked otherwise than under section 147.
5	A petroleum exploration permit, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority expires.

Part 4.3—Transfer of titles

508 Approval and registration of transfers

A transfer of a title is of no force until—

(a) it has been approved by the Minister; and

(b) an instrument of transfer is registered as provided by this Part.

509 Application for approval of transfer

(1) One of the parties to a proposed transfer of a title may apply to the Minister for approval of the transfer.

(2) The application must be in writing.

510 Documents to accompany application

An application for approval of a transfer must be accompanied by—

(a) an instrument of transfer in the prescribed form executed by—

(i) the registered holder or, if there are 2 or more registered holders, by each registered holder; and

(ii) the transferee or, if there are 2 or more transferees, by each transferee; and

(b) if the transferee, or one or more of the transferees, is not a registered holder or are not registered holders of the title—a document 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 each of the following—

(i) the application;

(ii) the instrument referred to in paragraph (a);

(iii) if applicable, the document referred to in paragraph (b).

511 Time limit for application

(1) An application for approval of a transfer must be made within—

(a) 90 days after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer; or

(b) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(b) only if there are sufficient grounds to warrant allowing the longer period.

512 Date of application to be entered in Register

If an application is made for approval of a transfer, the Minister—

(a) must enter a memorandum in the Register of the date on which the application was lodged; and

(b) may make such other notation in the Register as the Minister considers appropriate.

513 Approval of transfer

(1) This section applies if an application is made for approval of a transfer.

(2) The Minister must—

(a) approve the transfer; or

(b) refuse to approve the transfer.

(3) The Minister must, by written notice given to the applicant, notify the applicant of the Minister's decision.

(4) If the Minister refuses to approve the transfer, the Minister must make a notation of the refusal in the Register.

514 Registration of transfer

(1) This section applies if the Minister approves the transfer of a title.

(2) The Minister must immediately endorse on—

(a) the instrument of transfer; and

(b) the copy of the instrument of transfer—

a memorandum of approval.

(3) On payment of the fee determined under section 557, the Minister must enter in the Register a memorandum of—

(a) the transfer; and

(b) the name of the transferee or of each transferee.

(4) On the entry in the Register of the memorandum—

(a) the transfer is taken to be registered; and

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

(5) If the transfer is registered—

(a) the copy of the instrument of transfer endorsed with the memorandum of approval must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the instrument of transfer endorsed with the memorandum of approval must be returned to the person who applied for approval of the transfer.

515 Instrument of transfer does not create an interest in the title

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

516 Limit on effect of approval of transfers

The approval of a transfer of a title does not give to the transfer any force, effect or validity that the transfer would not have had if this Chapter had not been enacted.

Part 4.4—Devolution of title

517 Application to have name entered on the Register as the holder of a title

(1) If the rights of the registered holder of a particular title have devolved on a person by operation of law, the person may apply to the Minister to have the person's name entered in the Register as the holder of the title.

(2) The application must be in writing.

518 Entry of name in the Register

(1) This section applies if an application is made under section 517 in relation to a title.

(2) If—

(a) the Minister is satisfied that the rights of the holder have devolved on the applicant by operation of law; and

(b) the applicant has paid the prescribed fee—

the Minister must enter the name of the applicant in the Register as the holder of the title.

(3) On that entry being made, the applicant becomes the registered holder of the title.

Part 4.5—Change in name of company

519 Application to have new name entered on the Register

(1) If—

(a) a company is the registered holder of a particular title; and

(b) the company has changed its name—

the company may apply to the Minister to have its new name substituted for its previous name in the Register in relation to that title.

(2) The application must be in writing.

520 Alteration in the Register

(1) This section applies if a company applies under section 519 to have its new name substituted for its previous name in the Register in relation to a particular title.

(2) If—

(a) the Minister is satisfied that the company has changed its name; and

(b) the company has paid the prescribed fee—

the Minister must make the necessary alterations in the Register.

Part 4.6—Dealings relating to existing titles

521 Dealings to which this Part applies

This Part applies to a dealing (other than a transfer of a title) that would have one or more of the effects set out in the table—

Effects of dealings

Item	*Effect*
1	The creation or assignment of an interest in an existing title.
2	The creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title.
3	The determination of the manner in which persons may— (a) exercise the rights conferred by an existing title; or (b) comply with the obligations imposed by an existing title; or (c) comply with the conditions of an existing title— (including the exercise of those rights, or the compliance with those obligations or conditions, under cooperative arrangements to recover petroleum).
4	The creation or assignment of an interest in relation to an existing petroleum exploration permit, petroleum retention lease or petroleum production licence, where the interest is known as— (a) an overriding royalty interest; or (b) a production payment; or (c) a net profits interest; or (d) a carried interest.
5	The creation or assignment of an interest that is similar to an interest covered by item 4, where the interest relates to— (a) petroleum produced from operations authorised by an existing petroleum exploration permit, petroleum retention lease or petroleum production licence; or (b) revenue derived as a result of the carrying out of operations authorised by an existing petroleum exploration permit, petroleum retention lease or petroleum production licence.
6	The creation or assignment of an option (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4 and 5.

Effects of dealings	
Item	*Effect*
7	The creation or assignment of a right (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4 and 5.
8	The alteration or termination of a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4, 5, 6 and 7.

522 Approval and registration of dealings

A dealing is of no force, in so far as the dealing would have an effect of a kind referred to in the table in section 521 in relation to a particular title, until—

(a) the Minister has approved the dealing, in so far as it relates to that title; and

(b) the Minister has made an entry in the Register in relation to the dealing under section 529.

523 Application for approval of dealing

(1) An application for approval of a dealing must be made in accordance with subsection (2) or (3).

(2) If a dealing relates to only one title, a party to the dealing may apply to the Minister for approval of the dealing in so far as it relates to that title.

(3) If a dealing relates to 2 or more titles, a party to the dealing may make a separate application to the Minister for approval of the dealing in so far as it relates to each title.

(4) An application must be in writing.

524 Documents to accompany application

(1) An application for approval of a dealing must be accompanied by—

(a) the instrument evidencing the dealing; or

(b) if that instrument has already been lodged with the Minister for the purposes of another application—a copy of that instrument.

(2) An application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.

(3) An instrument under subsection (2) is called a ***supplementary instrument***.

(4) An application for approval of a dealing must be accompanied by—

(a) 2 copies of the application;

(b) 2 copies, or 2 additional copies, of the instrument referred to in subsection (1);

(c) 2 copies of any supplementary instrument.

525 Charge over assets of a body corporate—copies of documents

If—

(a) a dealing (including a dealing referred to in section 504) creates a charge over some or all of the assets of a body corporate; and

(b) a person applies for approval of the dealing; and

(c) the application is accompanied by 3 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the

Corporations Act in relation to the creation of the charge—

the person is taken to have complied with—

(d) section 524(1); and

(e) section 524(4) in so far as that section requires 2 copies, or 2 additional copies, of the instrument referred to in section 524(1) to accompany the application.

526 Timing of application

(1) An application for approval of a dealing must be made within—

(a) 90 days after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument; or

(b) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(b) only if there are sufficient grounds to warrant allowing the longer period.

(3) This section has effect subject to section 538.

Note

Section 538 is about approval of a dealing that was entered into before the title came into existence.

527 Application date to be entered in Register

If an application is made for approval of a dealing, the Minister—

(a) must enter a memorandum in the Register of the date on which the application was lodged; and

(b) may make such other notation in the Register as the Minister considers appropriate.

528 Approval of dealing

(1) This section applies if an application is made for approval of a dealing in so far as it relates to a particular title.

(2) The Minister must—

(a) approve the dealing; or

(b) refuse to approve the dealing—

in so far as it relates to that title.

Note

Section 538 limits the power conferred on the Minister by this section. Section 538 is about approval of a dealing that was entered into before the title came into existence.

(3) The Minister must, by written notice given to the applicant, notify the applicant of the Minister's decision.

(4) If the Minister refuses to approve the dealing in so far as it relates to that title, the Minister must make a notation of the refusal in the Register.

529 Entry of dealing in Register

(1) This section applies if the Minister approves a dealing in so far as it relates to a particular title.

(2) The Minister must immediately endorse a memorandum of approval—

(a) on the original instrument evidencing the dealing and on the copy of that instrument; or

(b) if the original instrument was not lodged with the application for approval—on both of the copies of that instrument.

(3) On payment of the fee determined under section 558, the Minister must make an entry of the approval of the dealing in the Register on—

(a) the memorial relating to that title; or

(b) the copy of that title.

530 Retention, inspection and return of instruments

(1) This section applies if the Minister makes an entry of the approval of a dealing in the Register.

(2) If the application for approval of the dealing was accompanied by a supplementary instrument—

(a) a copy of the supplementary instrument, endorsed with a copy of the memorandum of approval, must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the supplementary instrument must be returned to the person who applied for approval; and

(c) a copy of the instrument evidencing the dealing must not be made available for inspection in accordance with this Chapter; and

(d) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note

For inspection, see section 550.

(3) If the application for approval of the dealing was not accompanied by a supplementary instrument—

(a) one copy of the instrument evidencing the dealing, endorsed with a memorandum of approval, must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note

For inspection, see section 550.

(4) In this section—

supplementary instrument has the meaning given by section 524(3) or 534(3).

531 Strict compliance with application provisions not required

The approval of a dealing, or the making of an entry in the Register in relation to a dealing, is not made ineffective because of any failure to comply, in relation to the application for approval of the dealing, with the requirements of this Part.

532 Limit on effect of approval of dealing

The approval of a dealing does not give to the dealing any force, effect or validity that the dealing would not have had if this Chapter had not been enacted.

Part 4.7—Dealings in future interests

533 Provisional application for approval of dealing

(1) This section applies if—

(a) 2 or more persons enter into a dealing relating to a title that may come into existence in the future; and

(b) that dealing would, if the title came into existence, become a dealing to which Part 4.6 applies.

(2) If the dealing relates to only one title that may come into existence in the future, a party to the dealing may make a provisional application to the Minister for approval of the dealing.

(3) If the dealing relates to 2 or more titles that may come into existence in the future, a party to the dealing may make a separate provisional application to the Minister for approval of the dealing in relation to each title that may come into existence in the future.

(4) A provisional application must be in writing.

534 Documents to accompany provisional application

(1) A provisional application for approval of a dealing must be accompanied by—

(a) the instrument evidencing the dealing; or

(b) if that instrument has already been lodged with the Minister for the purposes of another provisional application—a copy of that instrument.

(2) A provisional application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of a provisional application for approval of a dealing of that kind.

(3) An instrument under subsection (2) is called a ***supplementary instrument***.

(4) A provisional application for approval of a dealing must be accompanied by—

(a) 2 copies of the provisional application; and

(b) 2 copies, or 2 additional copies, of the instrument referred to in subsection (1); and

(c) 2 copies of any supplementary instrument.

535 Charge over assets of a body corporate—copies of documents

If—

(a) a dealing (including a dealing referred to in section 504) creates a charge over some or all of the assets of a body corporate; and

(b) a person makes a provisional application for approval of the dealing; and

(c) the provisional application is accompanied by 3 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the Corporations Act in relation to the creation of the charge—

the person is taken to have complied with—

(d) section 534(1); and

(e) section 534(4) in so far as that subsection requires 2 copies, or 2 additional copies, of the instrument referred to in section 534(1) to accompany the provisional application.

536 Timing of provisional application

A provisional application referred to in column 2 for an item in the table must be made within the period beginning on the day referred to for that item in column 3 in the table and ending on the

day referred to for that item in column 4 in the table—

Period for making a provisional application

Column 1	*Column 2*	*Column 3*	*Column 4*
Item	*In this case...*	*the period begins on...*	*and ends on...*
1	a provisional application for approval of a dealing relating to any of the following titles that may come into existence in the future— (a) a petroleum exploration permit; (b) a petroleum retention lease; (c) a petroleum production licence; (d) an infrastructure licence; (e) a pipeline licence	the day on which an offer document that relates to the application for the title is given to the applicant for the title	the day on which the title comes into existence.
2	a provisional application for approval of a dealing relating to a petroleum access authority that may come into existence in the future	the day on which the application for the grant of the petroleum access authority is made	the day on which the petroleum access authority comes into existence.

537 Provisional application to be treated as an application under section 523 when title comes into existence

If—

(a) a provisional application is made for approval of a dealing; and

(b) the title to which the dealing relates comes into existence; and

(c) on that title coming into existence, the dealing becomes a dealing to which Part 4.6 applies—

the provisional application is to be treated as if it were an application made under section 523 on the day on which that title came into existence.

538 Limit on approval of dealing

(1) If—

(a) Part 4.6 applies to a dealing relating to a title; and

(b) immediately before the title came into existence, the dealing was a dealing referred to in section 533(1)—

the Minister may approve the dealing under section 528 only if—

(c) a provisional application for approval of the dealing was made under section 533; or

(d) an application for approval of the dealing was made under section 523 within—

(i) 90 days after the day on which the title came into existence; or

(ii) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(d)(ii) only if there are sufficient grounds to warrant allowing the longer period.

Part 4.8—Correction and rectification of Register

539 Corrections of clerical errors or obvious defects

The Minister may alter the Register for the purposes of correcting a clerical error or an obvious defect in the Register.

540 General power of correction of Register

(1) The Minister may 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.

(2) The Minister may exercise the power conferred by subsection (1)—

(a) on written application being made to the Minister by a person; or

(b) on the Minister's own initiative.

(3) Before the Minister makes an entry in the Register under subsection (1), the Minister must cause to be published in the Government 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 the Minister written submissions about the making of the entry; and

(c) specifying a time limit for the making of those submissions.

(4) The time limit must not be shorter than 45 days after the publication of the notice.

(5) In deciding whether to make the entry in the Register, the Minister must take into account any submissions made in accordance with the notice.

(6) If the Minister makes an entry in the Register under subsection (1), the Minister must cause to be published in the Government Gazette a notice setting out the terms of the entry.

541 Rectification of Register

(1) If a person is aggrieved by any of the following—

(a) the omission of an entry from a Register;

(b) an entry made in a Register without sufficient cause;

(c) an entry wrongly existing in a Register;

(d) an error or defect in an entry in a Register—

the person may apply to the Supreme Court for the rectification of the Register.

(2) If an application is made under subsection (1) to the Supreme Court for the rectification of a Register, the court may make such order as it thinks fit directing the rectification of the Register.

(3) In proceedings under this section, the Supreme Court may decide any question that it is necessary or expedient to decide in connection with the rectification of the Register.

(4) Notice of an application under this section must be given to the Minister, who—

(a) may appear and be heard; and

(b) must appear if so directed by the Supreme Court.

(5) A copy of an order made by the Supreme Court may be given to the Minister.

(6) The Minister must, on receipt of the order, rectify the Register accordingly.

Part 4.9—Information-gathering powers

542 Minister may obtain information from applicants

(1) This section applies if—

(a) an application for approval of the transfer of a title is made under section 509; or

(b) an application is made under section 517 or 519 in relation to a title; or

(c) an application for approval of a dealing is made under section 523; or

(d) a provisional application for approval of a dealing is made under section 533; or

(e) an application is made under section 540 in relation to a title.

(2) The Minister may, by written notice given to the applicant, require the applicant to give the Minister, within the period and in the manner specified in the notice, such information about the matter to which the application relates as the Minister considers necessary or advisable.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person must not, in purported compliance with a notice under subsection (2), give information that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

543 Minister may obtain information from a party to an approved dealing

(1) This section applies if—

(a) a person is a party to a dealing relating to a title; and

(b) the dealing has been approved under section 528.

(2) The Minister may, by written notice given to the person, require the person to give to the Minister, within the period and in the manner specified in the notice, such information about alterations in the interests or rights existing in relation to the title as the Minister considers necessary or advisable.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person commits must not, in purported compliance with a notice under subsection (2), give information that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

544 Production and inspection of documents

(1) This section applies if the Minister has reason to believe that a document—

(a) is in the possession or under the control of a person; and

(b) relates to—

(i) a transfer or dealing for which approval is sought under this Chapter; or

(ii) an application under section 517, 519 or 540.

(2) The Minister may, by written notice given to the person, require the person—

(a) to produce the document to the Minister, within the period and in the manner specified in the notice; or

(b) to make the document available for inspection by or on behalf of the Minister.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person must not, in purported compliance with a notice under subsection (2)—

(a) produce a document; or

(b) make a document available for inspection—

that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

545 Minister may retain documents

(1) The Minister may take possession of a document produced under section 544, and retain it for as long as is necessary.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Minister must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

Part 4.10—Other provisions

546 Minister not concerned with the effect of instrument lodged under this Chapter

The Minister is not concerned with the effect in law of an instrument lodged under this Chapter.

547 True consideration to be shown

(1) A person to whom this section applies must not give the Minister a specified instrument that contains a statement that the person knows is false or misleading in a material particular in relation to—

(a) the consideration for the transfer or dealing; or

(b) any other fact or circumstance affecting the amount of a fee determined under section 557 or 558 in relation to the transfer or dealing.

Penalty: 120 penalty units.

(2) This section applies to a person who is a party to—

(a) a transfer of a title; or

(b) a dealing to which Part 4.6 applies; or

(c) a dealing referred to in section 533(1).

(3) In this section—

specified instrument means an instrument of transfer, an instrument evidencing the dealing or a supplementary instrument;

supplementary instrument has the meaning given by section 524(3) or 534(3).

548 Making a false entry in a Register

A person must not knowingly—

(a) make a false entry in the Register; or

(b) cause a false entry to be made in the Register; or

(c) concur in the making of a false entry in the Register.

Penalty: 60 penalty units.

549 Falsified documents

A person must not produce or tender in evidence a document that falsely purports to be—

(a) a copy of or extract from an entry in the Register; or

(b) a copy of or extract from an instrument given to the Minister under this Chapter.

Penalty: 60 penalty units.

550 Inspection of Register and instruments

(1) The Minister must ensure that the Register is open for inspection, at all convenient times, by any person on payment of the prescribed fee.

(2) The Minister must ensure that all instruments, or copies of instruments, subject to inspection under this Chapter are open for inspection, at all convenient times, by any person on payment of the prescribed fee.

551 Evidence of matters entered in the Register

(1) The Register is to be received in all courts and proceedings as prima facie evidence of all matters required or authorised by this Chapter to be entered in the Register.

(2) The Minister may, on payment of the prescribed fee, supply—

S. 551(2) amended by No. 74/2012 s. 6.

(a) a copy of or extract from the Register; or

(b) a copy of or extract from any instrument lodged with the Minister under this Chapter—

certified by the Minister to be a true copy or true extract, as the case may be.

(3) The certified copy or extract is admissible in evidence in all courts and proceedings without further proof or production of the original.

552 Evidentiary certificate

(1) The Minister may, on payment of the prescribed fee, issue a written certificate—

(a) stating that an entry, matter or thing required or permitted by or under this Chapter to be made or done—

(i) has been made or done; or

(ii) has not been made or done; or

(b) stating that an entry, matter or thing required by or under this Chapter not to be made or done—

(i) has not been made or done; or

(ii) has been made or done.

(2) The certificate is to be received in all courts and proceedings as prima facie evidence of the statements in the certificate.

(3) Any evidence given in support, or in rebuttal, of a matter stated in a certificate issued under subsection (1) must be considered on its merits, and the credibility and probative value of such evidence must be neither increased nor diminished

by reason of this section or sections 551, 553 or 554.

553 Criminal proceedings—copy of certificate to be given to defendant 14 days before certificate admitted in evidence

A certificate must not be admitted in evidence under section 552(2) in proceedings for an offence unless—

(a) the person charged with the offence; or

(b) a barrister or solicitor who has appeared for the person in those proceedings—

has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with notice of the intention to produce the certificate as evidence in the proceedings.

554 Person signing the certificate may be called to give evidence

(1) If, under section 552(2), a certificate is admitted in evidence in proceedings for an offence, the person charged with the offence may require the person who signed the certificate to be—

(a) called as a witness for the prosecution; and

(b) cross-examined as if the person who signed the certificate had given evidence of the matters stated in the certificate.

(2) However, subsection (1) does not entitle the person charged to require the person who signed the certificate to be called as a witness for the prosecution unless—

(a) the prosecutor has been given at least 4 days notice of the person's intention to require the person who signed the certificate to be so called; or

(b) the court, by order, allows the person charged to require the person who signed the certificate to be so called.

555 Assessment of fee

(1) The Minister may determine the amount of a fee payable under sections 557 and 558 in relation to an entry in the Register.

(2) If—

(a) the Minister has determined the amount of a fee payable in relation to a transfer or dealing; and

(b) a person is convicted of an offence against section 547 in relation to giving the Minister an instrument that contains a statement about—

(i) the consideration for the transfer or dealing; or

(ii) any other fact or circumstance affecting the amount of the fee payable in relation to the transfer or dealing—

the Minister may make a fresh determination of the amount of the fee payable in relation to the transfer or dealing.

Note

Section 547 is about giving an instrument that contains a false or misleading statement.

556 Appeal against assessment of fee

(1) A person dissatisfied with a determination of the Minister under section 555(1) or (2) may appeal against the determination to the Supreme Court.

(2) The Supreme Court hearing the appeal may affirm, set aside or modify the determination of the Minister.

(3) Notice of an appeal under this section is to be given to the Minister, who—

(a) may appear and be heard; and

(b) must appear if so directed by the Court.

557 Fees for entries in the Register of memoranda of transfers of title

(1) A fee is payable to the Minister in respect of an entry in the Register of a memorandum of the transfer of a title under section 514.

(2) The amount of the fee that is payable must be worked out using the table—

Amount of fee

Item	*In this case...*	*the amount of the fee is...*
1	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) none of items 2, 3 and 4 apply	the amount calculated at the rate of 1.5% of whichever is the greater of the following— (a) the value of the consideration for the transfer; (b) the value of the title transferred.
2	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount worked out under that item would have been less than the amount prescribed by the regulations	the amount prescribed by the regulations.

Amount of fee		
Item	*In this case...*	*the amount of the fee is...*
3	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount of the fee would have been more than the amount prescribed by the regulations; and (c) the transfer was executed for the purpose of giving effect to a dealing; and (d) a fee was imposed by section 558 on the entry in the Register of an approval of the dealing; and (e) the fee mentioned in paragraph (d) has been paid; and (f) the transfer was agreed to under the dealing	the amount prescribed by the regulations.
4	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount of the fee would have been more than the amount prescribed by the regulations; and (c) the parties to the transfer satisfy the Minister that— (i) the parties are related bodies corporate within the meaning of the Corporations Act; and	the amount prescribed by the regulations.

Amount of fee		
Item	*In this case...*	*the amount of the fee is...*
	(ii) the transfer was executed solely for the purpose of a reorganisation 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 fees that would, apart from this item, be payable under this section on the entry in the Register of a memorandum of the transfer	

(3) To avoid doubt, different amounts may be prescribed for different items of the table.

558 Fees for approval of dealings relating to petroleum titles

(1) A fee is payable to the Minister in respect of an entry in the Register of an approval of a dealing under section 529.

(2) The amount of the fee that is payable must be worked out using the table—

Amount of fee

Item	*In this case...*	*the amount of the fee is...*
1	(a) a dealing relates to only one title; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to that title; and (c) none of items 2, 5 and 6 apply	1.5% of the value of the consideration for the dealing.
2	(a) a dealing relates to only one title; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to that title; and (c) the entry of the approval relates to an interest in a petroleum production licence, infrastructure licence or pipeline licence; and (d) the value of the interest is greater than the value of the consideration for the dealing; and (e) the dealing has an effect of the kind referred to in item 1, 2, 4 or 5 of the table in section 521; and (f) the Minister is satisfied that the dealing was not made under another dealing that relates to that title, where a fee has been paid under this section in relation to an entry of the approval of the other dealing	1.5% of the value of the interest.

Amount of fee		
Item	*In this case...*	*the amount of the fee is...*
3	(a) a dealing relates to 2 or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) none of items 4, 5 and 6 apply	1.5% of the amount worked out by dividing the value of the consideration for the dealing by the number of titles in relation to which the dealing is approved by the Minister.
4	(a) a dealing relates to 2 or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) the entry of the approval relates to an interest in a petroleum production licence, infrastructure licence or pipeline licence; and (d) the value of the interest is greater than the amount worked out by dividing the value of the consideration for the dealing by the number of titles in relation to which the dealing is approved by the Minister; and (e) the dealing has an effect of the kind referred to in item 1, 2, 4 or 5 of the table in section 521; and	1.5% of the value of the interest.

Amount of fee		
Item	*In this case...*	*the amount of the fee is...*
	(f) the Minister is satisfied that the dealing was not made under another dealing that relates to any of those titles, where a fee has been paid under this section in relation to an entry of the approval of the other dealing	
5	(a) a dealing relates to one or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) either— (i) apart from this item, the amount of the fee imposed by this section on the entry would have been less than the amount prescribed by the regulations; or (ii) Part 4.6 applies to the dealing only because the dealing creates, varies or terminates a charge over some or all of the assets of a body corporate	the amount prescribed by the regulations.
6	(a) a dealing relates to one or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and	the amount prescribed by the regulations.

Amount of fee		
Item	*In this case...*	*the amount of the fee is...*
	(c) apart from this item, the amount of the fee imposed by this section on the entry would have been more than the amount prescribed by the regulations; and (d) the parties to the dealing satisfy the Minister that— (i) the parties are related bodies corporate within the meaning of the Corporations Act; and (ii) the dealing was entered into solely for the purpose of a reorganisation 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 fees that would, apart from this item, be payable under this section on the entry of approval of the dealing	

(3) To avoid doubt, different amounts may be prescribed for different items of the table.

(4) For the purposes of subsection (2), deduct from the value of the consideration for a dealing the value, as determined by the Minister, of any exploration works that were, as at the date of the instrument evidencing the dealing—

(a) to be carried out under the dealing; and

(b) required or permitted to be carried out by or under the relevant title.

(5) For the purposes of subsection (2), deduct from the value of the interest in a petroleum production licence the value, as determined by the Minister, of any exploration works that were, as at the date of the instrument evidencing the dealing—

(a) to be carried out under the dealing; and

(b) permitted to be carried out by or under the licence.

559 Exemption from duty

Duty under the **Duties Act 2000** is not chargeable—

(a) on a title; or

(b) on a transfer of a title; or

(c) on any other instrument in so far as it relates to a legal or equitable interest in or affecting a title.

Chapter 5—Registration of transfers of, and dealings in, greenhouse gas titles

Part 5.1—Introduction

560 Simplified outline

(1) This section sets out a simplified outline of this Chapter.

(2) The Minister must keep a Register of greenhouse gas titles and greenhouse gas search authorities.

(3) A transfer of a greenhouse gas title must be approved by the Minister, and an instrument of transfer must be registered under this Part.

(4) A dealing in a greenhouse gas title must be approved by the Minister, and the approval must be entered in the Register.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

561 Definitions

In this Chapter—

Register means the Register kept under section 563;

title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas special authority.

562 Dealing—series of debentures

For the purposes of this Chapter, if a dealing forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures are taken to be one dealing.

Part 5.2—Register of titles and greenhouse gas search authorities

563 Register to be kept

The Minister must keep a Register of—

(a) titles; and

(b) greenhouse gas search authorities.

564 Entries in Register—general

(1) The Minister must enter in the Register a memorial for each title and greenhouse gas search authority.

(2) A memorial with the content referred to in column 2 for an item of the table must comply with requirements for that item set out in column 3 of the table—

Content of memorial

Column 1	*Column 2*	*Column 3*
Item	*In the case of...*	*the memorial must...*
1	a title or greenhouse gas search authority	specify the name of the holder of the title.
2	a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority	set out an accurate description (including, where convenient, a map) of the permit area, lease area, licence area or authority area.
3	a title or greenhouse gas search authority	specify the term of the title or greenhouse gas search authority.
4	a title or greenhouse gas search authority	set out such other matters and things as are required by this Act to be entered in the Register.

Content of memorial		
Column 1	*Column 2*	*Column 3*
Item	*In the case of...*	*the memorial must...*
5	a title or greenhouse gas search authority	set out such further matters relating to the registered holder, or to the conditions of the title or greenhouse gas search authority, as the Minister thinks proper and expedient in the public interest.

(3) The Minister must enter in the Register a memorial of—

(a) a notice or instrument—

(i) varying; or

(ii) cancelling; or

(iii) surrendering (to any extent); or

(iv) otherwise affecting—

a title or greenhouse gas search authority; or

(b) a notice or instrument varying or revoking a notice or instrument referred to in paragraph (a).

Note

Subparagraph (a)(iv) would cover, for example, a notice revoking a greenhouse gas special authority.

(4) It is a sufficient compliance with the requirements of subsection (1), (2) or (3) if the Minister enters a copy of the title, greenhouse gas search authority, notice or instrument in the Register.

(5) The Minister must endorse on—

(a) the memorial; or

(b) the copy of the title, greenhouse gas search authority, notice or instrument—

a memorandum of the date on which the memorial or copy was entered in the Register.

565 Entry in Register—cessation or expiry of title

If an event specified in the table happens, the Minister must enter in the Register a memorial of the fact.

Cessation of title etc.

Item	*Event*
1	A greenhouse gas assessment permit or greenhouse gas holding lease ceases to be in force over a block in relation to which a greenhouse gas injection licence is granted.
2	A greenhouse gas assessment permit ceases to be in force over a block in relation to which a greenhouse gas holding lease (other than a special greenhouse gas holding lease) is granted.
3	A greenhouse gas assessment permit or a greenhouse gas holding lease (other than a special greenhouse gas holding lease) ceases to be in force over a block in relation to which a special greenhouse gas holding lease is granted.
4	A greenhouse gas injection licence ceases to be in force over a block in relation to which a greenhouse gas holding lease is granted.
5	A greenhouse gas assessment permit, greenhouse gas holding lease (other than a special greenhouse gas holding lease), greenhouse gas search authority or greenhouse gas special authority expires.

Part 5.3—Transfer of titles

566 Approval and registration of transfers

A transfer of a title is of no force until—

(a) it has been approved by the Minister; and

(b) an instrument of transfer is registered as provided by this Part.

567 Application for approval of transfer

(1) One of the parties to a proposed transfer of a title may apply to the Minister for approval of the transfer.

(2) The application must be in writing.

568 Documents to accompany application

An application for approval of a transfer must be accompanied by—

(a) an instrument of transfer in the prescribed form executed by—

(i) the registered holder or, if there are 2 or more registered holders, by each registered holder; and

(ii) the transferee or, if there are 2 or more transferees, by each transferee; and

(b) if the transferee, or one or more of the transferees, is not a registered holder or are not registered holders of the title—a document 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) a copy of each of the following—

(i) the application;

(ii) the instrument referred to in paragraph (a);

(iii) the document referred to in paragraph (b).

569 Time limit for application

(1) An application for approval of a transfer must be made within—

(a) 90 days after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer; or

(b) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(b) only if there are sufficient grounds to warrant allowing the longer period.

570 Date of application to be entered in Register

If an application is made for approval of a transfer, the Minister—

(a) must enter a memorandum in the Register of the date on which the application was lodged; and

(b) may make such other notation in the Register as the Minister considers appropriate.

571 Approval of transfer

(1) This section applies if an application is made for approval of a transfer.

(2) The Minister must—

(a) approve the transfer; or

(b) refuse to approve the transfer.

(3) If—

(a) the application is for approval of a transfer of a greenhouse gas holding lease or a greenhouse gas injection licence; and

(b) the greenhouse gas holding lease or the greenhouse gas injection licence is tied to a petroleum retention lease—

the Minister must not approve the transfer of the greenhouse gas holding lease or the greenhouse gas injection licence unless—

(c) a transfer of the petroleum retention lease has been approved by the Minister under section 513; and

(d) the transfer of the petroleum retention lease is registered under section 514; and

(e) both—

(i) the instrument of transfer of the petroleum retention lease; and

(ii) the instrument of transfer of the greenhouse gas holding lease or greenhouse gas injection licence—

were executed at or about the same time; and

(f) the transferee or transferees of the petroleum retention lease are the same as the transferee or transferees of the greenhouse gas holding lease or greenhouse gas injection licence.

(4) If—

(a) the application is for approval of a transfer of a greenhouse gas holding lease or a greenhouse gas injection licence; and

(b) the greenhouse gas holding lease or the greenhouse gas injection licence is tied to a petroleum production licence—

the Minister must not approve the transfer of the greenhouse gas holding lease or the greenhouse gas injection licence unless—

(c) a transfer of the petroleum production licence has been approved by the Minister under section 513; and

(d) the transfer of the petroleum production licence is registered under section 514; and

(e) both—

(i) the instrument of transfer of the petroleum production licence; and

(ii) the instrument of transfer of the greenhouse gas holding lease or greenhouse gas injection licence—

were executed at or about the same time; and

(f) the transferee or transferees of the petroleum production licence are the same as the transferee or transferees of the greenhouse gas holding lease or greenhouse gas injection licence.

(5) The Minister must, by written notice given to the applicant, notify the applicant of the Minister's decision.

(6) If the Minister refuses to approve the transfer, the Minister must make a notation of the refusal in the Register.

572 Registration of transfer

(1) This section applies if the Minister approves the transfer of a title.

(2) The Minister must immediately endorse on—

(a) the instrument of transfer; and

(b) the copy of the instrument of transfer—

a memorandum of approval.

(3) On payment of the prescribed fee by the transferee, the Minister must enter in the Register a memorandum of—

(a) the transfer; and

(b) the name of the transferee or of each transferee.

(4) On the entry in the Register of the memorandum—

(a) the transfer is taken to be registered; and

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

(5) If the transfer is registered—

(a) the copy of the instrument of transfer endorsed with the memorandum of approval must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the instrument of transfer endorsed with the memorandum of approval must be returned to the person who applied for approval of the transfer.

573 Instrument of transfer does not create an interest in the title

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

574 Limit on effect of approval of transfers

The approval of a transfer of a title does not give to the transfer any force, effect or validity that the transfer would not have had if this Chapter had not been enacted.

Part 5.4—Devolution of title

575 Application to have name entered on the Register as the holder of a title

(1) If the rights of the registered holder of a particular title have devolved on a person by operation of law, the person may apply to the Minister to have the person's name entered in the Register as the holder of the title.

(2) The application must be in writing.

576 Entry of name in the Register

(1) This section applies if an application is made under section 575 in relation to a title.

(2) If—

(a) the Minister is satisfied that the rights of the holder have devolved on the applicant by operation of law; and

(b) the applicant has paid the prescribed fee—

the Minister must enter the name of the applicant in the Register as the holder of the title.

(3) On that entry being made, the applicant becomes the registered holder of the title.

Part 5.5—Change in name of company

577 Application to have new name entered on the Register

(1) If—

(a) a company is the registered holder of a particular title; and

(b) the company has changed its name—

the company may apply to the Minister to have its new name substituted for its previous name in the Register in relation to that title.

(2) The application must be in writing.

578 Alteration in the Register

(1) This section applies if a company applies under section 577 to have its new name substituted for its previous name in the Register in relation to a particular title.

(2) If—

(a) the Minister is satisfied that the company has changed its name; and

(b) the company has paid the prescribed fee—

the Minister must make the necessary alterations in the Register.

Part 5.6—Dealings relating to existing titles

579 Dealings to which this Part applies

This Part applies to a dealing (other than a transfer of a title) that would have one or more of the effects set out in the table—

Effects of dealings

Item	*Effect*
1	The creation or assignment of an interest in an existing title.
2	The creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title.
3	The determination of the manner in which persons may— (a) exercise the rights conferred by an existing title; or (b) comply with the obligations imposed by an existing title; or (c) comply with the conditions of an existing title— (including the exercise of those rights, or the compliance with those obligations or conditions, under cooperative arrangements to inject or store greenhouse gas substances).
4	The creation or assignment of an interest in relation to an existing greenhouse gas assessment permit, existing greenhouse gas holding lease or existing greenhouse gas injection licence, where the interest relates to— (a) a greenhouse gas substance injected or stored under the permit, lease or licence; or (b) revenue derived as a result of the carrying out of operations authorised by the permit, lease or licence; or (c) profits derived as a result of the carrying out of operations authorised by the permit, lease or licence; or (d) a matter specified in the regulations.
5	The creation or assignment of an option (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3 and 4.
6	The creation or assignment of a right (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3 and 4.

Effects of dealings	
Item	*Effect*
7	The alteration or termination of a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4, 5 and 6.

580 Approval and registration of dealings

A dealing is of no force, in so far as the dealing would have an effect of a kind referred to in the table in section 579 in relation to a particular title, until—

(a) the Minister has approved the dealing, in so far as it relates to that title; and

(b) the Minister has made an entry in the Register in relation to the dealing under section 586.

581 Application for approval of dealing

(1) An application for approval of a dealing must be made in accordance with subsection (2) or (3).

(2) If a dealing relates to only one title, a party to the dealing may apply to the Minister for approval of the dealing in so far as it relates to that title.

(3) If a dealing relates to 2 or more titles, a party to the dealing may make a separate application to the Minister for approval of the dealing in so far as it relates to each title.

(4) An application must be in writing.

582 Documents to accompany application

(1) An application for approval of a dealing must be accompanied by—

(a) the instrument evidencing the dealing; or

(b) if that instrument has already been lodged with the Minister for the purposes of another application—a copy of that instrument.

(2) An application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.

(3) An instrument under subsection (2) is called a ***supplementary instrument***.

(4) An application for approval of a dealing must be accompanied by—

(a) a copy of the application; and

(b) a copy, or an additional copy, of the instrument referred to in subsection (1); and

(c) a copy of any supplementary instrument.

(5) If—

(a) a dealing (including a dealing referred to in section 562) creates a charge over some or all of the assets of a body corporate; and

(b) a person applies for approval of the dealing; and

(c) the application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the Corporations Act in relation to the creation of the charge—

the person is taken to have complied with—

(d) subsection (1); and

(e) subsection (4) in so far as that section requires a copy, or an additional copy, of the instrument referred to in subsection (1) to accompany the application.

583 Timing of application

(1) An application for approval of a dealing must be made within—

(a) 90 days after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument; or

(b) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(b) only if there are sufficient grounds to warrant allowing the longer period.

(3) This section has effect subject to section 595.

Note

Section 595 is about approval of a dealing that was entered into before the title came into existence.

584 Application date to be entered in Register

If an application is made for approval of a dealing, the Minister—

(a) must enter a memorandum in the Register of the date on which the application was lodged; and

(b) may make such other notation in the Register as the Minister considers appropriate.

585 Approval of dealing

(1) This section applies if an application is made for approval of a dealing in so far as it relates to a particular title.

(2) The Minister must—

(a) approve the dealing; or

(b) refuse to approve the dealing—

in so far as it relates to that title.

Note

Section 595 limits the power conferred on the Minister by this section. Section 595 is about approval of a dealing that was entered into before the title came into existence.

(3) The Minister must, by written notice given to the applicant, notify the applicant of the Minister's decision.

(4) If the Minister refuses to approve the dealing in so far as it relates to that title, the Minister must make a notation of the refusal in the Register.

586 Entry of dealing in Register

(1) This section applies if the Minister approves a dealing in so far as it relates to a particular title.

(2) The Minister must immediately endorse a memorandum of approval—

(a) on the original instrument evidencing the dealing and on the copy of that instrument; or

(b) if the original instrument was not lodged with the application for approval—on both of the copies of that instrument.

(3) On payment of the prescribed fee, the Minister must make an entry of the approval of the dealing in the Register on—

(a) the memorial relating to that title; or

(b) the copy of that title.

587 Retention, inspection and return of instruments

(1) This section applies if the Minister makes an entry of the approval of a dealing in the Register.

(2) If the application for approval of the dealing was accompanied by a supplementary instrument—

(a) a copy of the supplementary instrument, endorsed with a copy of the memorandum of approval, must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the supplementary instrument must be returned to the person who applied for approval; and

(c) a copy of the instrument evidencing the dealing must not be made available for inspection in accordance with this Chapter; and

(d) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note

For inspection, see section 607.

(3) If the application for approval of the dealing was not accompanied by a supplementary instrument—

(a) one copy of the instrument evidencing the dealing, endorsed with a memorandum of approval, must be—

(i) retained by the Minister; and

(ii) made available for inspection in accordance with this Chapter; and

(b) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note

For inspection, see section 607.

(4) In this section—

supplementary instrument has the meaning given by section 582(3) or 591(3).

588 Strict compliance with application provisions not required

The approval of a dealing, or the making of an entry in the Register in relation to a dealing, is not made ineffective because of any failure to comply, in relation to the application for approval of the dealing, with the requirements of this Part.

589 Limit on effect of approval of dealing

The approval of a dealing does not give to the dealing any force, effect or validity that the dealing would not have had if this Chapter had not been enacted.

Part 5.7—Dealings in future interests

590 Provisional application for approval of dealing

(1) This section applies if—

(a) 2 or more persons enter into a dealing relating to a title that may come into existence in the future; and

(b) that dealing would, if the title came into existence, become a dealing to which Part 5.6 applies.

(2) If the dealing relates to only one title that may come into existence in the future, a party to the dealing may make a provisional application to the Minister for approval of the dealing.

(3) If the dealing relates to 2 or more titles that may come into existence in the future, a party to the dealing may make a separate provisional application to the Minister for approval of the dealing in relation to each title that may come into existence in the future.

(4) A provisional application must be in writing.

591 Documents to accompany provisional application

(1) A provisional application for approval of a dealing must be accompanied by—

(a) the instrument evidencing the dealing; or

(b) if that instrument has already been lodged with the Minister for the purposes of another provisional application—a copy of that instrument.

(2) A provisional application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of a provisional application for approval of a dealing of that kind.

(3) An instrument under subsection (2) is called a ***supplementary instrument***.

(4) A provisional application for approval of a dealing must be accompanied by—

(a) a copy of the provisional application; and

(b) a copy, or an additional copy, of the instrument referred to in subsection (1); and

(c) a copy of any supplementary instrument.

592 Charge over assets of a body corporate—copies of documents

If—

(a) a dealing (including a dealing referred to in section 562) creates a charge over some or all of the assets of a body corporate; and

(b) a person makes a provisional application for approval of the dealing; and

(c) the provisional application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the Corporations Act in relation to the creation of the charge—

the person is taken to have complied with—

(d) section 591(1); and

(e) section 591(4) in so far as that subsection requires a copy, or an additional copy, of the instrument referred to in section 591(1) to accompany the provisional application.

593 Timing of provisional application

A provisional application referred to in column 2 for an item in the table must be made within the period beginning on the day referred to for that item in column 3 in the table and ending on the

day referred to for that item in column 4 in the table—

Period for making a provisional application

Column 1	*Column 2*	*Column 3*	*Column 4*
Item	*In this case...*	*the period begins on...*	*and ends on...*
1	a provisional application for approval of a dealing relating to any of the following titles that may come into existence in the future— (a) a greenhouse gas assessment permit; (b) a greenhouse gas holding lease; (c) a greenhouse gas injection licence	the day on which an offer document that relates to the application for the title is given to the applicant for the title	the day on which the title comes into existence.
2	a provisional application for approval of a dealing relating to a greenhouse gas special authority that may come into existence in the future	the day on which the application for the grant of the greenhouse gas special authority is made	the day on which the greenhouse gas special authority comes into existence.

594 Provisional application to be treated as an application under section 581 when title comes into existence

If—

(a) a provisional application is made for approval of a dealing; and

(b) the title to which the dealing relates comes into existence; and

(c) on that title coming into existence, the dealing becomes a dealing to which Part 5.6 applies—

the provisional application is to be treated as if it were an application made under section 581 on the day on which that title came into existence.

595 Limit on approval of dealing

(1) If—

(a) Part 5.6 applies to a dealing relating to a title; and

(b) immediately before the title came into existence, the dealing was a dealing referred to in section 590(1)—

the Minister may approve the dealing under section 585 only if—

(c) a provisional application for approval of the dealing was made under section 590; or

(d) an application for approval of the dealing was made under section 581 within—

(i) 90 days after the day on which the title came into existence; or

(ii) such longer period as the Minister allows.

(2) The Minister may allow a longer period under subsection (1)(d)(ii) only if there are sufficient grounds to warrant allowing the longer period.

Part 5.8—Correction and rectification of Register

596 Corrections of clerical errors or obvious defects

The Minister may alter the Register for the purposes of correcting a clerical error or an obvious defect in the Register.

597 General power of correction of Register

(1) The Minister may 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.

(2) The Minister may exercise the power conferred by subsection (1)—

(a) on written application being made to the Minister by a person; or

(b) on the Minister's own initiative.

(3) Before the Minister makes an entry in the Register under subsection (1), the Minister must cause to be published in the Government 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 the Minister written submissions about the making of the entry; and

(c) specifying a time limit for the making of those submissions.

(4) The time limit must not be shorter than 45 days after the publication of the notice.

(5) In deciding whether to make the entry in the Register, the Minister must take into account any submissions made in accordance with the notice.

(6) If the Minister makes an entry in the Register under subsection (1), the Minister must cause to be published in the Government Gazette a notice setting out the terms of the entry.

598 Rectification of Register

(1) If a person is aggrieved by any of the following—

(a) the omission of an entry from the Register;

(b) an entry made in the Register without sufficient cause;

(c) an entry wrongly existing in the Register;

(d) an error or defect in an entry in the Register—

the person may apply to the Supreme Court for the rectification of the Register.

(2) If an application is made under subsection (1) to the Supreme Court for the rectification of the Register, the Supreme Court may make such order as it thinks fit directing the rectification of the Register.

(3) In proceedings under this section, the Supreme Court may decide any question that it is necessary or expedient to decide in connection with the rectification of the Register.

(4) Notice of an application under this section must be given to the Minister, who—

(a) may appear and be heard; and

(b) must appear if so directed by the Supreme Court.

(5) A copy of an order made by the Supreme Court may be given to the Minister.

(6) The Minister must, on receipt of the order, rectify the Register accordingly.

Part 5.9—Information-gathering powers

599 Minister may obtain information from applicants

(1) This section applies if—

(a) an application for approval of the transfer of a title is made under section 567; or

(b) an application is made under section 575 or 577 in relation to a title; or

(c) an application for approval of a dealing is made under section 581; or

(d) a provisional application for approval of a dealing is made under section 590; or

(e) an application is made under section 597 in relation to a title.

(2) The Minister may, by written notice given to the applicant, require the applicant to give the Minister, within the period and in the manner specified in the notice, such information about the matter to which the application relates as the Minister considers necessary or advisable.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person must not, in purported compliance with a notice under subsection (2), give information that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

600 Minister may obtain information from a party to an approved dealing

(1) This section applies if—

(a) a person is a party to a dealing relating to a title; and

(b) the dealing has been approved under section 585.

(2) The Minister may, by written notice given to the person, require the person to give to the Minister, within the period and in the manner specified in the notice, such information about alterations in the interests or rights existing in relation to the title as the Minister considers necessary or advisable.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person must not, in purported compliance with a notice under subsection (2), give information that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

601 Production and inspection of documents

(1) This section applies if the Minister has reason to believe that a document—

(a) is in the possession or under the control of a person; and

(b) relates to—

(i) a transfer or dealing for which approval is sought under this Chapter; or

(ii) an application under section 575, 577 or 578.

(2) The Minister may, by written notice given to the person, require the person—

(a) to produce the document to the Minister, within the period and in the manner specified in the notice; or

(b) to make the document available for inspection by or on behalf of the Minister.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

(4) A person who has been given a notice under subsection (2) must comply with the notice.

Penalty: 60 penalty units.

(5) A person must not, in purported compliance with a notice under subsection (2)—

(a) produce a document; or

(b) make a document available for inspection—

that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) subsection (5).

602 Minister may retain documents

(1) The Minister may take possession of a document produced under section 601, and retain it for as long as is necessary.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Minister must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

Part 5.10—Other provisions

603 Minister not concerned with the effect of instrument lodged under this Chapter

The Minister is not concerned with the effect in law of an instrument lodged under this Chapter.

604 True consideration to be shown

(1) A person to whom this section applies must not give the Minister a specified instrument that contains a statement that the person knows is false or misleading in a material particular in relation to—

(a) the consideration for a transfer or dealing; or

(b) any other fact or circumstance affecting the amount of the fee payable in relation to a transfer or dealing.

Penalty: 120 penalty units.

(2) This section applies to a person who is a party to—

(a) a transfer of a title; or

(b) a dealing to which Part 5.6 applies; or

(c) a dealing referred to in section 590(1).

(3) In this section—

specified instrument means an instrument of transfer, an instrument evidencing a dealing to which Part 5.6 applies or a supplementary instrument;

supplementary instrument has the meaning given by section 582(3) or 591(3).

605 Making a false entry in the Register

A person must not knowingly—

(a) make a false entry in the Register; or

(b) cause a false entry to be made in the Register; or

(c) concur in the making of a false entry in the Register.

Penalty: 60 penalty units.

606 Falsified documents

A person must not produce or tender in evidence a document that falsely purports to be—

(a) a copy of or extract from an entry in the Register; or

(b) a copy of or extract from an instrument given to the Minister under this Chapter.

Penalty: 60 penalty units.

607 Inspection of Register and instruments

(1) The Minister must ensure that the Register is open for inspection, at all convenient times, by any person on payment of the prescribed fee.

(2) The Minister must ensure that all instruments, or copies of instruments, subject to inspection under this Chapter are open for inspection, at all convenient times, by any person on payment of the prescribed fee.

608 Evidence of matters entered in the Register

(1) The Register is to be received in all courts and proceedings as prima facie evidence of all matters required or authorised by this Chapter to be entered in the Register.

(2) The Minister may, on payment of the prescribed fee, supply—

(a) a copy of or extract from the Register; or

(b) a copy of or extract from any instrument lodged with the Minister under this Chapter—

certified by the Minister to be a true copy or true extract, as the case may be.

(3) The certified copy or extract is admissible in evidence in all courts and proceedings without further proof or production of the original.

609 Evidentiary certificate

(1) The Minister may, on payment of the prescribed fee, issue a written certificate—

(a) stating that an entry, matter or thing required or permitted by or under this Chapter to be made or done—

(i) has been made or done; or

(ii) has not been made or done; or

(b) stating that an entry, matter or thing required by or under this Chapter not to be made or done—

(i) has not been made or done; or

(ii) has been made or done.

(2) The certificate is to be received in all courts and proceedings as prima facie evidence of the statements in the certificate.

(3) Any evidence given in support, or in rebuttal, of a matter stated in a certificate issued under subsection (1) must be considered on its merits, and the credibility and probative value of such evidence must be neither increased nor diminished

by reason of this section or sections 608, 610 or 611.

610 Criminal proceedings—copy of certificate to be given to defendant 14 days before certificate admitted in evidence

A certificate must not be admitted in evidence under section 609(2) in proceedings for an offence unless—

(a) the person charged with the offence; or

(b) a barrister or solicitor who has appeared for the person in those proceedings—

has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with notice of the intention to produce the certificate as evidence in the proceedings.

611 Person signing the certificate may be called to give evidence

(1) If, under section 609(2), a certificate is admitted in evidence in proceedings for an offence, the person charged with the offence may require the person who signed the certificate to be—

(a) called as a witness for the prosecution; and

(b) cross-examined as if the person who signed the certificate had given evidence of the matters stated in the certificate.

(2) However, subsection (1) does not entitle the person charged to require the person who signed the certificate to be called as a witness for the prosecution unless—

(a) the prosecutor has been given at least 4 days notice of the person's intention to require the person who signed the certificate to be so called; or

(b) the court, by order, allows the person charged to require the person who signed the certificate to be so called.

612 Assessment of fee

(1) The Minister may determine the amount of the fee payable in relation to an entry in the Register.

(2) If—

(a) the Minister has determined the amount of a fee payable in relation to a transfer or dealing; and

(b) a person is convicted of an offence against section 604 in relation to giving the Minister an instrument that contains a statement about—

(i) the consideration for the transfer or dealing; or

(ii) any other fact or circumstance affecting the amount of the fee payable in relation to the transfer or dealing—

the Minister may make a fresh determination of the amount of the fee payable in relation to the transfer or dealing.

Note

Section 604 is about giving an instrument that contains a false or misleading statement.

613 Appeal against assessment of fee

(1) A person dissatisfied with a determination of the Minister under section 612(1) or (2) may appeal against the determination to the Supreme Court.

(2) The Supreme Court hearing the appeal may affirm, set aside or modify the determination of the Minister.

(3) Notice of an appeal under this section is to be given to the Minister, who—

(a) may appear and be heard; and

(b) must appear if so directed by the Court.

Chapter 6—Administration

Part 6.1—Operations

614 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part imposes requirements that must be complied with by titleholders in relation to the following—

(a) the commencement of works or operations;

(b) work practices;

(c) insurance;

(d) the maintenance and removal of property.

(3) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

615 Commencement of works or operations

(1) This section applies to—

(a) a special petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) an infrastructure licence; or

(d) a pipeline licence—

if the permit, lease or licence is granted subject to a condition that works or operations specified in the permit, lease or licence are to be carried out.

(2) The registered holder of the permit, lease or licence must begin to carry out those works or operations within—

(a) 180 days after the day on which the permit, lease or licence comes into force; or

(b) such longer period as the Minister allows.

616 Work practices

(1) The table has effect—

Work practices

Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
1	the registered holder of a petroleum exploration permit, petroleum retention lease or petroleum production licence	(a) carry out all petroleum exploration operations in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice; (b) carry out all petroleum recovery operations in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice; (c) control the flow, and prevent the waste or escape, in the permit area, lease area or licence area, of petroleum or water; (d) 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; (e) prevent damage to petroleum-bearing strata in an area (whether in the offshore area or not) in relation to which the permit, lease or licence is not in force; (f) keep separate each petroleum pool discovered in the permit area, lease area or licence area; (g) keep separate such of the sources of water (if any) discovered in the permit area, lease area or licence area as the Minister, by written notice given to the registered holder, directs;

Work practices		
Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
		(h) 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 oilfield practice.
2	the registered holder of an infrastructure licence	(a) carry out operations authorised by the licence in a safe manner and in accordance with good oilfield practice and good processing and transport practice; and (b) control the flow, and prevent the waste or escape, from an infrastructure facility constructed under the licence, of water, petroleum or any product derived by processing petroleum.
3	the registered holder of a pipeline licence	(a) operate the pipeline in a proper and workmanlike manner; and (b) 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.
4	the registered holder of a petroleum special prospecting authority or petroleum access authority	carry out all petroleum exploration operations in the authority area in a proper and workmanlike manner and in accordance with good oilfield practice.

(2) Paragraphs (c) to (h) of item 1, and paragraph (b) of item 2, of the table in subsection (1) have effect subject to any authorisation given, or requirement made, by or under—

(a) this Act; or

(b) the regulations; or

(c) a direction under this Act.

(3) Paragraphs (b) to (h) of item 1 of the table in subsection (1) do not limit paragraph (a) of that item.

(4) Paragraph (b) of item 2 of the table in subsection (1) does not limit paragraph (a) of that item.

(5) Paragraph (b) of item 3 of the table in subsection (1) does not limit paragraph (a) of that item.

(6) A person referred to in column 2 in an item of the table in subsection (1) must comply with a requirement in that item set out in column 3 of that table that applies to that person.

Penalty: 120 penalty units.

(7) In—

(a) a prosecution for an offence against subsection (6) in relation to the noncompliance of a paragraph of an item of the table in subsection (1); or

(b) an action arising out of the noncompliance of a paragraph of an item of the table in subsection (1)—

it is a defence if the defendant took all reasonable steps to comply with that paragraph.

(8) This section has effect subject to—

(a) any other provision of this Act; and

(b) the regulations; and

(c) a direction under section 623; and

(d) any other law.

617 Work practices

(1) The table has effect—

Work practices		
Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
1	the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence or petroleum production licence	(a) carry out all— (i) operations relating to the exploration for potential greenhouse gas storage formations; or (ii) operations relating to the exploration for potential greenhouse gas injection sites— in the permit area, lease area or licence area in a proper and workmanlike manner; (b) carry out all— (i) operations relating to the injection of a greenhouse gas substance into a part of a geological formation; or (ii) operations relating to the storage of a greenhouse gas substance in a part of a geological formation— in the permit area, lease area or licence area in a proper and workmanlike manner.

Work practices		
Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
2	the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence or petroleum production licence	(a) control the flow, and prevent the escape, in the permit area, lease area or licence area, of greenhouse gas substances; (b) control the flow, and prevent the waste or escape, in the permit area, lease area or licence area, of petroleum or water; (c) 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; (d) prevent damage to petroleum-bearing strata, and potential greenhouse gas storage formations, in an area (whether in the offshore area or not) in relation to which the permit, lease or licence is not in force; and (e) keep separate each petroleum pool discovered in the permit area, lease area or licence area; and (f) keep separate such of the sources of water (if any) discovered in the permit area, lease area or licence area as the Minister, by written notice given to the registered holder, directs;

Work practices		
Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
		(g) prevent water, a greenhouse gas substance 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 oilfield practice.
3	the registered holder of a greenhouse gas special authority	carry out all— (a) operations relating to the exploration for potential greenhouse gas storage formations; or (b) operations relating to the exploration for potential greenhouse gas injection sites; or (c) operations relating to the injection of a greenhouse gas substance into a potential greenhouse gas storage formation; or (d) operations relating to the storage of a greenhouse gas substance in a potential greenhouse gas storage formation; or (e) operations to carry out baseline investigations relating to the storage of a greenhouse gas substance in a potential greenhouse gas storage formation; or

Work practices		
Column 1	*Column 2*	*Column 3*
Item	*This person...*	*must...*
		(f) operations relating to the monitoring of the behaviour of a greenhouse gas substance stored in a potential greenhouse gas storage formation— in the authority area in a proper and workmanlike manner.
4	the registered holder of a greenhouse gas search authority	carry out all— (a) operations relating to the exploration for potential greenhouse gas storage formations; or (b) operations relating to the exploration for potential greenhouse gas injection sites— in the authority area in a proper and workmanlike manner.
5	the holder of a greenhouse gas research consent	carry out all— (a) operations relating to the exploration for potential greenhouse gas storage formations; or (b) operations relating to the exploration for potential greenhouse gas injection sites— authorised by the consent in a proper and workmanlike manner.

(2) Paragraphs (a) to (g) of item 2 of the table in subsection (1) have effect subject to any authorisation given, or requirement made, by or under—

(a) this Act; or

(b) the regulations; or

(c) a direction under this Act.

(3) Paragraph (b) of item 1 of the table in subsection (1) does not limit paragraph (a) of that item.

(4) Paragraphs (a) to (g) of item 2 of the table in subsection (1) do not limit paragraph (a) of item 1 of the table.

(5) A person referred to in column 2 in an item of the table in subsection (1) must comply with a requirement in that item set out in column 3 of that table that applies to that person.

Penalty: 120 penalty units.

(6) In—

(a) a prosecution for an offence against subsection (5) in relation to the noncompliance of a paragraph of an item of the table in subsection (1); or

(b) an action arising out of a breach of the noncompliance of an item of the table in subsection (1)—

it is a defence if the defendant took all reasonable steps to comply with that paragraph.

(7) This section has effect subject to—

(a) any other provision of this Act; and

(b) the regulations; and

(c) a direction under section 629; and

(d) any other law.

618 Insurance—petroleum permits, leases and licences

(1) The registered holder of—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence—

must maintain, as directed by the Minister from time to time, insurance against—

(f) expenses; or

(g) liabilities; or

(h) specified things—

arising in connection with, or as a result of—

(i) the carrying out of work under the permit, lease or licence; or

(j) the doing of any other thing under the permit, lease or licence—

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum.

(2) A direction under this section must be in writing.

619 Insurance—petroleum authorities

(1) The conditions of a petroleum special prospecting authority or a petroleum access authority may include a condition that the registered holder maintain, as directed by the Minister from time to time, insurance against—

(a) expenses; or

(b) liabilities; or

(c) specified things—

arising in connection with, or as a result of—

(d) the carrying out of work under the authority; or

(e) the doing of any other thing under the authority—

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum.

(2) A direction under this section must be in writing.

620 Insurance—greenhouse gas titles

(1) The conditions of—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority—

may include a condition that the registered holder maintain, as directed by the Minister from time to time, insurance against—

(f) expenses; or

(g) liabilities; or

(h) specified things—

arising in connection with, or as a result of—

(i) the carrying out of work under the permit, lease, licence or authority; or

(j) the doing of any other thing under the permit, lease, licence or authority—

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of a greenhouse gas substance.

(2) A direction under this section must be in writing.

621 Maintenance and removal of property etc. by titleholder

(1) For the purposes of this section, the table has effect—

Titleholder and title area

Column 1	*Column 2*	*Column 3*	*Column 4*
Item	*In the case of...*	*the titleholder is...*	*and the title area is...*
1	a petroleum exploration permit	the permittee	the permit area.
2	a petroleum retention lease	the lessee	the lease area.
3	a petroleum production licence	the licensee	the licence area.
4	an infrastructure licence	the licensee	the licence area.
5	a pipeline licence	the licensee	the part of the offshore area in which the pipeline is constructed.
6	a petroleum special prospecting authority	the registered holder of the authority	the authority area.
7	a petroleum access authority	the registered holder of the authority	the authority area.

Titleholder and title area			
Column 1	*Column 2*	*Column 3*	*Column 4*
Item	*In the case of...*	*the titleholder is...*	*and the title area is...*
8	a greenhouse gas assessment permit	the permittee	the permit area.
9	a greenhouse gas holding lease	the lessee	the lease area.
10	a greenhouse gas injection licence	the licensee	the licence area.
11	a greenhouse gas search authority	the registered holder of the authority	the authority area.
12	a greenhouse gas special authority	the registered holder of the authority	the authority area.

(2) A titleholder referred to in column 3 in an item of the table in subsection (1) must maintain in good condition and repair all structures that are, and all equipment and other property that is—

(a) in the title area set out in that item in column 4 of that table and that applies to that titleholder; and

(b) used in connection with the operations authorised by the permit, lease, licence or authority set out in that item in column 2 of that table and that is held by that titleholder.

Penalty: 120 penalty units.

(3) A titleholder referred to in column 3 in an item of the table in subsection (1) must remove from the title area set out in column 4 of that table and that applies to that titleholder all structures that are, and all equipment and other property that is, neither used nor to be used in connection with the operations—

(a) in which the titleholder is or will be engaged; and

(b) that are authorised by the permit, lease, licence or authority set out in that item in column 2 of that table and that is held by that titleholder.

Penalty: 120 penalty units.

(4) Subsections (2) and (3) do not apply in relation to any structure, equipment or other property that was not brought into the title area by or with the authority of the titleholder.

(5) This section has effect subject to—

(a) any other provision of this Act; and

(b) the regulations; and

(c) a direction under section 623 or 629; and

(d) any other law.

Part 6.2—Directions relating to petroleum

Division 1—Simplified outline

622 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) The Minister may give a direction to a petroleum titleholder. A direction may extend to other persons.

(3) If there is noncompliance with a direction given by the Minister under Chapter 2, this Chapter or the regulations, the Minister may do anything required by the direction to be done, and the Minister's costs may be recovered from the person to whom the direction was given.

(4) In a prosecution for an offence relating to the noncompliance with a direction given by the Minister under Chapter 2, this Chapter or the regulations, it is a defence if the person took all reasonable steps to comply with the direction.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

Division 2—General power to give directions

623 General power to give directions

(1) In this section—

title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) a petroleum special prospecting authority; or

(g) a petroleum access authority.

(2) The Minister may, by written notice given to the registered holder of a title, give the registered holder a direction as to any matter in relation to which regulations may be made.

Notes

1 Section 794 is the main provision setting out matters in relation to which regulations may be made.

2 For enforcement, see section 625.

(3) 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, so long as the class consists of, or is included in, either or both of the following classes—

(i) employees 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 (other than the registered holder or a person to whom the direction applies in accordance with paragraph (a)) who is—

(i) in the offshore area for any reason touching, concerning, arising out of, or connected with, exploring the seabed or subsoil of the offshore area for petroleum or exploiting the petroleum that occurs as a natural resource of that seabed or subsoil; or

(ii) in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the offshore area for a reason of that kind.

(4) If a direction so expressed is given, the direction is taken to apply to each person included in the specified class mentioned in subsection (3)(a) or to each person who is in the offshore area as mentioned in subsection (3)(b), as the case may be.

Note

For notification requirements, see section 624.

(5) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations.

(6) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(7) To avoid doubt, subsection (6) applies to an instrument, whether issued or made in Australia or outside Australia.

(8) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

624 Notification of a direction that has an extended application

(1) If a direction under section 623 applies to—

(a) a registered holder; and

(b) a person referred to in section 623(3)(a)—

the registered holder must cause a copy of the notice by which the direction was given to be—

(c) given to that other person; or

(d) displayed at a prominent position at a place in the offshore area frequented by that other person.

Penalty: 60 penalty units.

(2) If a direction under section 623 applies to—

(a) a registered holder; and

(b) a person referred to in section 623(3)(b)—

the registered holder must cause a copy of the notice by which the direction was given to be displayed at a prominent position at a place in the offshore area.

Penalty: 60 penalty units.

(3) If a direction under section 623 applies to—

(a) a registered holder; and

(b) a person referred to in section 623(3)(b)—

the Minister may, by written notice given to the registered holder, require the registered holder to cause to be displayed—

(c) at such places in the offshore area; and

(d) in such manner—

as are specified in the notice, copies of the notice by which the direction was given.

(4) A registered holder who is given a notice under subsection (3) must comply with the notice.

Penalty: 60 penalty units.

625 Compliance with direction

(1) A person who is given a direction under section 623 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(2) If—

(a) a direction under section 623 applies to—

(i) a registered holder; and

(ii) another person; and

(b) the other person is prosecuted for an offence against subsection (1) in relation to the noncompliance with the direction; and

(c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction—

the other person is not to be convicted of the offence unless the prosecution proves that the other person knew, or could reasonably be expected to have known, of the existence of the direction.

Division 3—Minister may take action if there is noncompliance with a direction

626 Minister may take action if there is noncompliance with a direction

(1) If—

(a) a person is subject to a direction given by the Minister under—

(i) Chapter 2; or

(ii) this Chapter; or

(iii) Part 7.1; or

(iv) the regulations; and

(b) the person fails to comply with the direction—

the Minister may do any or all of the things required by the direction to be done.

(2) Costs or expenses incurred by the Minister under subsection (1) in relation to a direction are—

(a) a debt due to the State by the person subject to the direction; and

(b) recoverable in a court of competent jurisdiction.

(3) If—

(a) a direction under section 623 applies to—

(i) a registered holder; and

(ii) another person; and

(b) an action under subsection (2) relating to the direction is brought against the other person; and

(c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction—

the other person is not liable under subsection (2) unless the plaintiff proves that the other person knew, or could reasonably be expected to have known, of the existence of the direction.

(4) In an action under subsection (2), it is a defence if the defendant took all reasonable steps to comply with the direction.

Division 4—Defence of taking reasonable steps to comply with a direction

627 Defence of taking reasonable steps to comply with a direction

In a prosecution for an offence in relation to noncompliance with a direction given by the Minister under—

(a) Chapter 2; or

(b) this Chapter; or

(c) Part 7.1; or

(d) the regulations—

it is a defence if the defendant took all reasonable steps to comply with the direction.

Part 6.3—Directions relating to greenhouse gas

Division 1—Simplified outline

628 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) The Minister may give a direction to a greenhouse gas titleholder. A direction may extend to other persons.

(3) If there is noncompliance with a direction given by the Minister under Chapter 3, this Chapter or the regulations, the Minister may do anything required by the direction to be done, and the Minister's costs may be recovered from the person to whom the direction was given.

(4) In a prosecution for an offence relating to a noncompliance with a direction given by the Minister under Chapter 3, this Chapter or the regulations, it is a defence if the defendant took all reasonable steps to comply with the direction.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

Division 2—General power to give directions

629 General power to give directions

(1) In this section—

greenhouse gas matter means—

(a) exploring for a potential greenhouse gas storage formation; or

(b) exploring for a potential greenhouse gas injection site; or

(c) the injection of a greenhouse gas substance into the seabed or subsoil of the offshore area; or

(d) the storage of a greenhouse gas substance in the seabed or subsoil of the offshore area;

title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority.

(2) The Minister may, by written notice given to the registered holder of a title, give the registered holder a direction as to any matter in relation to which regulations may be made.

Notes

1 Section 794 is the main provision setting out matters in relation to which regulations may be made.

2 For enforcement, see section 631.

(3) 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, so long as the class consists of, or is included in, either or both of the following classes—

(i) employees 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 (other than the registered holder or a person to whom the direction applies in accordance with paragraph (a)) who is—

(i) in the offshore area for any reason touching, concerning, arising out of, or connected with, a greenhouse gas matter; or

(ii) in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the offshore area for a reason of that kind.

(4) If a direction so expressed is given, the direction is taken to apply to each person included in the specified class mentioned in subsection (3)(a) or to each person who is in the offshore area as mentioned in subsection (3)(b), as the case may be.

Note

For notification requirements, see section 630.

(5) A direction under this section has effect, and must be complied with, despite—

(a) any previous direction under this section; and

(b) anything in the regulations.

(6) A direction under this section 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—

(a) as in force or existing at the time when the direction takes effect; or

(b) as in force or existing from time to time—

so long as the code of practice or standard is relevant to that matter.

(7) To avoid doubt, subsection (6) applies to an instrument, whether issued or made in Australia or outside Australia.

(8) A direction under this section may prohibit the doing of an act or thing—

(a) unconditionally; or

(b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

630 Notification of a direction that has an extended application

(1) If a direction under section 629 applies to—

(a) a registered holder; and

(b) a person referred to in section 629(3)(a)—

the registered holder must cause a copy of the notice by which the direction was given to be—

(c) given to that other person; or

(d) displayed at a prominent position at a place in the offshore area frequented by that other person.

Penalty: 60 penalty units.

(2) If a direction under section 629 applies to—

(a) a registered holder; and

(b) a person referred to in section 629(3)(b)—

the registered holder must cause a copy of the notice by which the direction was given to be displayed at a prominent position at a place in the offshore area.

Penalty: 60 penalty units.

(3) If a direction under section 629 applies to—

(a) a registered holder; and

(b) a person referred to in section 629(3)(b)—

the Minister may, by written notice given to the registered holder, require the registered holder to cause to be displayed—

(c) at such places in the offshore area; and

(d) in such manner—

as are specified in the notice, copies of the notice by which the direction was given.

(4) A registered holder who is given a notice under subsection (3) must comply with the notice.

Penalty: 60 penalty units.

631 Compliance with directions

(1) A person who is given a direction under section 629 must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(2) If—

(a) a direction under section 629 applies to—

(i) a registered holder; and

(ii) another person; and

(b) the other person is prosecuted for an offence against subsection (1) in relation to noncompliance with the direction; and

(c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction—

the other person is not to be convicted of the offence unless the prosecution proves that the other person knew, or could reasonably be expected to have known, of the existence of the direction.

Division 3—Minister may take action if there is noncompliance with a direction

632 Minister may take action if there is noncompliance with a direction

(1) If—

(a) a person is subject to a direction given by the Minister under—

(i) Chapter 3; or

(ii) this Chapter; or

(iii) Part 8.1; or

(iv) the regulations; and

(b) the person does not comply with the direction—

the Minister may do any or all of the things required by the direction to be done.

(2) Costs or expenses incurred by the Minister under subsection (1) in relation to a direction are—

(a) a debt due to the State by the person subject to the direction; and

(b) recoverable in a court of competent jurisdiction.

(3) If—

(a) a direction under section 629 applies to—

(i) a registered holder; and

(ii) another person; and

(b) an action under subsection (2) relating to the direction is brought against the other person; and

(c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction—

the other person is not liable under subsection (2) unless the plaintiff proves that the other person knew, or could reasonably be expected to have known, of the existence of the direction.

(4) In an action under subsection (2), it is a defence if the defendant took all reasonable steps to comply with the direction.

Division 4—Defence of taking reasonable steps to comply with a direction

633 Defence of taking reasonable steps to comply with a direction

In a prosecution for an offence in relation to noncompliance with a direction given by the Minister under—

(a) Chapter 3; or

(b) this Chapter; or

(c) Part 8.1; or

(d) the regulations—

it is a defence if the defendant took all reasonable steps to comply with the direction.

Part 6.4—Restoration of the environment

Division 1—Petroleum

634 Simplified outline

(1) This section sets out a simplified outline of this Division.

(2) The Minister may give remedial directions to petroleum titleholders or former petroleum titleholders about the following matters—

(a) the removal of property;

(b) the plugging or closing off of wells;

(c) the conservation and protection of natural resources;

(d) the making good of damage to the seabed or subsoil.

(3) If there is noncompliance with a remedial direction, the Minister may do anything required by the direction to be done.

(4) If property has not been removed in accordance with a remedial direction, the Minister may direct the owner to remove or dispose of the property.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Division.

635 Remedial directions to current holders of permits, leases and licences

(1) This section applies to—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence.

(2) The Minister may, by written notice given to the registered holder of the permit, lease or licence, direct the holder to do any or all of the following things on or before the applicable date—

(a) to—

(i) remove, or cause to be removed, from the title area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or

(ii) make arrangements that are satisfactory to the Minister in relation to that property—

(b) to plug or close off, to the satisfaction of the Minister, all wells made in the title area by any person engaged or concerned in those operations;

(c) to provide, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the title area;

(d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in the title area caused by any person engaged or concerned in those operations.

Note

1 For ***applicable date*** and ***title area***, see subsection (6).

2 For variation and revocation, see section 41A of the **Interpretation of Legislation Act 1984**.

(3) In attaining a state of satisfaction for the purposes of subsection (2)(b), the Minister—

(a) in the case of a declared petroleum exploration permit, declared petroleum retention lease or declared petroleum production licence—must have regard; or

(b) otherwise—may have regard—

to the principle that plugging or closing off wells should be carried out in a way that restores or maintains the suitability of a part of a geological formation for the permanent storage of greenhouse gas substances.

(4) Subsection (2)(c) has effect subject to—

(a) Chapter 2; and

(b) this Chapter; and

(c) the regulations.

(5) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(6) For the purposes of this section, the table has effect—

Applicable date and title area

Item	*In the case of...*	*the applicable date is...*	*and the title area is...*
1	a petroleum exploration permit	the expiry date of the permit	the permit area.
2	a petroleum retention lease	the expiry date of the lease	the lease area.
3	a fixed-term petroleum production licence	the expiry date of the licence	the licence area.

Applicable date and title area

Item	*In the case of...*	*the applicable date is...*	*and the title area is...*
4	a petroleum production licence that is not a fixed-term petroleum production licence	the first date on which the licence can be terminated under this Act	the licence area.
5	an infrastructure licence	the first date on which the licence can be terminated under this Act	the licence area.
6	a pipeline licence	the first date on which the licence can be terminated under this Act	the part of the offshore area in which the pipeline is constructed.

(7) A notice under subsection (2) need not identify the applicable date as a particular calendar date.

636 Remedial directions to former holders of permits, leases, licences and authorities etc.

(1) This section applies if an event specified in the table has happened—

Scope

Item	*Title*	*Event*
1	Petroleum exploration permit	(a) the permit has been wholly or partly revoked; (b) the permit has been wholly or partly cancelled; (c) the permit has expired.
2	Petroleum retention lease	(a) the lease has been wholly or partly revoked; (b) the lease has been cancelled; (c) the lease has expired.

Scope		
Item	*Title*	*Event*
3	Petroleum production licence	(a) the licence has been wholly or partly revoked; (b) the licence has been wholly or partly cancelled; (c) the licence has been terminated; (d) the licence has expired.
4	Infrastructure licence	(a) the licence has been cancelled; (b) the licence has been terminated.
5	Pipeline licence	(a) the licence has been wholly or partly cancelled; (b) the licence has been wholly or partly terminated.
6	Petroleum special prospecting authority	(a) the authority has been surrendered; (b) the authority has been cancelled; (c) the authority has expired.
7	Petroleum access authority	(a) the authority has been revoked; (b) the authority has been surrendered; (c) the authority has expired.

(2) The Minister may, by written notice given to the person who was, or is, as the case may be, the registered holder of the permit, lease, licence or authority, direct the person to do any or all of the following things within the period specified in the notice—

(a) to—

(i) remove, or cause to be removed, from the vacated area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, lease, licence or authority; or

(ii) make arrangements that are satisfactory to the Minister in relation to that property;

(b) to plug or close off, to the satisfaction of the Minister, all wells made in the vacated area by any person engaged or concerned in those operations;

(c) to provide, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the vacated area;

(d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in the vacated area caused by any person engaged or concerned in those operations.

(3) The period specified in the notice must be reasonable.

(4) In attaining a state of satisfaction for the purposes of paragraph (2)(b), the Minister—

(a) in the case of a declared petroleum exploration permit, declared petroleum retention lease or declared petroleum production licence—must have regard; or

(b) otherwise—may have regard—

to the principle that plugging or closing off wells should be carried out in a way that restores or maintains the suitability of a part of a geological formation for the permanent storage of greenhouse gas substances.

(5) Subsection (2)(c) has effect subject to—

(a) Chapter 2; and

(b) this Chapter; and

(c) the regulations.

(6) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

637 Minister may take action if a direction has not been complied with

(1) This section applies if a direction is given under section 636.

(2) If—

(a) a direction under section 636 has not been complied with in relation to the vacated area; or

(b) an arrangement under section 636 has not been carried out in relation to the vacated area—

the Minister may do any or all of the things required by the direction or arrangement to be done.

(3) If any property brought into the vacated area by any person engaged or concerned in the operations authorised by the permit, lease, licence or authority has not been removed in accordance with—

(a) a direction under section 636 in relation to the vacated area; or

(b) an arrangement under section 636 in relation to the vacated area—

the Minister may, by written notice published in the Government Gazette, direct the owner or owners of that property to—

(c) remove the property from the vacated area; or

(d) dispose of the property to the satisfaction of the Minister—

within the period specified in the notice.

Note

For sanctions, see section 638.

(4) The period specified in the notice must be reasonable.

(5) If a direction is given under subsection (3) in relation to property, the Minister must give a copy of the notice to each person whom the Minister believes to be an owner of the property or of any part of the property.

638 Removal, disposal or sale of property by Minister—noncompliance with direction

(1) If a direction under section 637(3) in relation to property has not been complied with, the Minister may do any or all of the following things—

(a) remove, in such manner as the Minister thinks fit, any or all of that property from the vacated area concerned;

(b) dispose of, in such manner as the Minister thinks fit, any or all of that property;

(c) if, under section 637(5), a person was given a copy of the notice of the direction—sell, by public auction or otherwise, as the Minister thinks fit, any or all of that property that belongs, or that the Minister 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 the Minister believes to belong) to a particular person, the whole or a part of—

(a) any costs and expenses incurred by the Minister under that subsection in relation to that property; and

(b) any costs and expenses incurred by the Minister in relation to the doing of any thing required by a direction under section 636 to be done by that person; and

(c) any fees or amounts payable by that person under this Act, so long as the fee or amount concerned is due and payable.

(3) The proceeds of a sale of property under subsection (1), less any deductions under subsection (2), are to be paid to the owner of the property.

(4) If the Minister incurs any costs or expenses under subsection (1) in relation to the removal, disposal or sale of property, the costs or expenses—

(a) are a debt due by the owner of the property to the State; and

(b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

(5) If the Minister incurs costs or expenses in relation to the doing of anything required by a direction under section 636 to be done by a person who is or was the registered holder of a petroleum exploration permit, petroleum retention lease, petroleum production licence, infrastructure licence, pipeline licence, petroleum special prospecting authority or petroleum access authority, the costs or expenses—

(a) are a debt due by the person to the Minister; and

(b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

Division 2—Greenhouse gas

639 Simplified outline

(1) This section sets out a simplified outline of this Division.

(2) The Minister may give remedial directions to greenhouse gas titleholders or former greenhouse gas titleholders about the following matters—

(a) the removal of property;

(b) the plugging or closing off of wells;

(c) the conservation and protection of natural resources;

(d) the making good of damage to the seabed or subsoil.

(3) The Minister may give site closing directions to greenhouse gas injection licensees.

(4) If there is noncompliance with a direction, the Minister may do anything required by the direction to be done.

(5) If property has not been removed in accordance with a direction, the Minister may direct the owner to remove or dispose of the property.

(6) This section is intended only as a guide to readers as to the general scheme and effect of this Division.

640 Remedial directions to current holders of permits, leases and licences

(1) This section applies to—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence, if no operations for the injection of a greenhouse gas substance into an identified greenhouse gas storage formation have been carried on under the licence.

(2) The Minister may, by written notice given to the registered holder of the permit, lease or licence, direct the holder to do any or all of the following things on or before the applicable date—

(a) to—

(i) remove, or cause to be removed, from the title area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or

(ii) make arrangements that are satisfactory to the Minister in relation to that property—

(b) to plug or close off, to the satisfaction of the Minister, all wells made in the title area by any person engaged or concerned in those operations;

(c) to provide, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the title area;

(d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in the title area caused by any person engaged or concerned in those operations.

Notes

1 For ***applicable date*** and ***title area***, see subsection (6).

2 For variation and revocation, see section 41A of the **Interpretation of Legislation Act 1984**.

(3) Subsection (2)(c) has effect subject to—

(a) Chapter 3; and

(b) this Chapter; and

(c) the regulations.

(4) In attaining a state of satisfaction for the purposes of subsection (2)(b), the Minister must have regard to the principle that plugging or closing off wells should be carried out in a way that minimises damage to the petroleum-bearing qualities of geological formations.

(5) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(6) For the purposes of this section, the table has effect—

Applicable date and title area

Item	*In the case of...*	*the applicable date is...*	*and the title area is...*
1	a greenhouse gas assessment permit	the expiry date of the permit	the permit area.
2	a greenhouse gas holding lease (other than a special greenhouse gas holding lease)	the expiry date of the lease	the lease area.

Applicable date and title area			
Item	*In the case of...*	*the applicable date is...*	*and the title area is...*
3	a special greenhouse gas holding lease	the date determined, in writing, by the Minister	the lease area.
4	a greenhouse gas injection licence	the first date on which the licence can be terminated under this Act	the licence area.

(7) A notice under subsection (2) need not identify the applicable date as a particular calendar date.

641 Site closing directions to current holders of greenhouse gas injection licences

(1) This section applies if—

(a) an identified greenhouse gas storage formation is specified in a greenhouse gas injection licence; and

(b) operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation have been carried on under the licence; and

(c) the Minister is satisfied that operations for the injection of a greenhouse gas substance into the identified greenhouse gas storage formation have ceased; and

(d) any of the following conditions is satisfied—

(i) an application has been made for a site closing certificate in relation to the identified greenhouse gas storage formation;

(ii) the licensee has breached the requirement imposed by section 415(1) to make an application for a site closing certificate in relation to the identified greenhouse gas storage formation;

(iii) the licensee has not complied with a direction under section 416(1) to make an application for a site closing certificate in relation to the identified greenhouse gas storage formation.

(2) The Minister may, by written notice given to the registered holder of the licence, direct the holder to do any or all of the following things within the period specified in the notice—

(a) to—

(i) remove, or cause to be removed, from the licence area all property brought into that area by any person engaged or concerned in the operations authorised by the licence; or

(ii) make arrangements that are satisfactory to the Minister in relation to that property;

(b) to plug or close off, to the satisfaction of the Minister, all wells made in the licence area, whether or not those wells were made by a person engaged or concerned in those operations;

(c) to provide, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the licence area;

(d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in the licence area (whether or not caused by any person engaged or concerned in those operations);

(e) to carry out such operations as are specified in the notice for the monitoring of the behaviour of a greenhouse gas substance stored in the identified greenhouse gas storage formation concerned;

(f) to undertake such activities as are specified in the notice for the purpose of—

(i) eliminating; or

(ii) mitigating; or

(iii) managing; or

(iv) remediating—

the risk that a greenhouse gas substance injected into the identified greenhouse gas storage formation will have a significant adverse impact on—

(v) navigation; or

(vi) fishing; or

(vii) any activities being lawfully carried on, or that could be lawfully carried on, by way of the construction or operation of a pipeline; or

(viii) the enjoyment of native title rights (within the meaning of the Native Title Act 1993 of the Commonwealth); or

(ix) the conservation or exploitation of natural resources (whether in the offshore area or elsewhere); or

(x) the geotechnical integrity of the whole or a part of a geological formation or geological structure; or

(xi) the environment; or

(xii) human health or safety;

(g) to undertake such activities as are specified in the notice for the purpose of—

(i) ensuring; or

(ii) increasing the likelihood—

that a greenhouse gas substance injected into the identified greenhouse gas storage formation will behave as predicted in Part A of the approved site plan for the identified greenhouse gas storage formation.

Note

For variation and revocation, see section 41A of the **Interpretation of Legislation Act 1984**.

(3) The period specified in the notice must be reasonable.

(4) Subsection (2)(c) has effect subject to—

(a) Chapter 3; and

(b) this Chapter; and

(c) the regulations.

(5) Subsection (2)(a), (b), (c), (d) and (e) do not limit subsection (2)(f) or (g).

(6) In attaining a state of satisfaction for the purposes of subsection (2)(b), the Minister must have regard to the principle that plugging or closing off wells should be carried out in a way that minimises damage to the petroleum-bearing qualities of geological formations.

(7) A subsection (2)(f) or (g) direction may require the registered holder of the licence to do something—

(a) in the licence area; or

(b) in the offshore area but outside the licence area.

(8) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(9) To avoid doubt, the powers conferred on the Minister by this section do not limit the powers conferred on the Minister by any other provision of this Act.

642 Consultation—directions

S. 642 (Heading) amended by No. 26/2021 s. 41(1).

(1) This section applies if—

(a) the Minister proposes to give a direction under section 641 to a greenhouse gas injection licensee; and

(b) the direction requires the licensee to do something in an area (the ***action area***); and

S. 642(1)(b) amended by No. 26/2021 s. 41(2).

(c) the action area is, to any extent, the subject of—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a petroleum exploration permit; or

(vi) a petroleum retention lease; or

(vii) a petroleum production licence; or

(viii) a petroleum special prospecting authority; and

(d) the licensee mentioned in paragraph (a) is not the registered holder of the permit, lease, licence or authority mentioned in paragraph (c); and

(e) the registered holder of the permit, lease, licence or authority mentioned in paragraph (c) has not given written consent to the giving of the direction.

(2) Before giving the direction, the Minister must—

(a) by written notice given to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c), give at least 30 days notice of the Minister's intention to give the direction; and

(b) give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(3) The notice must—

(a) set out details of the direction that is proposed to be given; and

S. 642(3)(b) amended by No. 55/2010 s. 80(5).

(b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Minister about the proposal; and

(c) specify a time limit for making that submission.

(4) In deciding whether to give the direction, the Minister must take into account any submissions made in accordance with the notice.

(5) However, if the Minister is satisfied that the direction is required to deal with an emergency—

(a) subsections (2), (3) and (4) do not apply to the direction; and

(b) as soon as practicable after the direction is given, the Minister must give a copy of the direction to the registered holder of the permit, lease, licence or authority mentioned in subsection (1)(c).

643 Remedial directions to former holders of permits, leases, licences and authorities etc.

(1) This section applies if an event specified in the table has happened—

Scope		
Item	*Title*	*Event*
1	Greenhouse gas assessment permit	(a) the permit has been cancelled; (b) the permit has expired.
2	Greenhouse gas holding lease (other than a special greenhouse gas holding lease)	(a) the lease has been cancelled; (b) the lease has expired.
3	Special greenhouse gas holding lease	the lease has been cancelled.
4	Greenhouse gas injection licence	(a) the licence has been cancelled; (b) the licence has been terminated.
5	Greenhouse gas search authority	(a) the authority has been surrendered; (b) the authority has been cancelled; (c) the authority has expired.
6	Greenhouse gas special authority	(a) the authority has been revoked; (b) the authority has been surrendered; (c) the authority has expired.

(2) The Minister may, by written notice given to the person who was, or is, as the case may be, the registered holder of the permit, lease, licence or authority, direct the person to do any or all of the following things within the period specified in the notice—

(a) to—

(i) remove, or cause to be removed, from the vacated area all property brought into that area by any person engaged or concerned in the operations authorised

by the permit, lease, licence or authority; or

(ii) make arrangements that are satisfactory to the Minister in relation to that property;

(b) to plug or close off, to the satisfaction of the Minister, all wells made in the vacated area by any person engaged or concerned in those operations;

(c) to provide, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the vacated area;

(d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in the vacated area caused by any person engaged or concerned in those operations.

(3) The period specified in the notice must be reasonable.

(4) Subsection (2)(c) has effect subject to—

(a) Chapter 3; and

(b) this Chapter; and

(c) the regulations.

(5) In attaining a state of satisfaction for the purposes of subsection (2)(b), the Minister must have regard to the principle that plugging or closing off wells should be carried out in a way that minimises damage to the petroleum-bearing qualities of geological formations.

(6) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

644 Minister may take action if a direction has not been complied with

(1) This section applies if a direction is given under section 641 or 643.

(2) If—

(a) a direction under section 641 has not been complied with; or

(b) an arrangement under section 641 has not been carried out in relation to the licence area; or

(c) a direction under section 643 has not been complied with in relation to the vacated area; or

(d) an arrangement under section 643 has not been carried out in relation to the vacated area—

the Minister may do any or all of the things required by the direction or arrangement to be done.

(3) If—

(a) a direction is given under section 641; and

(b) any property brought into the licence area by any person engaged or concerned in the operations authorised by the licence has not been removed in accordance with—

(i) the direction; or

(ii) an arrangement under section 641 in relation to the licence area—

the Minister may, by written notice published in the Government Gazette, direct the owner or owners of that property to—

(c) remove the property from the licence area; or

(d) dispose of the property to the satisfaction of the Minister—

within the period specified in the notice.

Note

For sanctions, see section 645.

(4) If—

(a) a direction is given under section 643; and

(b) any property brought into the vacated area by any person engaged or concerned in the operations authorised by the permit, lease, licence or authority has not been removed in accordance with—

(i) a direction under section 643 in relation to the vacated area; or

(ii) an arrangement under section 643 in relation to the vacated area—

the Minister may, by written notice published in the Government Gazette, direct the owner or owners of that property to—

(c) remove the property from the vacated area; or

(d) dispose of the property to the satisfaction of the Minister—

within the period specified in the notice.

Note

For sanctions, see section 645.

(5) The period specified in the notice must be reasonable.

(6) If a direction is given under subsection (3) or (4) in relation to property, the Minister must give a copy of the notice to each person whom the Minister believes to be an owner of the property or of any part of the property.

645 Removal, disposal or sale of property by Minister—noncompliance with a direction

(1) If a direction under section 644(3) or (4) in relation to property has not been complied with, the Minister may do any or all of the following things—

(a) in the case of a direction under section 644(3)—remove, in such manner as the Minister thinks fit, any or all of that property from the licence area concerned;

(b) in the case of a direction under section 644(4)—remove, in such manner as the Minister thinks fit, any or all of that property from the vacated area concerned;

(c) dispose of, in such manner as the Minister thinks fit, any or all of that property;

(d) if, under section 644(6), a person was given a copy of the notice of the direction—sell, by public auction or otherwise, as the Minister thinks fit, any or all of that property that belongs, or that the Minister 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 the Minister believes to belong) to a particular person, the whole or a part of—

(a) any costs and expenses incurred by the Minister under that subsection in relation to that property; and

(b) any costs and expenses incurred by the Minister in relation to the doing of any thing required by a direction under section 641 or 643 to be done by that person; and

(c) any fees or amounts payable by that person under this Act, so long as the fee or amount concerned is due and payable.

(3) The proceeds of a sale of property under subsection (1), less any deductions under subsection (2), are to be paid to the owner of the property.

(4) If the Minister incurs any costs or expenses under subsection (1) in relation to the removal, disposal or sale of property, the costs or expenses—

(a) are a debt due by the owner of the property to the State; and

(b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

(5) If the Minister incurs costs or expenses in relation to the doing of anything required by a direction under section 641 or 643 to be done by a person who is or was the registered holder of a greenhouse gas assessment permit, greenhouse gas holding lease, greenhouse gas injection licence, greenhouse gas search authority or greenhouse gas special authority, the costs or expenses—

(a) are a debt due by the person to the State; and

(b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

Part 6.5—Offences and enforcement

Division 1—Petroleum

646 Simplified outline

(1) This section sets out a simplified outline of this Division.

(2) The Minister or the Chief Executive Officer of NOPSEMA may appoint petroleum project inspectors, and the petroleum project inspectors may exercise powers of access, inspection and entry for the purposes of this Act and the regulations.

S. 646(2) amended by No. 74/2012 s. 7.

(3) A person must not interfere with offshore petroleum installations or operations.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Division.

647 Appointment of petroleum project inspectors

S. 647 substituted by No. 74/2012 s. 8.

(1) The Chief Executive Officer of NOPSEMA may, by writing, appoint a person specified in subsection (3) to be a petroleum project inspector to exercise powers or perform functions under this Act or the regulations in relation to the structural integrity of—

(a) facilities within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(b) wells or well-related equipment used for the purposes of offshore petroleum operations within the meaning of Part 6.9.

(2) The Minister may, by writing, appoint a person specified in subsection (3) to be a petroleum project inspector to exercise powers or perform

functions under this Act and the regulations, except in relation to the structural integrity of—

(a) facilities within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(b) wells or well-related equipment used for the purposes of offshore petroleum operations within the meaning of Part 6.9.

(3) For the purposes of subsections (1) and (2), the following persons are specified—

(a) an officer or employee of the Commonwealth, the State, another State or a Territory; or

(b) an officer or employee of an authority of the Commonwealth, the State, another State or a Territory.

S. 647A inserted by No. 74/2012 s. 8.

647A NOPSEMA must issue identity cards to petroleum project inspectors

(1) NOPSEMA must issue an identity card to a petroleum project inspector appointed under section 647(1).

(2) An identity card issued under subsection (1) must contain a recent photograph of the petroleum project inspector.

(3) A person appointed under section 647(1) who ceases to be a petroleum project inspector must immediately return the identity card to—

(a) NOPSEMA; or

(b) if NOPSEMA, by written notice given to the person, specifies another person to whom the card is to be returned—that other person.

Penalty: 5 penalty units.

(4) Subsection (3) does not apply if the identity card was lost or destroyed.

(5) A petroleum project inspector appointed under section 647(1) must carry the identity card at all times when exercising powers, or performing functions, under this Act or the regulations as a petroleum project inspector.

648 Minister must issue identity cards to petroleum project inspectors

S. 648 (Heading) amended by No. 74/2012 s. 9(1).

(1) The Minister must issue an identity card to a petroleum project inspector appointed under section 647(2).

S. 648(1) amended by No. 74/2012 s. 9(2).

(2) An identity card issued under subsection (1) must contain a recent photograph of the petroleum project inspector.

(3) A person appointed under section 647(2) who ceases to be a petroleum project inspector must immediately return the identity card to—

S. 648(3) amended by No. 74/2012 s. 9(3).

(a) the Minister; or

(b) if the Minister, by written notice given to the person, specifies another person to whom the card is to be returned—that other person.

Penalty: 5 penalty units.

(4) Subsection (3) does not apply if the identity card was lost or destroyed.

(5) A petroleum project inspector appointed under section 647(2) must carry the identity card at all times when exercising powers, or performing functions, under this Act or the regulations as a petroleum project inspector.

S. 648(5) amended by No. 74/2012 s. 9(4).

649 Monitoring powers of petroleum project inspectors

(1) For the purposes of this Act and the regulations, a petroleum project inspector may, at all reasonable times and on production of the petroleum project inspector's identity card, exercise the powers conferred by subsection (2).

(2) The powers a petroleum project inspector may exercise under this section are as follows—

(a) to have access to any part of the offshore area;

(b) to have access to any structure, vessel, aircraft or building in the offshore area that the petroleum project inspector has reasonable grounds to believe has been, is being or is to be used in connection with any of the following operations in the offshore area—

(i) petroleum exploration operations;

(ii) petroleum recovery operations;

(iii) operations relating to the processing or storage of petroleum;

(iv) operations relating to the preparation of petroleum for transport;

(v) operations connected with the construction or operation of a pipeline;

(c) to inspect and test any equipment that the petroleum project inspector has reasonable grounds to believe has been, is being or is to be used in the offshore area in connection with any of those operations;

(d) to enter any structure, vessel, aircraft, building or place that is in—

(i) the offshore area; or

(ii) the State—

and in which the petroleum project inspector has reasonable grounds to believe there are any documents relating to any of those operations, and to inspect, take extracts from and make copies of any of those documents.

650 Entry into residential premises

(1) A petroleum project inspector may exercise powers under section 649(2)(d) to enter residential premises only—

(a) in accordance with a warrant issued under section 653; or

(b) after obtaining the consent of the occupier of the premises.

(2) If—

(a) a petroleum project inspector enters residential premises in accordance with a warrant issued under section 653; and

(b) the occupier of the premises is present at the premises—

the petroleum project inspector must make available to the occupier a copy of the warrant or a copy of the form of the warrant.

(3) Before obtaining the consent of a person as mentioned in subsection (1)(b), a petroleum project inspector must inform the person that the person may refuse consent.

(4) A consent of a person is not effective for the purposes of subsection (1) unless the consent is voluntary.

651 Facilities and assistance to be provided by occupier or person in charge

(1) A petroleum project inspector may direct, orally or in writing, a person who is—

(a) the occupier or person in charge of any building, structure or place referred to in section 649(2); or

(b) the person in charge of any vessel, aircraft or equipment referred to in that subsection—

to provide the inspector all reasonable facilities and assistance to enable the inspector to effectively exercise his or her powers under that section.

(2) A person who is given a direction under subsection (1) must not without reasonable excuse contravene the direction.

Penalty: 60 penalty units.

652 Obstructing or hindering a petroleum project inspector

(1) A person must not obstruct or hinder a petroleum project inspector in the exercise of the petroleum project inspector's powers under this Division.

Penalty: 60 penalty units.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

653 Warrants to enter residential premises

(1) A petroleum project inspector may apply to a magistrate for a warrant authorising the petroleum project inspector, with such assistance as the petroleum project inspector thinks necessary, to exercise the power referred to in section 649(2)(d) in relation to particular residential premises.

(2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the petroleum project 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 authorising the petroleum project inspector and any assistants the inspector thinks necessary to—

S. 653(3) amended by No. 55/2010 s. 80(6)(a)(b).

(a) enter the residential premises or the part of residential premises named or described in the warrant; and

S. 653(3)(a) amended by No. 55/2010 s. 80(6)(c).

(b) exercise the power referred to in section 649(2)(d) in those residential premises or that part of the residential premises.

(4) In addition to any other requirement, a warrant issued under this section must state—

(a) the name of the petroleum project 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) any conditions to which the warrant is subject; and

(e) the purposes for which the warrant is issued.

(5) The day specified under subsection (4)(c) is not to be more than 7 days after the day on which the warrant is issued.

(6) The purposes specified under subsection (4)(e) must include the identification of the premises in relation to which the warrant is issued.

(7) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in a form set out in the regulations under that Act.

(8) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

654 Interfering with offshore petroleum installations or operations

(1) A person must not intentionally damage—

(a) any structure or vessel that is in the offshore area and that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or

(b) any equipment on, or attached to, a structure or vessel referred to in paragraph (a).

Penalty: Imprisonment for 10 years.

(2) A person must not intentionally interfere with—

(a) any structure or vessel that is in the offshore area and that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or

(b) any equipment on, or attached to, a structure or vessel referred to in paragraph (a); or

(c) any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, a structure or vessel referred to in paragraph (a).

Penalty: Imprisonment for 10 years.

(3) In this section—

structure means any fixed, moveable or floating structure or installation, and includes a petroleum pipeline, petroleum pumping station, petroleum tank station or petroleum valve station.

Division 2—Greenhouse gas

655 Simplified outline

(1) This section sets out a simplified outline of this Division.

(2) The Minister may appoint greenhouse gas project inspectors, and the greenhouse gas project inspectors may exercise powers of access, inspection and entry for the purposes of this Act and the regulations.

(3) A person must not interfere with greenhouse gas installations or operations.

(4) This section is intended only as a guide to readers as to the general scheme and effect of this Division.

656 Appointment of greenhouse gas project inspectors

The Minister may, by writing, appoint a person to be a greenhouse gas project inspector if—

(a) the person is an officer, or employee, of—

(i) the Commonwealth, the State, another State or a Territory; or

(ii) an authority of the Commonwealth, the State, another State or a Territory; or

(b) the person is not covered by paragraph (a), but the Minister is satisfied that the person has the knowledge, skills and experience to be a greenhouse gas project inspector.

657 Identity cards of greenhouse gas project inspectors

(1) The Minister must issue an identity card to a greenhouse gas project inspector.

(2) An identity card issued under subsection (1) must contain a recent photograph of the greenhouse gas project inspector.

(3) A person who ceases to be a greenhouse gas project inspector must immediately return the identity card to—

(a) the Minister; or

(b) if the Minister, by written notice given to the person, specifies another person to whom the card is to be returned—that other person.

Penalty: 5 penalty units.

(4) Subsection (3) does not apply if the identity card was lost or destroyed.

(5) A greenhouse gas project inspector must carry the identity card at all times when exercising powers, or performing functions, under this Act or the regulations as a greenhouse gas project inspector.

658 Monitoring powers of greenhouse gas project inspectors

(1) For the purposes of this Act and the regulations, a greenhouse gas project inspector may, at all reasonable times and on production of the greenhouse gas project inspector's identity card, exercise the powers conferred by subsection (2).

(2) The powers a greenhouse gas project inspector may exercise under this section are as follows—

(a) to have access to any part of the offshore area;

(b) to have access to any structure, vessel, aircraft or building in the offshore area that the greenhouse gas project inspector has reasonable grounds to believe has been, is being or is to be used in connection with any of the following operations in the offshore area—

(i) operations relating to exploration for a potential greenhouse gas storage formation or a potential greenhouse gas injection site;

(ii) operations relating to the injection of a greenhouse gas substance into the seabed or subsoil;

(iii) operations relating to the storage of a greenhouse gas substance in the seabed or subsoil;

(iv) operations relating to the processing, compression or pre-injection storage of a greenhouse gas substance;

(v) operations relating to the preparation of a greenhouse gas substance for transport;

(c) to inspect and test any equipment that the greenhouse gas project inspector has reasonable grounds to believe has been, is being or is to be used in the offshore area in connection with any of those operations;

(d) to enter any structure, vessel, aircraft, building or place that is in—

(i) the offshore area; or

(ii) the State—

and in which the greenhouse gas project inspector has reasonable grounds to believe there are any documents relating to any of

those operations, and to inspect, take extracts from and make copies of any of those documents.

659 Entry into residential premises

(1) A greenhouse gas project inspector may exercise powers under section 658(2)(d) to enter residential premises only—

(a) in accordance with a warrant issued under section 662; or

(b) after obtaining the consent of the occupier of the premises.

(2) If—

(a) a greenhouse gas project inspector enters residential premises in accordance with a warrant issued under section 662; and

(b) the occupier of the premises is present at the premises—

the greenhouse gas project inspector must make available to the occupier a copy of the warrant or a copy of the form of the warrant.

(3) Before obtaining the consent of a person as mentioned in subsection (1)(b), a greenhouse gas project inspector must inform the person that the person may refuse consent.

(4) A consent of a person is not effective for the purposes of subsection (1) unless the consent is voluntary.

660 Facilities and assistance to be provided by occupier or person in charge

(1) A greenhouse gas project inspector may direct, orally or in writing, a person who is—

(a) the occupier or person in charge of any building, structure or place referred to in section 658(2); or

(b) the person in charge of any vessel, aircraft or equipment referred to in that subsection—

to provide the inspector all reasonable facilities and assistance to enable the inspector to effectively exercise his or her powers under that section.

(2) A person who is given a direction under subsection (1) must not without reasonable excuse contravene the direction.

Penalty: 60 penalty units.

661 Obstructing or hindering a greenhouse gas project inspector

(1) A person must not obstruct or hinder a greenhouse gas project inspector in the exercise of the greenhouse gas project inspector's powers under this Division.

Penalty: 120 penalty units.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

662 Warrants to enter residential premises

(1) A greenhouse gas project inspector may apply to a magistrate for a warrant authorising the greenhouse gas project inspector, with such assistance as the greenhouse gas project inspector thinks necessary, to exercise the power referred to in section 658(2)(d) in relation to particular residential premises.

(2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the greenhouse gas project inspector is applying for the warrant.

S. 662(3) amended by No. 55/2010 s. 80(7)(a).

(3) If the magistrate is satisfied that there are reasonable grounds for issuing the warrant, the magistrate may issue the warrant authorising the greenhouse gas project inspector and any assistants the inspector thinks necessary to—

S. 662(3)(a) amended by No. 55/2010 s. 80(7)(b).

(a) enter the residential premises or the part of residential premises named or described in the warrant; and

(b) exercise the power referred to in section 658(2)(d) in those residential premises or that part of the residential premises.

(4) In addition to any other requirement, a warrant issued under this section must state—

(a) the name of the greenhouse gas project 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) any conditions to which the warrant is subject; and

(e) the purposes for which the warrant is issued.

(5) The day specified under subsection (4)(c) is not to be more than 7 days after the day on which the warrant is issued.

(6) The purposes specified under subsection (4)(e) must include the identification of the premises in relation to which the warrant is issued.

(7) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in a form set out in the regulations under that Act.

(8) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

663 Interfering with greenhouse gas installations or operations

(1) A person must not intentionally damage—

(a) any structure or vessel that is in the offshore area and that is, or is to be, used in greenhouse gas operations in that area; or

S. 663(1)(a) amended by No. 55/2010 s. 80(8).

(b) any equipment on, or attached to, a structure or vessel referred to in paragraph (a).

Penalty: Imprisonment for 10 years.

(2) A person must not intentionally interfere with—

(a) any structure or vessel that is in the offshore area and that is, or is to be, used in greenhouse gas operations in that area; or

(b) any equipment on, or attached to, a structure or vessel referred to in paragraph (a); or

(c) any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, a structure or vessel referred to in paragraph (a).

Penalty: Imprisonment for 10 years.

(3) In this section—

greenhouse gas operations means—

(a) operations relating to exploration for a potential greenhouse gas formation or a potential greenhouse gas injection site; or

(b) operations relating to the injection of a greenhouse gas substance into the seabed or subsoil; or

(c) operations relating to the storage of a greenhouse gas substance in the seabed or subsoil; or

(d) operations relating to the processing, compression or pre-injection storage of a greenhouse gas substance; or

(e) operations relating to the preparation of a greenhouse gas substance for transport;

structure means any fixed, moveable or floating structure or installation, and includes a greenhouse gas pipeline, greenhouse gas pumping station, greenhouse gas tank station or greenhouse gas valve station.

Part 6.6—Safety zones and the area to be avoided

Division 1—Introduction

664 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) NOPSEMA may prohibit certain vessels from entering or being present in an area (called a ***petroleum safety zone***) surrounding a petroleum well, a structure, or an item of equipment, in the offshore area.

S. 664(2) amended by No. 74/2012 s. 10(1).

(3) The Minister may prohibit certain vessels from entering or being present in an area (called a ***greenhouse gas safety zone***) surrounding a greenhouse gas well, a structure, or an item of equipment, in the offshore area.

(4) The ***area to be avoided*** is the part of the area described in Schedule 2 within the coastal waters of Victoria or within any area on the landward side of those coastal waters, but does not include a safety zone.

S. 664(4) substituted by No. 74/2012 s. 10(2).

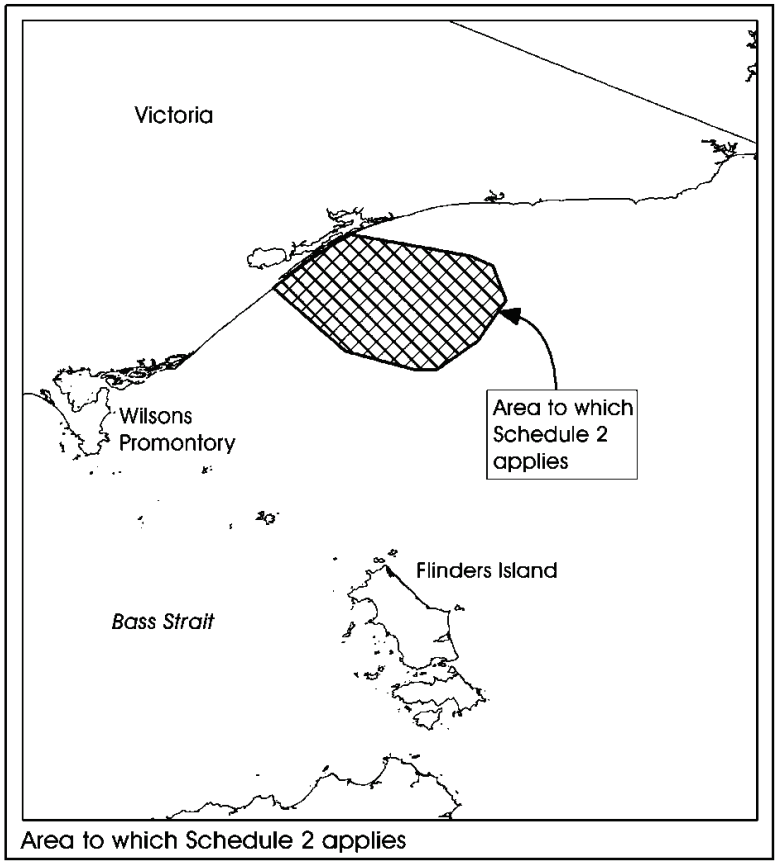
(5) A vessel must not enter or be present in the area to be avoided unless authorised to do so under this Part.

(6) An authorised person may exercise powers for the purposes of the enforcement of this Part.

(7) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

665 Simplified map of the area to which Schedule 2 applies

This section sets out a simplified map illustrating the area to which Schedule 2 applies.



666 Definitions

In this Part—

S. 666 def. of *area to be avoided* amended by No. 74/2012 s. 11(1).

area to be avoided means so much of the area to which Schedule 2 applies as comprises waters of the sea that—

(a) are within the coastal waters of Victoria or within any area on the landward side of those coastal waters; and

(b) are not within a safety zone;

authorised person has the meaning given by section 667;

exempt vessel, in relation to a safety zone, means a vessel—

S. 666 def. of *exempt vessel* amended by No. 74/2012 s. 11(2).

(a) in the case of a petroleum safety zone—that is excluded from the operation of section 668 in relation to that safety zone because—

(i) the vessel is specified in the notice establishing the safety zone; or

(ii) the vessel is included in a class of vessels specified in the notice establishing the safety zone; or

(b) in the case of a petroleum safety zone—for which a written consent of NOPSEMA under section 668(1) is in force in relation to the safety zone; or

(c) in the case of a greenhouse gas safety zone—that is excluded from the operation of section 670 in relation to that safety zone because—

(i) the vessel is specified in the notice establishing the safety zone; or

(ii) the vessel is included in a class of vessels specified in the notice establishing the safety zone; or

(d) in the case of a greenhouse gas safety zone—for which a written consent of the Minister under section 670(1) is in force in relation to the safety zone;

foreign-flag vessel means a vessel that—

(a) under the law of a foreign country, is entitled to fly the flag of that country; and

(b) is flying that flag;

government body means—

(a) the State, the Commonwealth, another State or a Territory; or

(b) a body corporate established for a public purpose by or under a law of the State, the Commonwealth or of another State or a Territory, other than—

(i) the Western Australian Coastal Shipping Commission; or

(ii) the Transport Commission established under the Transport Act 1981 of Tasmania; or

(iii) 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;

Government vessel means—

(a) a vessel that is beneficially owned by a government body; or

(b) a vessel the whole possession and control of which is for the time being vested in a government body;

greenhouse gas safety zone means an area specified in a notice under section 670;

greenhouse gas well means a hole in the seabed or subsoil made by drilling, boring or any other means in connection with—

(a) exploration for potential greenhouse gas storage formations; or

(b) exploration for potential greenhouse gas injection sites; or

(c) the injection of a greenhouse gas substance into an identified greenhouse gas storage formation; or

(d) the injection, on an appraisal basis, of—

(i) a greenhouse gas substance; or

(ii) air; or

(iii) petroleum; or

(iv) water—

into a part of a geological formation;

master, in relation to a vessel, means the person having command or charge of the vessel;

owner, in relation to a vessel, means—

(a) if the vessel is being operated by a person who—

(i) does not own the vessel; and

(ii) has the whole possession and control of the vessel—

the person operating the vessel; or

(b) in any other case—the person who owns the vessel;

petroleum safety zone means an area that is specified in a notice under section 668(1);

petroleum well means a hole in the seabed or subsoil made by drilling, boring or any other means in connection with—

(a) exploration for petroleum; or

(b) petroleum recovery operations—

but does not include a seismic shot hole;

prescribed safety zone means a safety zone that is situated within any part of the area to which Schedule 2 applies that comprises waters of the sea that are within the offshore area or within any area on the landward side of the offshore area;

relevant vessel means—

(a) a vessel that satisfies the following conditions—

(i) the vessel is registered under the Shipping Registration Act 1981 of the Commonwealth;

(ii) the gross tonnage of the vessel specified in the certificate of registration of the vessel exceeds 200;

(iii) the vessel is not a Government vessel; or

(b) a vessel that satisfies the following conditions—

(i) the vessel is not registered under the Shipping Registration Act 1981 of the Commonwealth;

(ii) the vessel is permitted to be registered under that Act;

(iii) the vessel is not a foreign-flag vessel;

(iv) the tonnage length of the vessel equals or exceeds 24 metres (for this purpose, the tonnage length is to be determined in the same manner as it is determined for the purposes of that Act);

(v) the vessel is not a Government vessel; or

(c) a vessel that satisfies the following conditions—

(i) the vessel is not a vessel to which paragraph (a) or (b) applies;

(ii) the vessel is in the offshore area for the purpose of exploring the seabed or subsoil of the offshore area for petroleum or minerals or for the purpose of exploiting the petroleum or minerals which occur as natural resources of that seabed or subsoil;

(iii) the vessel is not a Government vessel; or

(d) a vessel that satisfies the following conditions—

(i) the vessel is not a vessel to which paragraph (a) or (b) applies;

(ii) the vessel is in the offshore area for the purpose of exploring the seabed or subsoil of the offshore area for a potential greenhouse gas storage formation or a potential greenhouse gas injection site;

(iii) the vessel is not a Government vessel; or

(e) a vessel that satisfies the following conditions—

(i) the vessel is not a vessel to which paragraph (a) or (b) applies;

(ii) the vessel is in the offshore area for purposes relating to the injection of a greenhouse gas substance into, or the storage of a greenhouse gas substance in, the seabed or subsoil of the offshore area;

(iii) the vessel is not a Government vessel;

safety zone means—

(a) a greenhouse gas safety zone; or

(b) a petroleum safety zone;

terrorist activity includes an activity involving extortion.

667 Authorised persons

(1) For the purposes of this Part, an ***authorised person*** is—

(a) a member or special member of the Australian Federal Police; or

S. 667(1)(b) substituted by No. 37/2014 s. 10(Sch. item 118.1).

(b) a police officer within the meaning of the **Victoria Police Act 2013** or a member of the police force or police service of another State or a Territory; or

(c) a member of the Australian Defence Force; or

(d) a person who is an authorised person because of a declaration under subsection (2).

(2) The Minister or NOPSEMA may, by notice published in the Government Gazette, declare that a person, or a person included in a specified class of persons, is an authorised person for the purposes of this Part.

S. 667(2) amended by No. 74/2012 s. 12.

Division 2—Petroleum safety zones

668 Petroleum safety zones

(1) For the purpose of protecting a petroleum well, a structure, or any equipment, in the offshore area, NOPSEMA may, by notice published in the Government Gazette, prohibit—

S. 668(1) amended by No. 74/2012 s. 13.

(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 being present in a specified area (the ***petroleum safety zone***) surrounding the petroleum well, structure or equipment without the written consent of NOPSEMA.

(2) A petroleum safety zone specified in a notice under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the notice, where that distance is measured from each point of the outer edge of the well, structure or equipment.

669 Offences in relation to entering or being present in petroleum safety zones

(1) The owner or master—

(a) of a vessel that enters or is present in a petroleum safety zone in contravention of a notice under section 668(1) that prohibits that vessel from entering or being present in that zone; and

(b) who intended that the vessel enter or be present in that zone—

is guilty of an offence and liable to a term of imprisonment not exceeding 15 years.

(2) The owner or master of a vessel who is reckless as to whether the vessel enters or is present in a petroleum safety zone in contravention of a notice under section 668(1) that prohibits that vessel from entering or being present in that zone is guilty of an offence and liable to a term of imprisonment not exceeding 10 years.

(3) The owner or master of a vessel who is negligent as to whether the vessel enters or is present in a petroleum safety zone in contravention of a notice under section 668(1) that prohibits that vessel from entering or being present in that zone is guilty of an offence and liable to a term of imprisonment not exceeding 5 years.

Division 3—Greenhouse gas safety zones

670 Greenhouse gas safety zones

(1) For the purpose of protecting a greenhouse gas well, a structure, or any equipment, in the offshore area, the Minister may, by notice published in the Government 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 being present in a specified area (the ***greenhouse gas safety zone***) surrounding the greenhouse gas well, structure or equipment without the written consent of the Minister.

(2) A greenhouse gas safety zone specified in a notice under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the notice, where that distance is measured from each point of the outer edge of the well, structure or equipment.

671 Offences in relation to entering or being present in greenhouse gas safety zones

(1) The owner or master—

(a) of a vessel that enters or is present in a greenhouse gas safety zone in contravention of a notice under section 670(1) that prohibits that vessel from entering or being present in that zone; and

(b) who intended that the vessel enter or be present in that zone—

is guilty of an offence and liable to a term of imprisonment not exceeding 15 years.

(2) The owner or master of a vessel who is reckless as to whether the vessel enters or is present in a greenhouse gas safety zone in contravention of a notice under section 670(1) that prohibits that vessel from entering or being present in that zone is guilty of an offence and liable to a term of imprisonment not exceeding 10 years.

(3) The owner or master of a vessel who is negligent as to whether the vessel enters or is present in a greenhouse gas safety zone in contravention of a notice under section 670(1) that prohibits that vessel from entering or being present in that zone is guilty of an offence and liable to a term of imprisonment not exceeding 5 years.

Division 4—Unauthorised vessel not to enter area to be avoided

672 NOPSEMA may authorise entry into area to be avoided

S. 672 (Heading) amended by No. 74/2012 s. 14(1).

S. 672(1) amended by No. 74/2012 s. 14(2).

(1) The owner of a vessel or a person on behalf of the owner, may apply to NOPSEMA for the grant of an authorisation for the vessel to enter, and to be present in, the area to be avoided.

(2) An application under subsection (1) must—

(a) be in writing; and

(b) specify the name of, or describe, the vessel in relation to which applicaton is being made.

S. 672(3) amended by No. 74/2012 s. 14(3).

(3) NOPSEMA may, by written notice given to the owner, authorise the vessel mentioned in the application to enter, and to be present in, the area to be avoided.

(4) An authorisation under subsection (3) is subject to such conditions as are specified in the notice of authorisation.

S. 672(5) amended by No. 74/2012 s. 14(3).

(5) NOPSEMA may, by written notice given to the owner of the vessel, revoke the authorisation.

673 Unauthorised vessel not to enter area to be avoided

(1) The owner or master—

(a) of a vessel—

(i) that is not an exempt vessel in relation to a prescribed safety zone; and

(ii) that enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in

relation to the vessel under section 672(3); and

(b) who intended that the vessel enter or be present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3)—

is guilty of an offence and liable to a term of imprisonment not exceeding 5 years.

(2) The owner or master—

(a) of a vessel—

(i) that is not an exempt vessel in relation to a prescribed safety zone; and

(ii) that enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3); and

(b) who is reckless as to whether the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3)—

is guilty of an offence and liable to a term of imprisonment not exceeding 4 years.

(3) The owner or master—

(a) of a vessel—

(i) that is not an exempt vessel in relation to a prescribed safety zone; and

(ii) that enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3); and

(b) who is negligent as to whether the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3)—

is guilty of an offence and liable to a term of imprisonment not exceeding 3 years.

(4) In a prosecution for an offence against subsection (1), (2) or (3), it is a defence if—

(a) an unforeseen emergency rendered it necessary for the vessel to enter or be present in the area in order to attempt to secure the safety of—

(i) the vessel; or

(ii) another vessel; or

(iii) any well, pipeline, structure or equipment; or

(iv) human life; or

(b) the vessel entered or was present in the area in circumstances not under the control of the person who was in charge of the navigational watch of the vessel.

Division 5—Powers of authorised persons

674 Requirement to move vessel etc.

An authorised person may—

(a) require the master of a vessel to take the vessel outside the area to be avoided if—

(i) the vessel is a relevant vessel, or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel; and

(ii) the vessel is in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under section 672(3); and

(iii) the vessel is not an exempt vessel in relation to a prescribed safety zone;

(b) require the master of a vessel to take the vessel outside the safety zone if—

(i) the vessel is in a safety zone; and

(ii) the vessel is not an exempt vessel in relation to the safety zone;

(c) require the master of a disabled vessel to permit the vessel to be towed away from the area to be avoided or the safety zone, as the case requires, or to accept the giving of such other assistance to the vessel as the authorised person considers necessary if—

(i) the vessel is in the area to be avoided, and either the vessel is a relevant vessel or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel; and

(ii) the vessel is in a safety zone; and

(iii) the vessel is a relevant vessel (or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel), and the authorised person has reasonable grounds to believe that the vessel is likely to cause damage to any well, pipeline, structure or equipment in the area to be avoided or in a safety zone.

675 Noncompliance with requirement to move vessel etc.

A person who is subject to a requirement under section 674 must comply with the requirement.

Penalty: 60 penalty units.

676 Hindering or obstructing an authorised person

A person must not hinder or obstruct an authorised person who is acting under section 674.

Penalty: 120 penalty units.

677 Other powers of authorised persons

(1) An authorised person may—

(a) board a vessel that the authorised person has reasonable grounds to believe has been used, is being used or is about to be used in contravention of section 669, 671 or 673;

(b) if the authorised 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 a consent under section 668(1) or 670(1), or an authorisation under section 672(3), is in force in relation to the vessel and, if so, to produce the consent or authorisation, as the case may be; 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;

(c) require the master of a vessel to permit the authorised person to take measurements of the vessel if—

(i) the vessel is in, or is near, the area to be avoided; and

(ii) the authorised person has reasonable grounds to believe that the vessel is a vessel of the kind referred to in paragraph (b) of the definition of ***relevant vessel*** in section 666; and

(iii) no authorisation under section 672(3) is in force in relation to the vessel; and

(iv) the vessel is not an exempt vessel in relation to a prescribed safety zone;

(d) detain a vessel that the authorised person has reasonable grounds to believe has been used in contravention of section 669, 671 or 673.

(2) An authorised person may exercise powers under subsection (1) in relation to a vessel only—

(a) in accordance with a warrant issued under section 682; or

(b) after obtaining the consent of the master of the vessel; or

(c) in circumstances of seriousness and urgency, in accordance with section 683.

678 Noncompliance with other requirements in relation to a vessel

A person who is subject to a requirement under section 677(1)(b)(i), (ii) or (iii) or (c) must comply with the requirement.

Penalty: 60 penalty units.

679 Boarding of vessel must be facilitated

A person must facilitate, by all reasonable means, the boarding of a vessel by an authorised person under section 677(1)(a).

Penalty: 60 penalty units.

680 Hindering or obstructing an authorised person

A person must not hinder or obstruct an authorised person who is exercising a power under section 677(1).

Penalty: 60 penalty units.

681 Giving false and misleading information

A person must not, in purported compliance with a requirement of an authorised person under section 677(1), give information to the authorised person that the person knows is false or misleading in a material particular.

Penalty: 60 penalty units.

682 Warrants to exercise powers in relation to vessels

(1) An authorised person may apply to a magistrate for the issue of a warrant authorising an authorised person named in the warrant, with such assistance as the authorised person thinks necessary, to exercise any or all of the powers referred to in section 677(1) in relation to a vessel if the authorised person has reasonable grounds to believe that the vessel has been used, is being

used or is about to be used in contravention of section 669, 671 or 673.

(2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the authorised person 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 authorising the authorised person, and any assistants the authorised person thinks necessary, to exercise any or all of the powers referred to in section 677(1) in relation to the vessel.

(4) A magistrate may issue a warrant under this section only if—

S. 682(4)(a) amended by No. 55/2010 s. 80(9).

(a) the authorised person 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 grounds 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.

(5) In addition to any other requirement, a warrant issued under this section must state—

(a) the name of the authorised person; and

(b) the day on which the warrant ceases to have effect; and

(c) any conditions to which the warrant is subject; and

(d) the purposes for which the warrant is issued; and

(e) set out a description of the vessel in relation to which the warrant is issued.

(6) The day specified under subsection (3)(b) must not be later than 7 days after the day on which the warrant is issued.

(7) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in a form set out in the regulations under that Act.

(8) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

683 Exercise of powers in relation to vessels in serious circumstances without a warrant

An authorised person may exercise, in relation to a vessel, any or all of the powers referred to in section 677(1) if—

(a) the authorised 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 669, 671 or 673; or

(ii) the exercise of those powers is necessary to prevent damage being caused to any well, pipeline, structure or equipment in the area to be avoided or 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 682.

Part 6.7—Collection of fees and royalties

Division 1—Fees for petroleum titles

684 Fees for certain exploration permits

(1) A petroleum exploration permittee who is the registered holder of an applicable petroleum exploration permit must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of the permit.

(2) The fee in respect of the first year of the term of an applicable petroleum exploration permit is due and payable on the day the term of the permit begins (the ***first payment day***).

(3) The fee in respect of a later year of the term of an applicable petroleum exploration permit is due and payable on the day falling on the anniversary of the first payment day in the remaining years of the term of the permit.

(4) In this section—

applicable petroleum exploration permit means—

(a) a work-bid petroleum exploration permit; or

(b) a special petroleum exploration permit.

685 Fees for petroleum retention leases

(1) A petroleum retention lessee must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of a petroleum retention lease held by the lessee.

S. 685(1) amended by No. 74/2012 s. 15(1).

S. 685(2) amended by No. 74/2012 s. 15(2).

(2) The fee for the first year of the term of the petroleum retention lease is due and payable at the end of 30 days after the day on which the term of the lease begins (the ***first payment day***).

S. 685(3) amended by No. 74/2012 s. 15(2).

(3) The fee for a later year of the term of the petroleum retention lease is due and payable at the end of 30 days after the anniversary of the day on which the first year of the term of the lease begins.

686 Fees for petroleum production licences

(1) A petroleum production licensee must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of a petroleum production licence held by the licensee.

(2) The fee in respect of the first year of the term of a petroleum production licence is due and payable on the day the term of the licence begins (the ***first payment day***).

(3) The fee in respect of a later year of the term of a petroleum production licence is due and payable on the day falling on the anniversary of the first payment day in the remaining years of the term of the licence.

S. 686A inserted by No. 16/2018 s. 32.

686A Fees for boundary-change petroleum exploration permits

(1) The permittee of a boundary-change petroleum exploration permit must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of a boundary-change petroleum exploration permit held by the permittee.

(2) The fee in respect of the first year of the term of a boundary-change petroleum exploration permit is due and payable on the day the term of the permit begins (the ***first payment day***).

(3) The fee in respect of a later year of the term of a boundary-change petroleum exploration permit is due and payable on the day falling on the anniversary of the first payment day in the remaining years of the term of the permit.

687 Fees for infrastructure leases

(1) An infrastructure licensee must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of an infrastructure lease held by the licensee.

(2) The fee in respect of the first year of the term of an infrastructure licence is due and payable on the day the term of the licence begins (the ***first payment day***).

(3) The fee in respect of a later year of the term of an infrastructure licence is due and payable on the day falling on the anniversary of the first payment day in the remaining years of the term of the licence.

688 Fees for pipeline licences

(1) A pipeline licensee must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of a pipeline licence held by the licensee.

(2) The fee in respect of the first year of the term of a pipeline licence is due and payable on the day the term of the licence begins (the ***first payment day***).

(3) The fee in respect of a later year of the term of a pipeline licence is due and payable on the day falling on the anniversary of the first payment day in the remaining years of the term of the licence.

Division 2—Fees for greenhouse gas titles

689 Fees for greenhouse gas titles

(1) A registered holder of an applicable greenhouse gas title must pay to the Minister a fee calculated in accordance with the regulations in respect of each year of the term of the applicable greenhouse gas title held by the registered holder.

(2) The fee for the first year of the term of an applicable greenhouse gas title is due and payable at the end of 30 days after the day on which the term of title begins (the ***first payment day***).

(3) The fee for a later year of the term of the applicable greenhouse gas title is due and payable at the end of 30 days after the anniversary of the day on which the first year of the term of the title begins.

(4) In this section—

applicable greenhouse gas title means—

(a) a work-bid greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence.

Division 3—Royalties for petroleum

690 Royalty for petroleum

(1) A petroleum exploration permittee must, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the permittee in the petroleum exploration permit area.

(2) A petroleum retention lessee must, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the lessee in the petroleum retention lease area.

(3) A petroleum production licensee must, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the licensee in the petroleum production licence area.

(4) Subject to this Division, the prescribed rate in respect of petroleum recovered under a petroleum exploration permit, petroleum retention lease or petroleum production licence is 10% of the value at the wellhead of the petroleum.

691 Reduction of royalty for petroleum in certain cases

(1) This section applies if the Minister is satisfied that the rate of recovery of petroleum from a well has become so reduced that, having regard to the applicable rate of royalty under section 690, further recovery of petroleum from that well would be uneconomic.

(2) The Minister may, by instrument, determine that the royalty in respect of all or any of the petroleum recovered from the well on or after a date specified in the determination will be at the rate of royalty the Minister specifies in the determination.

(3) A rate of royalty that the Minister specifies in a determination under subsection (2) must be a rate that is lower than the applicable rate of royalty under section 690 in respect of all or any of the petroleum recovered from the well.

(4) The prescribed rate in respect of petroleum to which a determination under subsection (2) is applicable is the rate specified in a determination.

692 Royalty for petroleum not payable in certain cases

(1) 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; or

(b) is not payable in respect of petroleum that is used by a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee, as approved by the Minister, for the purposes of petroleum exploration operations or operations for the recovery of petroleum; or

S. 692(1)(c) amended by No. 26/2021 s. 36(a).

(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; or

S. 692(1)(d) inserted by No. 26/2021 s. 36(b).

(d) is not payable in respect of petroleum that was extracted or recovered outside the offshore area and injected into a reservoir in the offshore area; or

S. 692(1)(e) inserted by No. 26/2021 s. 36(b).

(e) is not payable in respect of petroleum that the Minister identifies as petroleum in respect of which royalty has already been paid.

(2) In addition, royalty under this Act is not payable in respect of petroleum that—

(a) has been recovered by a petroleum exploration permittee, petroleum retention lessee or petroleum production licensee; and

(b) with the approval of the Minister, has been returned to a natural reservoir.

(3) However, subsection (2) does not affect the liability of the petroleum exploration permittee, petroleum retention lessee or petroleum

production licensee, or any other petroleum exploration permittee, petroleum retention lessee or petroleum production licensee, to pay royalty in respect of petroleum that is recovered from (and not returned to) the natural reservoir.

693 Payment of royalty for petroleum

(1) Royalty under this Act in respect of petroleum recovered during a royalty period is due and payable not later that the last day of the next succeeding royalty period.

(2) In this section—

royalty period, in relation to a petroleum exploration permit, petroleum retention lease or petroleum production licence, means—

(a) the period—

(i) commencing on the day the term of the permit, lease or licence begins (the ***term commencement day***); and

(ii) ending on the last day of the month in which the term commencement day falls; and

(b) every month after that month.

Division 4—Royalties for greenhouse gas injection and storage

694 Liability for, and rate of, royalty for greenhouse gas injection and storage

(1) The holder of a greenhouse gas injection licence must pay to the Minister a royalty in respect of the volume of a greenhouse gas substance injected into an identified greenhouse gas storage formation situated in the licence area.

(2) Royalty is to be paid at the rate, and in accordance with the conditions, specified in the greenhouse gas injection licence under which the greenhouse gas substance injection operation took place.

(3) The Minister in consultation with the Treasurer may waive the requirement for the holder of a greenhouse gas injection licence to pay a royalty under this section.

(4) In this section, ***greenhouse gas substance injection operation*** means to inject and permanently store a greenhouse gas substance into an identified greenhouse gas storage formation.

695 Minister may vary royalty for greenhouse gas injection and storage

(1) On the application of the holder of a greenhouse gas injection licence or a person who has applied for a greenhouse gas injection licence, the Minister may—

(a) vary the royalty rate specified (or to be specified) in the licence; or

(b) provide that a different method of collecting revenue on the volume of a greenhouse gas substance injected into an identified greenhouse gas storage formation under the licence is to apply.

(2) The Minister must consult the Treasurer before varying the licence, or proposed licence, under subsection (1)(a) or (b).

696 When royalty for greenhouse gas injection and storage must be paid

(1) Any royalty required by this Division must be paid in the manner specified in the greenhouse gas injection licence and within the time specified in the licence.

(2) If a greenhouse gas injection licence does not specify when or how royalty is to be paid under the licence, the holder of the licence must pay any royalty required by this Division in the manner, and within the time, specified by the regulations.

Division 5—Late payment and recovery of fees and royalties

697 Late payment penalty

(1) This section applies if a fee or royalty payable by a person under Division 1, 2, 3 or 4 remains unpaid after the time when it became due for payment.

(2) The person is liable to pay a penalty accruing from the time the fee became due for payment until it is paid in full.

(3) The penalty is calculated at the rate of 0·333333% per day on the amount of the fee remaining unpaid.

(4) A penalty under this section is to be known as a ***late payment penalty***.

698 Recovery of fee or royalty debts

(1) For the purposes of this section, a ***fee or royalty debt*** is—

(a) an amount of a fee or royalty under Division 1, 2, 3 or 4 that is due and payable by a person; or

(b) an amount of late payment penalty under section 697.

(2) A fee or royalty debt is a debt due to the State and may be recovered by the Minister in a court of competent jurisdiction.

Part 6.8—Occupational health and safety

699 Occupational health and safety

Schedule 3 has effect.

700 Listed OHS laws

The following provisions are the ***listed OHS laws*** for the purposes of this Act—

(a) section 654 or 663, 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, by means of, or in connection with, a facility—

where the damage or interference, as the case may be, affects, or has the potential to affect, the health or safety of members of the workforce at the facility (within the meaning of Schedule 3);

(b) Schedule 3;

(c) regulations made for the purposes of Schedule 3;

(d) regulations made for the purposes of section 701;

(e) any other regulations relating to occupational health and safety matters that are prescribed for the purposes of this paragraph.

701 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.

Pt 6.9 (Heading) substituted by No. 74/2012 s. 16.

Part 6.9—National Offshore Petroleum Safety and Environmental Management Authority

Division 1—Introduction

702 Simplified outline

(1) This section sets out a simplified outline of this Part.

S. 702(2) amended by No. 74/2012 s. 17(1).

(2) The National Offshore Petroleum Safety and Environmental Management Authority has been continued in existence by the Commonwealth Act.

S. 702(3) substituted by No. 74/2012 s. 17(2).

(3) NOPSEMA has functions in relation to—

(a) the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations; and

(b) the structural integrity of facilities within the meaning of Schedule 3 (other than vessels or structures described in clause 7 of that Schedule) and wells and well-related equipment used for the purposes of offshore petroleum operations.

S. 702(4) amended by No. 74/2012 s. 17(3).

(4) There is a Chief Executive Officer (***CEO***) of NOPSEMA.

S. 702(5) amended by No. 74/2012 s. 17(4).

(5) The National Offshore Petroleum Safety and Environmental Management Authority Board has been continued in existence by the Commonwealth Act.

S. 702(6) amended by No. 74/2012 s. 17(5).

(6) The main function of the Board is to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by NOPSEMA in the performance of its functions.

(7) The CEO may appoint NOPSEMA inspectors under the Commonwealth Act.

S. 702(7) amended by No. 26/2021 s. 42(1).

(8) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

703 Definitions

In this Part—

Board means the National Offshore Petroleum Safety and Environmental Management Authority Board continued in existence by section 653 under the Commonwealth Act;

S. 703 def. of *Board* amended by No. 74/2012 s. 18(a).

Board member means a member of the Board, and includes the Chair of the Board;

CEO means the Chief Executive Officer of NOPSEMA;

S. 703 def. of *CEO* amended by No. 74/2012 s. 18(b).

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

facility has the same meaning as in Schedule 3;

interstate Minister means the Minister of the Crown in right of a State (other than Victoria) 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;

offshore greenhouse gas storage operations means any operations (including diving operations) that—

(a) relate to—

(i) the exploration for potential greenhouse gas storage formations or potential greenhouse gas injection sites; or

(ii) the injection of a greenhouse gas substance into the seabed or subsoil; or

(iii) the permanent storage of a greenhouse gas substance in the seabed or subsoil; or

(iv) the compression, processing, offloading, piped conveyance or pre-injection storage of a greenhouse gas substance; or

(v) the monitoring of a greenhouse gas substance stored in the seabed or subsoil; and

(b) if the operations are diving operations—take place in the offshore area; and

(c) if the operations are not diving operations—take place at a facility;

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 offshore area; and

(c) if the operations are not diving operations—take place at a facility.

Division 2—Functions and powers of NOPSEMA

Pt 6.9 Div. 2 (Heading) amended by No. 74/2012 s. 19.

704 NOPSEMA's functions

S. 704 (Heading) amended by No. 74/2012 s. 20(1).

NOPSEMA has the following functions—

S. 704 amended by No. 74/2012 s. 20(2).

(a) the functions conferred on it by or under this Act or the regulations in relation to offshore petroleum operations or offshore greenhouse gas storage operations;

S. 704(a) amended by No. 74/2012 s. 20(3).

(b) to promote the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations;

(c) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with—

S. 704(c) substituted by No. 74/2012 s. 20(4).

(i) their occupational health and safety obligations under this Act and the regulations;

(ii) their obligations under a structural integrity law;

(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 or offshore greenhouse gas storage operations; and

(ii) to report, as appropriate, to the Minister and the Commonwealth Minister on those investigations;

S. 704(da) inserted by No. 74/2012 s. 20(5).

(da) to—

(i) investigate accidents, occurrences and circumstances that involve, or may involve, deficiencies in the structural integrity of—

(A) facilities within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(B) wells or well-related equipment used for the purposes of offshore petroleum operations; and

(ii) report, as appropriate, to the Minister and the Commonwealth Minister on those investigations;

S. 704(e) substituted by No. 74/2012 s. 20(6).

(e) to advise persons, either on its own initiative or on request—

(i) on occupational health and safety matters relating to offshore petroleum operations or offshore greenhouse gas storage operations;

(ii) on matters relating to the structural integrity of the following—

(A) facilities, within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(B) wells or well-related equipment used for the purposes of 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 or offshore greenhouse gas storage operations;

(g) to cooperate with—

(i) the Minister and State agencies having functions relating to offshore petroleum operations or offshore greenhouse gas storage operations; and

(ii) other Commonwealth agencies having functions relating to offshore petroleum operations or offshore greenhouse gas storage operations.

705 NOPSEMA's ordinary powers

S. 705 (Heading) amended by No. 74/2012 s. 21(1).

(1) NOPSEMA has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

S. 705(1) amended by No. 74/2012 s. 21(2).

(2) NOPSEMA's powers include, but are not limited to, the following powers—

S. 705(2) amended by No. 74/2012 s. 21(3)(a).

(a) the power to acquire, hold and dispose of real and personal property;

(b) the power to enter into contracts;

S. 705(2)(c) amended by No. 74/2012 s. 21(3)(b).

(c) the power to lease the whole or any part of any land or building for the purposes of NOPSEMA;

S. 705(2)(d) amended by No. 74/2012 s. 21(3)(b).

(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 NOPSEMA;

(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.

706 Judicial notice of seal

All courts, judges and persons acting judicially must—

S. 706(a) amended by No. 74/2012 s. 22.

(a) take judicial notice of the imprint of the seal of NOPSEMA appearing on a document; and

(b) presume that the document was duly sealed.

707 Power to refer matters to NOGSAC

S. 707(1) amended by No. 74/2012 s. 23.

(1) NOPSEMA may refer a matter to the NOGSAC body for advice.

(2) For the purposes of this section, the ***NOGSAC body*** is—

(a) the body known as the National Oil and Gas Safety Advisory Committee; or

(b) if that body is disbanded—any successor body with similar membership and functions.

(3) A matter referred under subsection (1) must be of a general nature and must not relate to a particular case.

Division 3—NOPSEMA Board

Pt 6.9 Div. 3 (Heading) amended by No. 74/2012 s. 24.

708 Functions of the 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 NOPSEMA in the performance of its functions;

S. 708(1)(a) amended by No. 74/2012 s. 25(1).

(b) to give advice, and make recommendations, to—

S. 708(1)(b) amended by No. 74/2012 s. 25(3).

(i) the Minister; and

(ii) the Commonwealth Minister; and

(iii) interstate Ministers; and

(iv) the Ministerial Council—

S. 708(1)(b)(iv) amended by Nos 74/2012 s. 25(2), 13/2022 s. 70(2).

about any or all of the following—

(v) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse operations;

(va) policy or strategic matters relating to the structural integrity of—

S. 708(1)(b)(va) inserted by No. 74/2012 s. 25(4).

(A) facilities, within the meaning of Schedule 3, other than vessels or structures described in clause 7 of that Schedule; or

(B) wells or well-related equipment used for the purposes of offshore petroleum operations;

S. 708(1)(b)(vi) amended by No. 74/2012 s. 25(5).

(vi) the performance by NOPSEMA 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

S. 708(2)(c) amended by Nos 74/2012 s. 25(6), 13/2022 s. 70(3).

(c) the Ministerial Council—

the Board must give the Commonwealth Minister a written copy of that advice or those recommendations.

709 Powers of the 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.

710 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 NOPSEMA

Pt 6.9 Div. 4 (Heading) amended by No. 74/2012 s. 26.

711 CEO acts for NOPSEMA

S. 711 substituted by No. 74/2012 s. 27.

Anything done by the CEO in the name of NOPSEMA or on NOPSEMA's behalf is taken to have been done by NOPSEMA.

712 Working with the Board

(1) The CEO must request the Board's advice on strategic matters relating to the performance of NOPSEMA's functions.

S. 712(1) amended by No. 74/2012 s. 28.

(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 NOPSEMA's operations; and

S. 712(3)(a) amended by No. 74/2012 s. 28.

(b) give the Board any reports, documents and information in relation to those operations that the Chair of the Board requires.

713 Delegation

(1) An officer or employee of this State, or of a public authority of this State, 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.

S. 714 (Heading) amended by No. 74/2012 s. 29(1).

714 Secondments to NOPSEMA

S. 714 amended by No. 74/2012 s. 29(2).

An officer or employee of this State, or of a public authority of this State, may assist NOPSEMA in connection with the performance of any of its functions or the exercise of any of its powers under—

(a) this Act; or

(b) the Commonwealth Act; or

(c) an Act of another State or Territory that substantially corresponds to this Act.

Pt 6.9 Div. 5 (Heading) amended by No. 74/2012 s. 30.

Division 5—Other NOPSEMA provisions

S. 715 (Heading) amended by No. 74/2012 s. 31(1).

715 Minister may require NOPSEMA to prepare reports or give information

S. 715(1) amended by No. 74/2012 s. 31(2)(a).

(1) The Minister may, by written notice given to NOPSEMA, require NOPSEMA—

S. 715(1)(a) amended by No. 74/2012 s. 31(2)(b).

(a) to prepare a report about one or more specified matters relating to the performance of NOPSEMA's functions or the exercise of NOPSEMA'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 NOPSEMA, require NOPSEMA to—

S. 715(2) amended by No. 74/2012 s. 31(2)(a).

(a) prepare a document setting out specified information relating to the performance of NOPSEMA's functions or the exercise of NOPSEMA's powers; and

S. 715(2)(a) amended by No. 74/2012 s. 31(2)(b).

(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) NOPSEMA must comply with a requirement under subsection (1) or (2).

S. 715(3) amended by No. 74/2012 s. 31(3).

716 Directions to NOPSEMA

S. 716 (Heading) amended by No. 74/2012 s. 32(1).

(1) The Minister may request the Commonwealth Minister to give a direction to NOPSEMA that relates wholly or principally to NOPSEMA's operations in the offshore area.

S. 716(1) amended by No. 74/2012 s. 32(2).

(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.

S. 717 (Heading) amended by No. 74/2012 s. 33(1).

717 NOPSEMA must comply with directions

S. 717 amended by No. 74/2012 s. 33(2).

NOPSEMA must comply with any direction given by the Commonwealth Minister under section 716.

S. 718 (Heading) amended by No. 74/2012 s. 34(1).

718 Liability for acts and omissions—OHS

(1) This section applies to the following persons—

S. 718(1)(a) amended by No. 74/2012 s. 34(2).

(a) NOPSEMA;

(b) the CEO;

S. 718(1)(c) amended by No. 26/2021 s. 42(2).

(c) a NOPSEMA inspector;

S. 718(1)(d) amended by No. 74/2012 s. 34(2).

(d) a person acting under the direction or authority of NOPSEMA or the CEO.

S. 718(1A) inserted by No. 74/2012 s. 34(3).

(1A) This section does not apply to a person merely because the person is acting in accordance with a proposal or plan (however described) that has been accepted, agreed or otherwise approved by or on behalf of NOPSEMA.

(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.

718A Liability for acts and omissions—Structural integrity law, petroleum safety zones and the area to be avoided

S. 718A inserted by No. 74/2012 s. 35.

(1) This section applies to the following persons—

(a) NOPSEMA;

(b) the CEO;

(c) a petroleum project inspector appointed under section 647(1);

(d) a person acting under the direction or authority of NOPSEMA or the CEO.

(2) This section does not apply to a person merely because the person is acting in accordance with a proposal or plan (however described) that has been accepted, agreed or otherwise approved by or on behalf of NOPSEMA.

(3) 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 exercise of any power or authority relating to a petroleum safety zone or the area to be avoided or a function under a structural integrity law;

(b) in the reasonable belief that the act or omission was in the exercise of a power or authority relating to a petroleum safety zone or the area to be avoided or a function under a structural integrity law.

Pt 6.10 (Headings and ss 718B–718I) inserted by No. 68/2014 s. 67.

Part 6.10—Using and sharing offshore information and things

Division 1—Introduction

S. 718B inserted by No. 68/2014 s.67.

718B Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part deals with using and making available certain information, documents and things obtained for the purposes of this Act.

(3) The information, documents and things may be—

(a) used by the Minister and the Minister's delegates for the purpose of exercising any of the Minister's powers or performing any of the Minister's functions; and

(b) used within NOPSEMA for the purpose of exercising any of its powers or performing any of its functions; and

(c) shared between the Minister, the responsible Commonwealth Minister, and NOPSEMA; and

(d) shared between the Minister and certain other agencies, including law enforcement agencies and Commonwealth, State and Territory Government agencies.

S. 718C inserted by No. 68?2014 s.67.

718C Definitions

In this Part—

CEO means the Chief Executive Officer of NOPSEMA;

function includes duty;

thing includes a sample;

this Act includes a subordinate instrument under this Act;

under this Act includes for the purposes of this Act.

718D Scope of Part

S. 718D inserted by No. 68/2014 s.67.

(1) Subject to this section, this Part applies in relation to information, a document, a copy of a document or an extract of a document (the ***offshore information***) or a thing obtained in the course of—

(a) the exercise of a power, or the performance of a function, under this Act; or

(b) the administration of this Act.

(2) The ***offshore information*** may be or include personal information (within the meaning of the **Privacy and Data Protection Act 2014**) or health information (within the meaning of the **Health Records Act 2001**).

Note

The use or disclosure of personal information is regulated under the Privacy and Data Protection Act 2014 and the use or disclosure of health information is regulated under the Health Records Act 2001.

S. 718D(3) amended by No. 26/2021 s. 42(3).

(3) In particular, but without limiting subsections (1) or (2), this Part applies in relation to offshore information or a thing obtained by the Minister (including obtained by a greenhouse gas project inspector or petroleum project inspector appointed by the Minister, whether under a warrant issued for the purposes of this Act or otherwise) or NOPSEMA (including obtained by a NOPSEMA inspector appointed by the CEO, whether under a warrant issued for the purposes of this Act or otherwise).

Example to s. 718D(3) amended by No. 26/2021 s. 42(4).

Example

This Part applies in relation to information given by a person to a NOPSEMA inspector under Schedule 3 in response to a requirement made of the person by the inspector to answer a question.

(4) This Part does not, by implication, limit the use of, or making available of, offshore information or a thing otherwise than in accordance with this Part.

(5) This Part does not apply to offshore information or a thing covered by Part 7.3 or a subordinate instrument made for the purposes of that Part.

Division 2—Minister's use of offshore information and things

S. 718E inserted by No. 68/2014 s.67.

718E Purposes for which Minister may use offshore information or things

If the Minister obtains offshore information or a thing in the course of the exercise of a power, or the performance of a function, under this Act, the Minister may use the offshore information or thing for the purpose of exercising any power, or performing any function, under this Act.

Division 3—NOPSEMA's use of offshore information and things

S. 718F inserted by No. 68/2014 s.67.

718F Purposes for which NOPSEMA may use offshore information or things

If NOPSEMA obtains offshore information or a thing in the course of the exercise of a power, or the performance of a function, under this Act, NOPSEMA may use the offshore information or thing for the purpose of exercising any power, or performing any function, under this Act.

Division 4—Sharing offshore information or things

718G Sharing offshore information or things for the purposes of this Act

S. 718G inserted by No. 68/2014 s.67.

(1) Any of the following persons may make available offshore information or a thing to another of those persons (the ***recipient***) to use as mentioned in subsection (2)—

(a) the Minister;

(b) the responsible Commonwealth Minister;

(c) NOPSEMA.

(2) The recipient may use the offshore information or thing in the course of the following—

(a) the exercise of powers, or the performance of functions, under this Act;

(b) the administration of this Act.

718H Minister may share offshore information or things with other entities

S. 718H inserted by No. 68/2014 s.67.

(1) The Minister may make available offshore information or a thing to one or more of the entities referred to in subsection (2) for the entity to use in the course of the exercise of the entity's powers, or the performance of the entity's functions, under or for the purposes of a law.

(2) The entities are the following—

(a) the Titles Administrator;

(b) each member of a Joint Authority;

(ba) each member of the Cross-boundary Authority;

S. 718H(2)(ba) inserted by No. 26/2021 s. 33.

(bb) each member of a Cross-boundary Authority for an offshore area of another State or the Cross-boundary Authority for the Principal

S. 718H(2)(bb) inserted by No. 26/2021 s. 33.

Northern Territory offshore area as constituted by section 76A of the Commonwealth Act;

S. 718H(2)(bc) inserted by No. 26/2021 s. 33.

(bc) the responsible Commonwealth Minister;

S. 718H(2)(bd) inserted by No. 26/2021 s. 33.

(bd) NOPSEMA;

(c) the Australian Maritime Safety Authority;

(d) the Civil Aviation Safety Authority;

(e) the Australian Defence Force;

(f) the Australian Federal Police;

(g) Customs;

(h) Victoria Police or the police force of another State or of a Territory;

(i) the Director of Public Prosecutions of Victoria, of the Commonwealth, of another State or of a Territory;

(j) a coroner of Victoria, of another State or of the Northern Territory;

(k) an agency of Victoria, of the Commonwealth, of another State or of a Territory, that is responsible for administering or implementing laws relating to occupational health and safety;

(l) an agency of Victoria, of the Commonwealth, of another State or of a Territory, that is responsible for administering or implementing laws relating to the protection of the environment;

(m) any other agency of Victoria, of the Commonwealth, of another State or of a Territory, that is responsible for investigating

contraventions of laws, or administering or ensuring compliance with laws.

(3) If offshore information or a thing is made available to an entity under subsection (1), the Minister may, at any time, by written notice to the entity, impose conditions in relation to—

(a) the entity's use of the offshore information or thing; or

(b) whether, and the extent to which, the entity itself may make the offshore information or thing available to any other entity.

718HA Minister to make information available to Commonwealth Minister

S. 718HA inserted by No. 26/2021 s. 34.

If the Minister is given a notice under section 733B(2) of the Commonwealth Act requiring the Minister to give information or a document to the Commonwealth Minister, the Minister must provide that information or document within the period specified in the notice.

718I Personal information

S. 718I inserted by No. 68/2014 s. 67.

(1) This section applies to offshore information to the extent that it is personal information.

(2) Before the information is made available or used as mentioned in this Division, the entity making the information available, or using the information, must take such steps as are reasonable in the circumstances to ensure that the information is de-identified.

(3) Personal information is ***de-identified*** if the information is no longer about an identifiable individual or an individual who is reasonably identifiable.

Chapter 7—Information relating to petroleum

Part 7.1—Data management and gathering of information

Division 1—Introduction

719 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) The Minister may direct a petroleum titleholder to keep records.

(3) The regulations may make provision for data management.

(4) The Minister or a petroleum project inspector may obtain information or documents.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

Division 2—Data management

720 Direction to keep records

(1) This section applies if a person is carrying on operations in the offshore area under—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) a petroleum special prospecting authority; or

(g) a petroleum access authority; or

(h) a petroleum scientific investigation consent.

(2) The Minister may, by written notice given to the person, direct the person to do any or all of the following things—

(a) to keep such accounts, records and other documents in connection with those operations as are specified in the notice;

(b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified in the notice;

(c) to give to—

(i) the Minister; or

(ii) a person specified in the notice—

in the manner specified in the notice, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are specified in the notice.

(3) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

721 Regulations about data management

(1) The regulations may make provision for and in relation to—

(a) the keeping of accounts, records and other documents in connection with operations in the offshore area under—

(i) a petroleum exploration permit; or

(ii) a petroleum retention lease; or

(iii) a petroleum production licence; or

(iv) an infrastructure licence; or

(v) a pipeline licence; or

(vi) a petroleum special prospecting authority; or

(vii) a petroleum access authority; or

(viii) a petroleum scientific investigation consent; and

(b) the collection and retention of cores, cuttings and samples in connection with those operations; and

(c) the giving to the Minister, or a specified person, of reports, returns, other documents, cores, cuttings and samples in connection with those operations.

(2) In particular, the regulations may establish a scheme that—

(a) applies in relation to operations in the offshore area under—

(i) a petroleum exploration permit; or

(ii) a petroleum retention lease; or

(iii) a petroleum production licence; or

(iv) an infrastructure licence; or

(v) a pipeline licence; or

(vi) a petroleum special prospecting authority; or

(vii) a petroleum access authority; or

(viii) a petroleum scientific investigation consent—

held by a person (the ***holder***); and

(b) requires the holder to prepare and submit a plan (a ***data management plan***) that deals with any or all of the following—

(i) the keeping of accounts, records and other documents in connection with those operations;

(ii) the collection and retention of cores, cuttings and samples in connection with those operations;

(iii) the giving to the Minister, or to a person specified in the data management plan, of reports, returns, other documents, cores, cuttings and samples in connection with those operations; and

(c) empowers the Minister to make decisions about the approval of—

(i) a data management plan; and

(ii) variations of a data management plan; and

(d) requires the holder to comply with an approved data management plan submitted by the holder.

(3) A scheme referred to in subsection (2) may provide that the holder must not commence the relevant operations unless—

(a) an approved data management plan is in force; or

(b) the Minister gives consent to the commencement of those operations.

(4) Subsections (2) and (3) do not limit subsection (1).

(5) A requirement under section 720 is in addition to a requirement under regulations made for the purposes of this section.

Division 3—Information-gathering powers

722 Minister or petroleum project inspector may obtain information and documents

(1) This section applies to a person if—

(a) the Minister; or

(b) a petroleum project inspector in relation to the offshore area—

believes on reasonable grounds that the person has information or a document, or is capable of giving evidence, that relates to any or all of the following operations in the offshore area—

(c) petroleum exploration operations;

(d) petroleum recovery operations;

(e) operations relating to the processing or storage of petroleum;

(f) operations relating to the preparation of petroleum for transport;

(g) operations connected with the construction or operation of a pipeline.

(2) The Minister or the petroleum project inspector may, by written notice given to the person, require the person—

(a) to give to the Minister or the petroleum project inspector, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the Minister or the petroleum project inspector, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the Minister or the petroleum project inspector, within the period and in the manner specified in the notice, those copies; or

(d) if the person is an individual—to appear before the Minister or the petroleum project inspector at a time and place specified in the notice to—

(i) give any such evidence, either orally or in writing; and

(ii) produce any such documents; or

(e) if the person is a body corporate—to cause a competent officer of the body to appear before the Minister or the petroleum project inspector at a time and place specified in the notice to—

(i) give any such evidence, either orally or in writing; and

(ii) produce any such documents.

(3) A period specified under subsection (2)(a), (b) or (c) must not be shorter than 14 days after the notice is given.

(4) A time specified under subsection (2)(d) or (e) must not be earlier than 14 days after the notice is given.

(5) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 120 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (5);

(b) section 728;

(c) section 729;

(d) section 730.

Notes

1 Section 728 is about giving false or misleading information.

2 Section 729 is about producing false or misleading documents.

3 Section 730 is about giving false or misleading evidence.

723 Copying documents—reasonable compensation

A person is entitled to be paid reasonable compensation for complying with a requirement covered by section 722(2)(c).

724 Power to examine on oath or affirmation

The Minister or a petroleum project inspector may—

(a) administer an oath or affirmation to a person required to appear before the Minister or the petroleum project inspector under section 722; and

(b) examine that person on oath or affirmation.

725 Self-incrimination

(1) A person is not excused from giving information or evidence or producing a document under section 722 on the ground that the information or evidence or the production of the document might tend to incriminate the person or expose the person to a penalty.

(2) However—

(a) the information or evidence given or the document produced; or

(b) giving the information or evidence or producing the document; or

(c) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document—

is not admissible in evidence against the person—

(d) in any civil proceedings; or

(e) in criminal proceedings other than proceedings for an offence against section 722(5), 728, 729 or 730.

726 Copies of documents

The Minister or a petroleum project inspector may inspect a document produced under this Division and may make and retain copies of, or take and retain extracts from, such a document.

727 Minister or petroleum project inspector may retain documents

(1) The Minister or a petroleum project inspector may take possession of a document produced under this Division, and retain it for as long as is reasonably necessary.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister or a petroleum project inspector to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Minister or a petroleum project inspector must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

728 False or misleading information

A person must not, in purported compliance with a notice under section 722(2), give information that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

729 False or misleading documents

A person must not, in purported compliance with a notice under section 722(2), give a document that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

730 False or misleading evidence

A person must not, in purported compliance with section 722(2)(d)(i) or (e)(i), give evidence that the person knows is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

Part 7.2—Release of regulatory information

731 Notifiable events—Government Gazette notice

If an event specified in the table happens, the Minister must cause notice of—

(a) the event; and

(b) such details of the event as the Minister thinks fit—

to be published in the Government Gazette.

Notifiable events

Item	*Event*
1	The grant (otherwise than by way of renewal) of a petroleum exploration permit, petroleum retention lease or petroleum production licence.
2	The renewal of a petroleum exploration permit, petroleum retention lease or petroleum production licence.
3	The grant of an infrastructure licence or pipeline licence.
4	The variation of a petroleum production licence, infrastructure licence or pipeline licence.
5	The surrender or cancellation of a petroleum exploration permit or petroleum production licence as to some or all of the blocks in the permit area or licence area.
6	The surrender or cancellation of a petroleum retention lease.
7	The surrender or cancellation of an infrastructure licence.
8	The revocation of a petroleum exploration permit or petroleum retention lease as to a block or blocks.
9	The making of an application for a pipeline licence.
10	The making of an application for a variation of a pipeline licence.
11	The surrender or cancellation of a pipeline licence as to the whole or part of the pipeline.
12	The expiry of a petroleum exploration permit, petroleum retention lease or fixed-term petroleum production licence.

Notifiable events	
Item	*Event*
13	The termination of a petroleum production licence, infrastructure licence or pipeline licence.

Part 7.3—Release of technical information

Division 1—Introduction

732 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part deals with the confidentiality and release of—

(a) information (***documentary information***) contained in certain documents given to the Minister; and

(b) petroleum mining samples given to the Minister.

(3) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

733 Definitions

In this Part—

applicable document means—

S. 733 def. of *applicable document* amended by No. 55/2010 s. 80(10).

(a) an application made to the Minister under—

(i) this Act; or

(ii) the repealed **Petroleum (Submerged Lands) Act 1982**; or

(b) a document accompanying such an application; or

(c) a report, return or other document that relates to a block and that was given to the Minister under—

(i) this Act; or

(ii) regulations made for the purposes of section 721 of this Act; or

(iii) the repealed **Petroleum (Submerged Lands) Act 1982**;

(iv) regulations made for the purposes of section 122A of the repealed **Petroleum (Submerged Lands) Act 1982**;

documentary information means information contained in an applicable document;

petroleum mining sample means—

(a) a core or cutting from, or a sample of, the seabed or subsoil; or

(b) a sample of petroleum recovered; or

(c) a sample of fluid recovered (other than fluid petroleum)—

that has been given at any time, whether before or after the commencement of this Part, to the Minister, and includes a portion of such a core, cutting or sample.

Division 2—Protection of confidentiality of information and samples

Subdivision 1—Information and samples obtained by the Minister

734 Protection of confidentiality of documentary information obtained by the Minister

(1) This section restricts what the Minister may do with documentary information.

(2) The Minister must not—

(a) make the information publicly known; or

(b) make the information available to a person (other than another Victorian Minister, a Minister of the Crown in right of another

State or of the Northern Territory, or the Commonwealth)—

unless the Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

735 Protection of confidentiality of petroleum mining samples obtained by the Minister

(1) This section restricts what the Minister may do with a petroleum mining sample.

(2) The Minister must not—

(a) make publicly known any details of the sample; or

(b) permit a person (other than another Victorian Minister, a Minister of the Crown in right of another State or of the Northern Territory, or the Commonwealth) to inspect the sample—

unless the Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

736 Minister may make information or samples available to other Ministers

The Minister may make documentary information or a petroleum mining sample available to—

(a) another Victorian Minister; or

(b) a Minister of the Crown in right of another State or of the Northern Territory; or

(c) a Minister of the Crown in right of the Commonwealth.

Notes

1 For protection of the confidentiality of information obtained by a Minister under this section, see section 737.

2 For protection of the confidentiality of a sample obtained by a Minister under this section, see section 738.

Subdivision 2—Information and samples obtained by a Victorian Minister

737 Protection of confidentiality of information obtained by a Victorian Minister

(1) This section restricts what a Victorian Minister may do with documentary information made available to the Victorian Minister under section 736.

(2) The Victorian Minister must not—

(a) make the information publicly known; or

(b) make the information available to a person (other than another Victorian Minister, a Minister of another State or of the Northern Territory or a Minister of the Commonwealth)—

unless the Victorian Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

738 Protection of confidentiality of petroleum mining samples obtained by a Victorian Minister

(1) This section restricts what a Victorian Minister may do with a petroleum mining sample made available to the Victorian Minister under section 736.

(2) The Victorian Minister must not—

(a) make publicly known any details of the sample; or

(b) permit a person (other than another Minister, a Minister of another State or of the Northern Territory or a Minister of the Commonwealth) to inspect the sample—

unless the Victorian Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

Subdivision 3—Miscellaneous

739 Fees

(1) This section applies to regulations made for the purposes of any of the following—

(a) section 734(2)(c);

(b) section 735(2)(c);

(c) section 737(2)(c);

(d) section 738(2)(c).

(2) The regulations may make provision for fees relating to—

(a) making information available to a person; or

(b) permitting a person to inspect a sample.

740 Review by Minister

(1) This section applies to regulations made for the purposes of—

(a) section 734(2)(c); or

(b) section 735(2)(c).

(2) The regulations may make provision for the Minister to—

(a) review a decision of the Minister under the regulations; and

(b) make a decision—

(i) confirming the decision reviewed; or

(ii) revoking the decision reviewed and substituting another decision for it.

S. 741 (Heading) substituted by No. 60/2014 s. 140(Sch. 3 item 32.1).

S. 741 amended by No. 60/2014 s. 140(Sch. 3 item 32.2).

741 Privacy and Data Protection Act 2014

This Part does not override any requirements of the **Privacy and Data Protection Act 2014**. In particular, this Part is not to be taken, for the purposes of that Act, to require or authorise the disclosure of personal information.

Chapter 8—Information relating to greenhouse gas

Part 8.1—Data management and gathering of information

Division 1—Introduction

742 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) The Minister may direct a greenhouse gas titleholder to keep records.

(3) The regulations may make provision for data management.

(4) The Minister or a greenhouse gas project inspector may obtain information or documents.

(5) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

Division 2—Data management

743 Direction to keep records

(1) This section applies if a person is carrying on operations in the offshore area under—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority; or

(f) a greenhouse gas research consent.

(2) The Minister may, by written notice given to the person, direct the person to do any or all of the following things—

(a) to keep such accounts, records and other documents in connection with those operations as are specified in the notice;

(b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified in the notice;

(c) to give to—

(i) the Minister; or

(ii) a person specified in the notice—

in the manner specified in the notice, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are specified in the notice.

(3) A person who is given a direction under subsection (2) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

744 Regulations about data management

(1) The regulations may make provision for and in relation to—

(a) the keeping of accounts, records and other documents in connection with operations in the offshore area under—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a greenhouse gas special authority; or

(vi) a greenhouse gas research consent; and

(b) the collection and retention of cores, cuttings and samples in connection with those operations; and

(c) the giving to the Minister, or a specified person, of reports, returns, other documents, cores, cuttings and samples in connection with those operations.

(2) In particular, the regulations may establish a scheme that—

(a) applies in relation to operations in the offshore area under—

(i) a greenhouse gas assessment permit; or

(ii) a greenhouse gas holding lease; or

(iii) a greenhouse gas injection licence; or

(iv) a greenhouse gas search authority; or

(v) a greenhouse gas special authority; or

(vi) a greenhouse gas research consent—

held by a person (the ***holder***); and

(b) requires the holder to prepare and submit a plan (a ***data management plan***) that deals with any or all of the following—

(i) the keeping of accounts, records and other documents in connection with those operations;

(ii) the collection and retention of cores, cuttings and samples in connection with those operations;

(iii) the giving to the Minister, or to a person specified in the data management plan, of reports, returns, other documents, cores, cuttings and

samples in connection with those operations; and

(c) empowers the Minister to make decisions about the approval of—

(i) a data management plan; and

(ii) variations of a data management plan; and

(d) requires the holder to comply with an approved data management plan submitted by the holder.

(3) A scheme referred to in subsection (2) may provide that the holder must not commence the relevant operations unless—

(a) an approved data management plan is in force; or

(b) the Minister gives consent to the commencement of those operations.

(4) Subsections (2) and (3) do not limit subsection (1).

(5) A requirement under section 743 is in addition to a requirement under regulations made for the purposes of this section.

Division 3—Information-gathering powers

745 Minister or greenhouse gas project inspector may obtain information and documents

(1) This section applies to a person if—

(a) the Minister; or

(b) a greenhouse gas project inspector—

believes on reasonable grounds that the person has information or a document, or is capable of giving evidence, that relates to any or all of the following operations in the offshore area—

(c) operations relating to exploration for a potential greenhouse gas storage formation or a potential greenhouse gas injection site;

(d) operations relating to the injection of a greenhouse gas substance into the seabed or subsoil;

(e) operations relating to the storage of a greenhouse gas substance in the seabed or subsoil;

(f) operations relating to the processing, compression or pre-injection storage of a greenhouse gas substance;

(g) operations relating to the preparation of a greenhouse gas substance for transport.

(2) The Minister or the greenhouse gas project inspector may, by written notice given to the person, require the person—

(a) to give to the Minister or the greenhouse gas project inspector, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the Minister or the greenhouse gas project inspector, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the Minister or the greenhouse gas project inspector, within the period and in the manner specified in the notice, those copies; or

(d) if the person is an individual—to appear before the Minister or the greenhouse gas project inspector at a time and place specified in the notice to—

(i) give any such evidence, either orally or in writing; and

(ii) produce any such documents; or

(e) if the person is a body corporate—to cause a competent officer of the body to appear before the Minister or the greenhouse gas project inspector at a time and place specified in the notice to—

(i) give any such evidence, either orally or in writing; and

(ii) produce any such documents.

(3) A period specified under subsection (2)(a), (b) or (c) must not be shorter than 14 days after the notice is given.

(4) A time specified under subsection (2)(d) or (e) must not be earlier than 14 days after the notice is given.

(5) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 120 penalty units.

(6) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (5);

(b) section 751;

(c) section 752;

(d) section 753.

Notes

1 Section 751 is about giving false or misleading information.

2 Section 752 is about producing false or misleading documents.

3 Section 753 is about giving false or misleading evidence.

746 Copying documents—reasonable compensation

A person is entitled to be paid reasonable compensation for complying with a requirement covered by section 745(2)(c).

747 Power to examine on oath or affirmation

The Minister or a greenhouse gas project inspector may—

(a) administer an oath or affirmation to a person required to appear before the Minister or the greenhouse gas project inspector under section 745; and

(b) examine that person on oath or affirmation.

748 Self-incrimination

(1) A person is not excused from giving information or evidence or producing a document under section 745 on the ground that the information or evidence or the production of the document might tend to incriminate the person or expose the person to a penalty.

(2) However—

(a) the information or evidence given or the document produced; or

(b) giving the information or evidence or producing the document; or

(c) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document—

is not admissible in evidence against the person—

(d) in any civil proceedings; or

(e) in criminal proceedings other than proceedings for an offence against section 745(5), 751, 752 or 753.

749 Copies of documents

The Minister or a greenhouse gas project inspector may inspect a document produced under this Division and may make and retain copies of, or take and retain extracts from, such a document.

750 Minister or greenhouse gas project inspector may retain documents

(1) The Minister or a greenhouse gas project inspector may take possession of a document produced under this Division, and retain it for as long as is reasonably necessary.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister or a greenhouse gas project inspector to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Minister or a greenhouse gas project inspector must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

751 False or misleading information

A person must not, in purported compliance with a notice under section 745(2), give information that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

752 False or misleading documents

A person must not, in purported compliance with a notice under section 745(2), produce a document to the Minister or a greenhouse gas project inspector that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

753 False or misleading evidence

A person must not give evidence to another person under section 745 that the person knows is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

Part 8.2—Release of regulatory information

754 Notifiable events—Government Gazette notice

If an event specified in the table happens, the Minister must cause notice of—

(a) the event; and

(b) such details of the event as the Minister thinks fit—

to be published in the Government Gazette.

Notifiable events

Item	*Event*
1	The grant (otherwise than by way of renewal) of a greenhouse gas assessment permit.
2	The renewal of a greenhouse gas assessment permit.
3	The grant (otherwise than by way of renewal) of a greenhouse gas holding lease.
4	The renewal of a greenhouse gas holding lease (other than a special greenhouse gas holding lease).
5	The grant of a greenhouse gas injection licence.
6	The variation of a greenhouse gas injection licence.
7	The surrender of a greenhouse gas assessment permit or greenhouse gas holding lease.
8	The surrender of a greenhouse gas injection licence as to some or all of the blocks in the licence area.
9	The cancellation of a greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence.
10	The expiry of a greenhouse gas assessment permit or greenhouse gas holding lease (other than a special greenhouse gas holding lease).
11	The termination of a greenhouse gas injection licence.
12	The issue of a site closing certificate in relation to an identified greenhouse gas storage formation.

Part 8.3—Release of technical information

Division 1—Introduction

755 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) This Part deals with the confidentiality and release of—

(a) information (***documentary information***) contained in certain documents given to the Minister; and

(b) petroleum mining samples given to the Minister.

(3) This section is intended only as a guide to readers as to the general scheme and effect of this Part.

756 Definitions

In this Part—

applicable document means—

(a) an application made to the Minister under this Act; or

(b) a document accompanying such an application; or

(c) a report, return or other document that relates to a block and that was given to the Minister under—

(i) this Act; or

(ii) regulations made for the purposes of section 744 of this Act;

documentary information means information contained in an applicable document;

eligible sample means—

(a) a core or cutting from, or a sample of, the seabed or subsoil; or

(b) a sample of petroleum recovered; or

(c) a sample of fluid recovered (other than fluid petroleum)—

that has been given at any time to the Minister, and includes a portion of such a core, cutting or sample.

757 Documents and samples given to the Minister

(1) For the purposes of this Part, in determining whether a document is an applicable document, disregard an application made, or a document given, to the Minister.

(2) For the purposes of this Part, in determining whether a core, cutting or sample is an eligible sample, disregard anything that was given to the Minister.

Division 2—Protection of confidentiality of information and samples

Subdivision 1—Information and samples obtained by the Minister

758 Protection of confidentiality of documentary information obtained by the Minister

(1) This section restricts what the Minister may do with documentary information.

(2) The Minister must not—

(a) make the information publicly known; or

(b) make the information available to a person (other than another Victorian Minister, a Minister of the Crown in right of another

State or of the Northern Territory, or the Commonwealth)—

unless the Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

759 Protection of confidentiality of eligible samples obtained by the Minister

(1) This section restricts what the Minister may do with an eligible sample.

(2) The Minister must not—

(a) make publicly known any details of the sample; or

(b) permit a person (other than another Victorian Minister, a Minister of the Crown in right of another State or of the Northern Territory, or the Commonwealth) to inspect the sample—

unless the Minister does so—

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act or the regulations.

760 Minister may make information or samples available to another Minister, a Minister of a State, the Northern Territory or the Commonwealth

The Minister may make documentary information or an eligible sample available to—

(a) another Victorian Minister; or

(b) a Minister of the Crown in right of another State or of the Northern Territory; or

(c) a Minister of the Crown in right of the Commonwealth.

Subdivision 2—Miscellaneous

761 Fees

(1) This section applies to regulations made for the purposes of any of the following—

(a) section 758(2)(c);

(b) section 759(2)(c).

(2) The regulations may make provision for fees relating to—

(a) making information available to a person; or

(b) permitting a person to inspect a sample.

S. 762 (Heading) substituted by No. 60/2014 s. 140(Sch. 3 item 32.3).

S. 762 amended by No. 60/2014 s. 140(Sch. 3 item 32.4).

762 Privacy and Data Protection Act 2014

This Part does not override any requirements of the **Privacy and Data Protection Act 2014**. In particular, this Part is not to be taken, for the purposes of that Act, to require or authorise the disclosure of personal information.

Chapter 9—Miscellaneous

Part 9.1—Reconsideration and review of decisions

763 Simplified outline

(1) This section sets out a simplified outline of this Part.

(2) Decisions of a delegate of the Minister may be reviewed by VCAT following a process of internal reconsideration by the Minister.

(3) In addition, certain decisions of the Minister relating to the release of technical information may be reviewed by VCAT.

(4) This section is intended only as a guide to readers as to the general scheme of this Part.

764 Definitions

In this Part—

decision has the same meaning as in section 4 of the **Victorian Civil and Administrative Tribunal Act 1998**;

reviewable delegated decision means a decision that—

(a) is made under this Act or the regulations; and

(b) is a decision of a delegate of the Minister; and

(c) is made in the performance of the functions, or the exercise of the powers, of the Minister, in relation to the offshore area;

reviewable Ministerial decision means—

(a) a decision of the Minister that—

(i) is made under this Act or the regulations; and

(ii) is not a decision of a delegate of the Minister; and

(iii) is made in the performance of the functions, or the exercise of the powers, of the Minister in relation to an offshore area; or

(b) a decision of the Minister under—

(i) regulations made for the purposes of section 734(2)(c) or 735(2)(c), where the decision is of a kind referred to in section 740(2)(b); or

(ii) regulations made for the purposes of section 737(2)(c) or 738(2)(c); or

(iii) regulations made for the purposes of section 758(2)(c) or 759(2)(c); or

(iv) section 765(1) or (4).

Notes

1 Paragraphs (b)(i) and (ii) relate to the release of technical information.

2 Paragraph (b)(iv) relates to the reconsideration of reviewable delegated decisions.

765 Reconsideration of reviewable delegated decision

(1) A person affected by a reviewable delegated decision who is dissatisfied with the decision may, by written notice given to the Minister, request the Minister to reconsider the decision. The request must be made within—

(a) 30 days after the day on which the decision first comes to the notice of the person; or

(b) such further period as the Minister (either before or after the end of that period), by written notice given to the person, allows.

(2) A request under subsection (1) must set out the reasons for making the request.

(3) As soon as practicable after the Minister receives the request, the Minister must, by written notice given to the person who made the request, acknowledge receipt of the request.

(4) The Minister must, within 45 days after receiving the request, reconsider the reviewable delegated decision, and may make a decision—

(a) in substitution for the reviewable delegated decision, whether in the same terms as the reviewable delegated decision or not; or

(b) revoking the reviewable delegated decision.

(5) If, as a result of a reconsideration under subsection (4), the Minister makes a decision in substitution for or revoking a reviewable delegated decision, the Minister must, by written notice given to the person who made the request under subsection (1) for the reconsideration—

(a) inform the person of the result of the reconsideration; and

(b) give reasons for the decision made as the result of the reconsideration.

(6) If a person makes a reviewable delegated decision and gives to a person affected by the decision written notice of the decision, that notice must include a statement to the effect that a person affected by the decision—

(a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision by the Minister in accordance with this section; and

(b) may, subject to the **Victorian Civil and Administrative Tribunal Act 1998**, if the person is dissatisfied with a decision made on that reconsideration, make application to VCAT for review of that decision.

(7) A failure to comply with subsection (6) in relation to a decision does not affect the validity of the decision.

766 Review of reviewable Ministerial decision

(1) A person may apply to VCAT for a review of a reviewable Ministerial decision.

(2) An application for a review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to that person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Part 9.2—Expert advisory committees

767 Establishment of expert advisory committees

The Minister may, by writing, establish committees, to be known as expert advisory committees.

Note

For variation and revocation, see section 41A of the **Interpretation of Legislation Act 1984**.

768 Function of expert advisory committees

(1) An expert advisory committee has the function of advising the Minister about matters referred to it by the Minister.

(2) A matter referred under subsection (1) must be—

(a) whether there is a significant risk that a key petroleum operation in an offshore area will have a significant adverse impact on—

(i) operations for the injection of a greenhouse gas substance; or

(ii) operations for the storage of a greenhouse gas substance; or

(iii) operations for the injection of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title; or

S. 768(2)(a)(iii) inserted by No. 26/2021 s. 35.

(iv) operations for the storage of a greenhouse gas substance that are being, or could be, carried on under a cross-boundary greenhouse gas title; or

S. 768(2)(a)(iv) inserted by No. 26/2021 s. 35.

(b) whether there is a significant risk that a key greenhouse gas operation in an offshore area will have a significant adverse impact on petroleum exploration operations, or

petroleum recovery operations, that could be carried on under—

(i) an existing petroleum exploration permit; or

(ii) an existing petroleum retention lease; or

(iii) an existing petroleum production licence; or

(iv) a future petroleum exploration permit; or

(v) a future petroleum retention lease; or

(vi) a future petroleum production licence; or

(c) whether there is a significant risk that any of the operations that could be carried on under a greenhouse gas injection licence will have a significant adverse impact on operations that are being, or could be, carried on under—

(i) an existing petroleum exploration permit; or

(ii) an existing petroleum retention lease; or

(iii) an existing petroleum production licence; or

(iv) a future petroleum exploration permit; or

(v) a future petroleum retention lease; or

(vi) a future petroleum production licence; or

(d) whether there is a significant risk that any of the operations that are being, or could be, carried on under a greenhouse gas injection licence will have a significant adverse impact on—

(i) operations to recover petroleum; or

(ii) the commercial viability of the recovery of petroleum; or

(e) whether a serious situation exists in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence (see section 405); or

(f) a matter that relates to the exercise of any of the following powers—

(i) the powers conferred by section 299;

(ii) the powers conferred by section 300;

(iii) the making of a declaration under section 318;

(iv) the variation or revocation of a declaration under section 318;

(v) the giving of a direction under section 322;

(vi) the giving of a direction under section 366;

(vii) the variation of a matter specified in a greenhouse gas injection licence (see section 399);

(viii) the giving of a direction under section 401;

(ix) the giving of a direction under section 406;

(x) the taking of action under section 410;

(xi) the issuing of a pre-certificate notice (see section 420);

(xii) the giving of a direction under section 641; or

(g) a matter relating to the exercise of a power that—

(i) is conferred on the Minister by this Act or the regulations; and

(ii) is specified in regulations made for the purposes of this subparagraph.

769 Appointment of expert advisory committee members etc.

(1) Each expert advisory committee member is to be appointed by the Minister by written instrument.

(2) An expert advisory committee member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

(3) An expert advisory committee member holds office on a part-time basis.

(4) The Minister may terminate the appointment of an expert advisory committee member.

770 Procedures of expert advisory committees

The Minister may give an expert advisory committee written directions about—

(a) the way in which the committee is to carry out its function; and

(b) procedures to be followed in relation to meetings.

771 Remuneration and allowances

(1) An expert advisory committee member is to be paid the remuneration that is determined by the Minister. If no determination of that remuneration is in operation, the member is to be paid the remuneration that is prescribed by the regulations.

(2) However, an expert advisory committee member is not entitled to be paid remuneration if he or she holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of—

(a) the State or the Commonwealth; or

(b) a corporation (a ***public statutory corporation***) that—

(i) is established for a public purpose by a law of the State or the Commonwealth; and

(ii) is not a tertiary education institution; or

(c) a company limited by guarantee, where the interests and rights of the members in or in relation to the company are beneficially owned by the State or the Commonwealth; or

(d) a company in which all the stock or shares are beneficially owned by the State or the Commonwealth or by a public statutory corporation.

(3) An expert advisory committee member is to be paid the allowances that are prescribed by the regulations.

772 Leave of absence

The Minister may grant leave of absence to an expert advisory committee member on the terms and conditions that the Minister determines.

773 Resignation

(1) An expert advisory committee member may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

774 Disclosure of interests to the Minister

An expert advisory committee member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

775 Disclosure of interests to an expert advisory committee

(1) A person who—

(a) is an expert advisory committee member; and

(b) has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by an expert advisory committee of which the person is a member—

must disclose the nature of the interest to a meeting of the committee.

(2) The disclosure must be made as soon as possible after the relevant facts have come to the expert advisory committee member's knowledge.

(3) The disclosure must be recorded in the minutes of the meeting of the expert advisory committee.

(4) Unless the Minister otherwise determines, the expert advisory committee member—

(a) must not be present during any deliberation by the expert advisory committee on the matter; and

(b) must not take part in any decision of the expert advisory committee with respect to the matter.

(5) The Minister may terminate the appointment of an expert advisory committee member if the member fails, without reasonable excuse, to comply with this section.

(6) Subsection (5) does not limit section 769(4).

776 Other terms and conditions

An expert advisory committee member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

777 Protection of information

(1) A person (the ***first person***) who is or has been an expert advisory committee member must not disclose any information obtained in the course of performing his or her duties or functions as an expert advisory committee member if that information could reasonably be expected to prejudice substantially the commercial interests of a person other than the person to whom the information was disclosed.

Penalty: Imprisonment for 1 year.

(2) Subsection (1) does not apply if—

(a) the first person is performing duties or functions as an expert advisory committee member; or

(b) the first person is required by—

(i) this Act or any other law of Victoria; or

(ii) a prescribed law of another State or Territory; or

(iii) a prescribed law of the Commonwealth—

to disclose the information.

(3) A person (the ***first person***) who is or has been an expert advisory committee member must not use any information obtained in the course of performing his or her duties or functions as an expert advisory committee member if that information could reasonably be expected to prejudice substantially the commercial interests of another person.

Penalty: Imprisonment for 1 year.

(4) Subsection (3) does not apply if—

(a) the first person is performing duties or functions as an expert advisory committee member; or

(b) the first person is required by—

(i) this Act or any other law of Victoria; or

(ii) a prescribed law of another State or Territory; or

(iii) a prescribed law of the Commonwealth—

to use the information.

Part 9.3—Information relevant to the making of designated agreements

Division 1—Information-gathering powers

778 Minister may obtain information and documents

(1) This section applies to the following applications—

(a) an application under section 78(1) for approval to carry on one or more key petroleum operations under a declared petroleum exploration permit;

(b) an application under section 122 for approval to carry on one or more key petroleum operations under a declared petroleum retention lease;

(c) an application under section 156(1) for approval to carry on one more key petroleum operations under a declared petroleum production licence;

(d) an application under section 291(1) for approval to carry on one or more key greenhouse gas operations under a greenhouse gas assessment permit;

(e) an application under section 329(1) for approval to carry on one or more key greenhouse gas operations under a greenhouse gas holding lease;

(f) an application under section 379 for the grant of a greenhouse gas injection licence;

(g) an application under section 392 for the grant of a greenhouse gas injection licence—

where either or both of the following are relevant to the Minister's decision on the application—

(h) the existence or non-existence of a designated agreement;

(i) the terms of a designated agreement.

(2) If the Minister believes on reasonable grounds that a person has information or a document that is relevant to the Minister's decision on the application, the Minister may, by written notice given to the person, require the person—

(a) to give to the Minister, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the Minister, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the Minister, within the period and in the manner specified in the notice, those copies.

(3) A period specified under subsection (2)(a), (b) or (c) must not be shorter than 14 days after the notice is given.

(4) A person who is given a notice under subsection (2) must comply with the notice.

Penalty: 120 penalty units.

(5) A notice under subsection (2) must set out the effect of the following provisions—

(a) subsection (4);

(b) section 783;

(c) section 784.

Notes

1 Section 783 is about giving false or misleading information.

2 Section 784 is about producing false or misleading documents.

779 Copying documents—reasonable compensation

A person is entitled to be paid reasonable compensation for complying with a requirement covered by section 778(2)(c).

780 Self-incrimination

(1) A person is not excused from giving information or producing a document under section 778 on the ground that the information or the production of the document might tend to incriminate the person or expose the person to a penalty.

(2) However—

(a) the information given or the document produced; or

(b) giving the information or producing the document; or

(c) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document—

is not admissible in evidence against the person—

(d) in any civil proceedings; or

(e) in criminal proceedings other than proceedings for an offence against section 778(4) or section 783 or 784.

781 Copies of documents

The Minister may inspect a document produced under this Division and may make and retain copies of, or take and retain extracts from, such a document.

782 Minister may retain documents

(1) The Minister may take possession of a document produced under this Division, and retain it for as long as is reasonably necessary.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Minister must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

783 False or misleading information

A person must not, in purported compliance with a notice under section 778(2), give information that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

784 False or misleading documents

A person must not, in purported compliance with a notice under section 778(2), produce a document that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units.

Division 2—Protection of information etc.

785 Protection of information

(1) This section applies if—

(a) either—

(i) information was given by a person to the Minister under section 778; or

(ii) a document containing information was produced by a person to the Minister under section 778; and

(b) the person claims that the information is commercial-in-confidence information.

(2) The Minister, or a delegate of the Minister, must not disclose the information to another person except—

(a) for the purposes of this Act or the regulations; or

(b) if the disclosure is to a member of an expert advisory committee for a purpose relating to the function of the committee; or

(c) the disclosure is required by—

(i) this Act or any other law of Victoria; or

(ii) a prescribed law of another State or Territory; or

(iii) a prescribed law of the Commonwealth.

786 Disclosure of information to titleholder etc.

(1) This section applies if—

(a) either—

(i) information was given by a person to the Minister under section 778; or

(ii) a document containing information was produced by a person to the Minister under section 778; and

(b) the person has not claimed that the information is commercial-in-confidence information.

(2) The Minister may disclose the information to another person for the purposes of—

(a) the consideration by the other person of whether to enter into a designated agreement; or

(b) the consideration by the other person of the terms of the designated agreement.

Part 9.4—Liability for acts and omissions

787 Liability for acts and omissions

(1) This section applies to the following bodies and persons—

(a) the Minister;

* * * * *

S. 787(1)(b)(c) repealed by No. 55/2010 s. 80(11).

(d) a petroleum project inspector appointed under section 647(2);

S. 787(1)(d) amended by No. 74/2012 s. 36(1)(a).

(e) a greenhouse gas project inspector appointed under section 656;

* * * * *

S. 787(1)(f) repealed by No. 55/2010 s. 80(11).

(g) a person acting under the direction or authority of the Minister.

S. 787(1)(g) amended by No. 74/2012 s. 36(1)(b).

* * * * *

S. 787(1)(h) repealed by No. 74/2012 s. 36(1)(c).

(2) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been accepted, agreed or otherwise approved by or on behalf of the Minister.

S. 787(2) amended by No. 74/2012 s. 36(2).

(3) A body or person is not liable to an action, suit or proceeding for, or in relation to, an act or matter in good faith done or omitted to be done in the exercise, or purported exercise, of any power or authority conferred by—

(a) this Act; or

(b) the regulations; or

(c) a direction under this Act.

(4) This section has effect subject to sections 541 and 598.

Note

Sections 541 and 598 deal with rectification of Registers.

Part 9.5—Service of documents

788 Service of documents

(1) The table has effect—

Service of documents

S. 788(1) (Table) amended by No. 53/2011 s. 20(1).

Item	*A document required or permitted by this Act or the regulations to be given to...*	*must be given...*
1	a person other than— (a) the Minister; or (b) a corporation	(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 the person's last known place of residence or business or, if that person 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 at least 16 years of age; or (d) by leaving the document at the last known place of business of that person (or, if that person is carrying on business at 2 or more places, at one of those places) with some person apparently in the employment of that person and apparently at least 16 years of age.
2	the Minister	(a) by prepaying and posting the document as a letter addressed to the Minister at the Department; or (b) by leaving it at an office occupied by the Department with some person apparently employed in connection with the business of the Department and apparently at least 16 years of age.

Service of documents		
Item	*A document required or permitted by this Act or the regulations to be given to...*	*must be given...*
3	a corporation	(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 employment of the corporation and apparently at least 16 years of age.

(2) If a document is given to a person by prepaying and posting the document as a letter in accordance with an item of the table, the document is taken to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.

S. 789 amended by No. 53/2011 s. 20(2).

789 Service of documents on Minister

A document required or permitted by this Act or the regulations to be given to the Minister is taken to have been given to the Minister if it is given to a delegate of the Minister.

790 Service of documents on 2 or more registered holders of a petroleum title

(1) This section applies if there are 2 or more registered holders of a petroleum title.

(2) Those registered holders may, by joint written notice given to the Minister, nominate one of them as being the person to whom documents may be given in any case where the documents—

(a) relate to the petroleum title; and

(b) are required or permitted by this Act or the regulations to be given.

S. 790(2)(b) amended by No. 53/2011 s. 20(3).

(3) The joint written notice must be executed in an approved manner by or on behalf of each of the registered holders.

(4) If—

(a) a document relating to a petroleum title is required or permitted by this Act or the regulations to be given to the registered holder; and

S. 790(4)(a) amended by No. 53/2011 s. 20(3).

(b) there are 2 or more registered holders of the petroleum title; and

(c) a nomination of a person under subsection (2) is in force in relation to the petroleum title; and

(d) the document is given to the nominated person—

the document is taken to have been given to each of those registered holders.

(5) If—

(a) a person has been nominated under subsection (2) in relation to a petroleum title; and

(b) one of the registered holders of the petroleum title, by written notice given to the Minister, revokes the nomination—

the nomination ceases to be in force.

(6) If—

(a) a person has been nominated under subsection (2) in relation to a petroleum title; and

(b) the nominated person ceases to be one of the registered holders of the petroleum title—

the nomination ceases to be in force.

(7) In this section—

petroleum title means—

(a) a petroleum exploration permit; or

(b) a petroleum retention lease; or

(c) a petroleum production licence; or

(d) an infrastructure licence; or

(e) a pipeline licence; or

(f) a petroleum special prospecting authority; or

(g) a petroleum access authority.

791 Service of documents on 2 or more registered holders of a greenhouse gas title

(1) This section applies if there are 2 or more registered holders of a greenhouse gas title.

(2) Those registered holders may, by joint written notice given to the Minister, nominate one of them as being the person to whom documents may be given in any case where the documents—

(a) relate to the greenhouse gas title; and

(b) are required or permitted by this Act or the regulations to be given.

S. 791(2)(b) amended by No. 53/2011 s. 20(4).

(3) The joint written notice must be executed in an approved manner by or on behalf of each of the registered holders.

(4) If—

(a) a document relating to a greenhouse gas title is required or permitted by this Act or the regulations to be given to the registered holder; and

S. 791(4)(a) amended by No. 53/2011 s. 20(4).

(b) there are 2 or more registered holders of the greenhouse gas title; and

(c) a nomination of a person under subsection (2) is in force in relation to the greenhouse gas title; and

(d) the document is given to the nominated person—

the document is taken to have been given to each of those registered holders.

(5) If—

(a) a person has been nominated under subsection (2) in relation to a greenhouse gas title; and

(b) one of the registered holders of the greenhouse gas title, by written notice given to the Minister, revokes the nomination—

the nomination ceases to be in force.

(6) If—

(a) a person has been nominated under subsection (2) in relation to a greenhouse gas title; and

(b) the nominated person ceases to be one of the registered holders of the greenhouse gas title—

the nomination ceases to be in force.

(7) In this section—

greenhouse gas title means—

(a) a greenhouse gas assessment permit; or

(b) a greenhouse gas holding lease; or

(c) a greenhouse gas injection licence; or

(d) a greenhouse gas search authority; or

(e) a greenhouse gas special authority.

Part 9.6—Delegation by Minister

792 Delegation by Minister

(1) The Minister, by instrument, may delegate a function or power conferred on the Minister under this Act or the regulations (other than this power of delegation) to any person.

(2) An instrument under subsection (1) must be published in the Government Gazette.

Part 9.7—Public interest

793 Public interest

(1) A provision of this Act that requires the Minister to have regard to the public interest in making a particular decision does not, by implication, prevent the Minister from having regard to the public interest when making any other decision under this Act.

(2) Subsection (1) is enacted for the avoidance of doubt.

Part 9.8—Regulations

794 Regulations

(1) The Governor in Council may make regulations prescribing matters—

S. 794(1) amended by No. 53/2011 s. 21(1).

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the regulations may make provision for or with respect to the matters or things specified in Schedule 4.

(2A) Without limiting subsection (1) or (2), the regulations may make provision for securing, controlling or restricting any or all of the matters or things specified in Schedule 4.

S. 794(2A) inserted by No. 53/2011 s. 21(2).

(3) Regulations made under this Act—

(a) may be of general or limited application;

(b) may differ according to differences in time, place or circumstances;

(c) may incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

(i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or

(ii) as published or amended from time to time;

S. 794(3)(d) amended by No. 53/2011 s. 21(3).

(d) may confer a discretionary authority or impose a duty on a specified person or a specified class of person;

S. 794(3)(e) inserted by No. 53/2011 s. 21(4).

(e) may provide in a specified case or class of case for the exemption of people or things from any of the provisions of the regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified.

S. 794(3) renumbered as s. 794(4) by No. 53/2011 s. 21(5).

(4) A power conferred by this Act to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters—

(a) specific fees;

(b) maximum or minimum fees;

(c) maximum and minimum fees;

(d) the payment of fees either generally or under specified conditions or in specified circumstances;

(e) the reduction, waiver or refund, in whole or in part, of the fees.

795 Unconditional or conditional prohibition

The regulations may permit or prohibit the doing of an act or thing either—

(a) unconditionally; or

(b) subject to conditions (including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person).

796 Regulations not limited by conditions provisions

To avoid doubt, nothing in section 74, 119, 151 to 155, 190, 210, 229, 238, 249, 287 to 290, 326 to 328, 373 to 376, 436, 445 or 456 limits the regulations that may be made under this Act.

797 Offences under regulations

(1) The regulations may provide for offences against the regulations.

(2) The penalties for an offence against the regulations must not exceed a fine of—

S. 797(2) substituted by No. 64/2012 s. 68.

(a) 120 penalty units in the case of a natural person;

(b) 600 penalty units in the case of a body corporate.

Note

Note to s. 797 inserted by No. 62/2010 s. 141.

The giving of acceptance of an environment plan under regulations made under this Act may be a land use activity under the **Traditional Owner Settlement Act 2010** if it relates to public land to which a land use activity agreement under that Act applies.

Part 9.9—Transitional provisions

798 Transitional provisions

Schedule 5 has effect.

S. 798A inserted by No. 74/2012 s. 37.

798A Transitional provisions—2012 amendments

On and after 1 January 2013, a reference to the National Offshore Petroleum Safety Authority in an Act, regulation, order, agreement, instrument or other document must, unless the context indicates otherwise, be taken to be a reference to NOPSEMA, so far as it relates to any period on or after that day.

S. 798B inserted by No. 26/2021 s. 43.

798B Transitional provisions—section 403

(1) The amendments to section 403 made by Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021**, so far as they concern the requirements set out in section 403(2), (3) and (4), apply in relation to a direction proposed to be given after the commencement of that Act, unless a notice relating to the proposed direction was given under subsection 403(2) before that commencement.

(2) The amendments to section 403 made by Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021**, so far as they concern the requirement set out in section 403(5), apply in relation to a direction given after the commencement of that Act.

S. 798C inserted by No. 26/2021 s. 43.

798C Transitional provisions—section 642

(1) The amendments to section 642 made by Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment**

Act 2021, so far as they concern the requirements set out in section 642(2), (3) and (4), apply in relation to a direction proposed to be given after the commencement of that Act, unless a notice relating to the proposed direction was given under subsection 642(2) before that commencement.

(2) The amendments to section 642 made by Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021**, so far as they concern the requirement set out in section 642(5), apply in relation to a direction given after the commencement of that Act.

798D Validation—NOPSEMA inspectors

S. 798D inserted by No. 26/2021 s. 43.

(1) This section applies to a thing purportedly done by, or in relation to, a NOPSEMA inspector under, or for the purposes of, a provision of Schedule 3 before the commencement of Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021**, to the extent that the thing purportedly done would, apart from this section, be invalid because the provision referred to an OHS inspector.

(2) The thing purportedly done is as valid and effective, and is taken to always have been as valid and effective, as it would have been if the amendments to Schedule 3 made by Part 4 of the **Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021** had been in force when the thing was done.

Part 9.10—Repeal and amendments to other Acts

799 Repeal

The **Petroleum (Submerged Lands) Act 1982** is **repealed**.

S. 800 repealed by No. 70/2013 s. 3(Sch. 1 item 39 2).

* * * * *

Schedules

Schedule 1—Scheduled area for Victoria

Note

See section 6 (for datum, see section 41).

The ***scheduled area for Victoria*** is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria and runs thence south-easterly along the geodesic to a point of Latitude 37° 34' 54.39" South, Longitude 150° 10' 04.43" East:

(a) thence south-easterly along the geodesic to a point of Latitude 40° 39' 54.14" South, Longitude 158° 53' 03.98" East; and

(b) thence south-westerly along the geodesic to a point of Latitude 41° 29' 54.17" South, Longitude 158° 13' 04.08" East; and

(c) thence north-westerly along the geodesic to a point of Latitude 39° 11' 54.42" South, Longitude 150° 00' 04.52" East; and

(d) thence westerly along the loxodrome to a point of Latitude 39° 11' 54.71" South to its intersection by the meridian of Longitude 142° 30' 04.95" East; and

(e) thence south-westerly along the geodesic to a point of Latitude 39° 49' 54.74" South, Longitude 142° 00' 05.02" East; and

(f) thence south-westerly along the geodesic to a point of Latitude 43° 59' 55.11" South, Longitude 136° 29' 05.64" East; and

(g) thence north-easterly along the geodesic to a point of Latitude 38° 40' 42.76" South, Longitude 140° 40' 49.00" East; and

(h) thence north-easterly along the geodesic to a point of Latitude 38° 35' 24.75" South, Longitude 140° 44' 41.98" East; and

(i) thence north-easterly along the geodesic to a point of Latitude 38° 25' 54.75" South, Longitude 140° 53' 04.96" East; and

(j) thence north-easterly along the geodesic to a point of Latitude 38° 14' 54.73" South, Longitude 140° 57' 04.94" East; and

(k) thence north-easterly along the geodesic to a point that is the intersection of the parallel of Latitude 38° 09' 54.73" South by the meridian passing through the intersection of the coastline at mean low water by the boundary between the States of South Australia and Victoria; and

(l) thence north along that meridian to its intersection by the coastline at mean low water; and

(m) thence along the coastline of the State of Victoria at mean low water to the point of commencement.

Schedule 2—Area that includes the area to be avoided

Note

See section 666 (for datum, see section 41).

1 Area that includes the area to be avoided

This Schedule applies to the area the boundary of which commences at the most easterly intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude 38° 14' 54.50" South and runs thence south-easterly along the geodesic to the point of Latitude 38° 34' 54.49" South, Longitude 147° 44' 04.61" East:

(a) thence south-easterly along the geodesic to the point of Latitude 38° 40' 54.48" South, Longitude 148° 06' 04.60" East; and

Sch. 2 item 1(a) amended by No. 55/2010 s. 80(12).

(b) thence easterly along the loxodrome to a point of Latitude 38° 40' 54.47" South, Longitude 148° 13' 04.59" East; and

(c) thence north-easterly along the geodesic to the point of Latitude 38° 31' 54.46" South, Longitude 148° 26' 04.57" East; and

(d) thence north-easterly along the geodesic to the point of Latitude 38° 18' 54.46" South, Longitude 148° 35' 04.55" East; and

(e) thence north-westerly along the geodesic to the point of Latitude 38° 07' 54.46" South, Longitude 148° 31' 04.55" East; and

(f) thence north-westerly along the geodesic to the point of Latitude 38° 04' 54.47" South, Longitude 148° 24' 04.55" East; and

(g) thence north-westerly along the geodesic to the intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude 37° 57' 54.48" South; and

(h) thence along the coastline of the State of Victoria at mean low water to the point of commencement.

Schedule 3—Occupational health and safety

Section 699

Part 1—Introduction

1 Objects

The objects of this Schedule are, in relation to facilities located in the offshore area—

(a) to secure the health, safety and welfare of persons at or near those facilities; and

(b) to protect persons at or near those facilities from risks to 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 such 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 Simplified outline

(1) This clause sets out a simplified outline of this Schedule.

(2) This Schedule sets up a scheme to regulate occupational health and safety matters at or near facilities located in the offshore area.

(3) Occupational health and safety duties are imposed on the following—

(a) the operator of a facility;

(b) a person in control of a part of a facility, or of any work carried out at a facility;

(c) an employer;

(d) a manufacturer of plant, or a substance, for use at a facility;

(e) a supplier of a facility, or of any plant or substance for use at a facility;

(f) a person who erects or installs a facility, or any plant at a facility;

(g) a person at a facility.

(4) A group of members of the workforce at a facility may be established as a designated work group.

(5) The members of a designated work group may select a health and safety representative for that designated work group.

(6) The health and safety representative may exercise certain powers for the purpose of promoting or ensuring the health and safety of the group members.

Sch. 3 cl. 2(7) amended by No. 26/2021 s. 42(5).

(7) A NOPSEMA inspector may conduct an inspection—

(a) to ascertain whether a listed OHS law is 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 or near a facility.

Sch. 3 cl. 2(8) amended by No. 74/2012 s. 38.

(8) The operator of a facility must report accidents and dangerous occurrences to NOPSEMA.

(9) This clause is intended only as a guide to readers as to the general scheme and effect of this Schedule.

3 Definitions

In this Schedule, unless the contrary intention appears—

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 14;

dangerous occurrence means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition;

data includes—

(a) information in any form; and

(b) any program (or part of a program);

data held in a computer includes—

(a) data held in any removable data storage device for the time being held in a computer; and

(b) data held in a data storage device on a computer network of which the computer forms a part;

data storage device means a thing containing, or designed to contain, data for use by a computer;

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 25 or 26; or

(b) that group as varied in accordance with clause 27 or 28;

employee, in relation to an employer, means an employee of that employer;

employer means an employer who carries on an activity at a facility;

enter, when used in relation to a vessel, includes board;

facility means a facility as defined by clauses 6 to 10, and—

(a) includes a facility (as defined by those clauses) 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 (as defined by those clauses);

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 89(1);

inspection has the meaning given by clause 4;

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 an individual who does work at the facility—

(a) whether as an employee of the operator of the facility or of another person; or

(b) whether as a contractor of the operator or of another person;

offshore greenhouse gas storage operations has the same meaning as in Part 6.9 of this Act;

offshore petroleum operations has the same meaning as in Part 6.9 of this Act;

operator, in relation to a facility or proposed facility, has the meaning given by clause 11;

operator's representative at a facility means a person present at the facility in compliance with the obligations imposed on the operator by clause 12;

own includes own jointly or 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 84(1);

proposed facility means a facility proposed to be constructed, installed or operated;

recovery has the meaning given by clause 5;

registered organisation means an organisation registered or an association recognised under the Fair Work (Registered Organisations) Act 2009 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 or offshore greenhouse gas storage operations;

regulations means regulations made for the purposes of this Schedule;

reviewing authority means the Fair Work Commission within the meaning of the Fair Work Act 2009 of the Commonwealth;

Sch. 3 cl. 3 def. of *reviewing authority* amended by Nos 74/2012 s. 39, 70/2013 s. 3(Sch. 1 item 39.3), 13/2022 s. 74.

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;

workforce representative means—

(a) in relation to a person who is a member of the workforce at a facility—an organisation registered or an association recognised under the Fair Work (Registered Organisations) Act 2009 of the Commonwealth, of which that person is a member, if the person is qualified to be a member of that organisation or association 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—an organisation registered or an association recognised under the Fair Work (Registered Organisations) Act 2009 of the Commonwealth, 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 or association because of the work the person performs, or will perform, at a facility as a member of the group;

workplace, in relation to a facility, means the whole facility or any part of the facility.

4 Meaning of inspection

(1) For the purposes of this Schedule, an ***inspection*** is an inspection conducted under Part 4 of this Schedule.

(2) An inspection may include an investigation or inquiry, but need not include a physical inspection of any facility, premises or other thing.

5 Meaning of recovery

(1) For the purposes of this Schedule, ***recovery***, in relation to petroleum, includes all processes directly or indirectly related with its recovery.

(2) Subclause (1) does not limit the meaning of the expression recovery when used in a provision of this Act other than this Schedule.

6 Vessels or structures that are facilities—offshore petroleum operations

(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 offshore area; and

(b) is being used, or prepared for use, at that site—

(i) for the recovery of petroleum, for the processing of petroleum, or 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 clauses 8 and 9.

(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.

7 Vessels or structures that are facilities—offshore greenhouse gas storage operations

(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 offshore area; and

(b) is being used, or prepared for use, at that site—

(i) for the injection of a greenhouse gas substance into the seabed or subsoil; or

(ii) for the storage of a greenhouse gas substance in the seabed or subsoil; or

(iii) for the compression of a greenhouse gas substance; or

(iv) for the processing of a greenhouse gas substance; or

(v) for the pre-injection storage of a greenhouse gas substance; or

(vi) for the offloading of a greenhouse gas substance; or

(vii) for the monitoring of a greenhouse gas substance stored in the seabed or subsoil; or

(viii) for any combination of activities covered by any of the preceding subparagraphs; or

(ix) for the provision of accommodation for persons working on another facility, whether connected by a walkway to that other facility or not; or

(x) for drilling or servicing a well for injecting a greenhouse gas substance into the seabed or subsoil or doing work associated with the drilling or servicing process; or

(xi) for laying pipes for conveying a greenhouse gas substance, including any manufacturing of such pipes, or for doing work on an existing pipe; or

(xii) for the erection, dismantling or decommissioning of a vessel or structure referred to in a previous subparagraph; or

(xiii) for any other purpose related to offshore greenhouse gas storage 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 clauses 8 and 9.

(4) A vessel or structure used for a purpose referred to in subclause (1)(b)(i), (ii), (iii), (iv), (v), (vi), (vii) or (viii) includes—

(a) any wells and associated plant and equipment by means of which a greenhouse gas substance processed or temporarily stored at the vessel or structure is injected into the seabed or subsoil; and

(b) any pipe or system of pipes through which a greenhouse gas substance is conveyed from the vessel or structure to a well; and

(c) any greenhouse gas injection 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)(xi) is taken to be located at a site, despite the fact that the vessel or structure moves as the pipe laying process proceeds.

8 Vessels or structures that are not facilities

Despite clauses 6(1) and 7(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.

9 Use for a particular purpose

In determining when a vessel or structure that has the potential to be used for one or more of the purposes referred to in clause 6(1)(b) or 7(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.

10 Pipelines that are facilities

(1) 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;

(c) if a pipeline subject to a pipeline licence conveys a greenhouse gas substance to a well without the greenhouse gas substance 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 a greenhouse gas substance is conveyed to that well from that pipeline.

(2) In subclause (1)(b)—

facility does not include a pipeline.

11 Operator of a facility or proposed facility

Sch. 3 cl. 11(1) amended by No. 74/2012 s. 40.

(1) For the purposes of this Schedule, the ***operator***, in relation to a facility or proposed facility, is the person who, under the regulations, is registered by NOPSEMA as the operator of that facility or proposed facility.

Sch. 3 cl. 11(2) amended by No. 74/2012 s. 40.

(2) The regulations may authorise NOPSEMA to cancel the registration of a person as the operator of a facility or proposed facility.

12 Operator must ensure presence of operator's representative

(1) The operator of a facility must ensure that, at all times when one or more individuals are present at a facility, there is also present an individual (the ***operator's representative at the facility***) who has day-to-day management and control of operations at the facility.

Penalty: 60 penalty units.

(2) The operator of a facility must take all reasonably practicable steps to ensure that the name of the operator's representative at the facility is displayed in a prominent place at the facility.

Penalty: 60 penalty units.

(3) Subclause (1) does not imply that, if the operator is an individual, the operator's representative at the facility may not be, from time to time, the operator.

13 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.

14 Contractor

For the purposes of this Schedule, if an individual does work at a facility under a contract for services between—

(a) a person (the ***relevant person***); and

(b) either—

(i) the individual; or

(ii) the employer of the individual—

the individual is taken to be a ***contractor*** of the relevant person.

Part 2—Occupational health and safety

Division 1—Duties relating to occupational health and safety

15 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: 1200 penalty units.

Note

See also clause 22.

(2) The operator of a facility is taken to be subject, under subclause (1), to each of the following requirements—

(a) to take all reasonably practicable steps to provide and maintain a physical environment at the facility that is safe and without risk to health;

(b) to take all reasonably practicable steps to provide and maintain adequate facilities for the welfare of all members of the workforce at the facility;

(c) to take all reasonably practicable steps to ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health;

(d) to take all reasonably practicable steps to implement and maintain systems of work at the facility that are safe and without risk to health;

(e) to take all reasonably practicable steps to implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility;

(f) to take all reasonably practicable steps to 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 health and safety of persons at the facility;

(g) to take all reasonably practicable steps to monitor the health and safety of all members of the workforce and keep records of that monitoring;

(h) to take all reasonably practicable steps to provide appropriate medical and first aid services at the facility;

(i) to take all reasonably practicable steps to develop, in consultation with—

(i) 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 those consultations—that workforce representative—

a policy, relating to occupational health and safety, that—

(iii) 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

(iv) will provide adequate mechanisms for reviewing the effectiveness of the measures; and

(v) provides for the making of an agreement that complies with subclauses (5) and (6).

(3) Subclause (2) does not limit subclause (1).

(4) The agreement referred to in subclause (2)(i)(v) 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)(v) 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 referred to in subclause (2)(i)(v) must provide for such other matters (if any) as are agreed between the parties to the agreement.

16 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: 1200 penalty units.

Note

See also clause 22.

(2) A person who is in control of any part of a facility, or of any particular work carried out at a facility, is taken to be subject, under subclause (1), to each of the following requirements—

(a) to take all reasonably practicable steps to 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;

(b) to take all reasonably practicable steps to 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;

(c) to take all reasonably practicable steps to 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;

(d) to take all reasonably practicable steps to 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;

(e) to take all reasonably practicable steps to 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.

(3) Subclause (2) does not limit subclause (1).

17 Duties of employers

(1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Penalty: 1200 penalty units.

Note

See also clause 22.

(2) An employer is taken to be subject, under subclause (1), to each of the following requirements—

(a) to take all reasonably practicable steps to provide and maintain a working environment that is safe for employees and without risk to their health;

(b) to take all reasonably practicable steps to ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health;

(c) to take all reasonably practicable steps to implement and maintain systems of work that are safe and without risk to health;

(d) to take all reasonably practicable steps to provide a means of access to, and egress from, the employees' work location that is safe and without risk to health;

(e) to take all reasonably practicable steps to 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.

(3) An employer is taken to be subject, under subclause (1), to each of the following requirements—

(a) to take all reasonably practicable steps to monitor the health and safety of employees;

(b) to take all reasonably practicable steps to keep records of that monitoring.

(4) Subclauses (2) and (3) do not limit subclause (1).

(5) A person has, in relation to a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in relation to 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.

18 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: 240 penalty units.

Note

See also clause 22.

(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: 240 penalty units.

Note

See also clause 22.

(3) For the purposes of this clause, 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 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 relation to defective goods or in relation to information to be supplied in relation to goods.

19 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 such 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: 240 penalty units.

Note

See also clause 22.

(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 relation to the sale or supply of goods or in relation to the information to be supplied in relation to goods.

20 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: 240 penalty units.

Note

See also clause 22.

(2) This clause does not affect the operation of any other law of this State that imposes an obligation in relation to the erection or installation of goods or the supply of services.

21 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 health or 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 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: 240 penalty units.

(2) Despite subclause (1), the choice or 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.

22 Reliance on information supplied or results of research

(1) For the purpose of the application of clause 15, 16 or 17 to the use of plant or a substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires, 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 health and safety in its use; and

(b) it was reasonable for the person to rely on that information.

(2) Subclause (1) does not limit the generality of what constitutes reasonably practicable steps as required by clause 15, 16 or 17.

(3) For the purpose of the application of clause 18 or 19 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires, 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.

(4) Subclause (3) does not limit the generality of what constitutes reasonably practicable steps as required by clause 18 or 19.

(5) For the purpose of the application of clause 20 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 such reasonably practicable steps as that clause requires 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 health and safety of persons at the facility; and

(b) it was reasonable for the person to rely on that information.

(6) Subclause (5) does not limit the generality of what constitutes reasonably practicable steps as required by clause 20.

Division 2—Regulations relating to occupational health and safety

23 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) Subclause (1) has effect subject to this Schedule.

(3) 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 18(1)(c) or (2)(c) or 19(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 such 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.

(4) Subclause (3) does not limit subclause (1).

Part 3—Workplace arrangements

Division 1—Introduction

24 Simplified outline

(1) This clause sets out a simplified outline of this Part.

(2) A group of members of the workforce at a facility may be established as a designated work group.

(3) The members of a designated work group may select a health and safety representative for that designated work group.

(4) The health and safety representative may exercise certain powers for the purpose of promoting or ensuring the health and safety of the group members.

(5) A health and safety committee may be established in relation to the members of the workforce at a facility.

(6) The main function of a health and safety committee is to assist the operator in relation to occupational health and safety matters.

(7) This clause is intended only as a guide to readers as to the general scheme and effect of this Part.

Division 2—Designated work groups

Subdivision 1—Establishment of designated work groups

25 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.

26 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

27 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 a 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.

28 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 a 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

29 Referral of disagreement to reviewing authority

(1) If, in the course of consultations under clause 25, 26, 27 or 28, 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 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.

30 Manner of grouping members of the workforce

(1) Consultations about the establishment or variation of a designated work group must be directed principally towards 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 such members; and

(c) the number and grouping of such 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 such workplace; and

(f) any overtime or shift working 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 3—Health and safety representatives

Subdivision 1—Selection of health and safety representatives

31 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 32.

32 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 31(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.

Sch. 3 cl. 32(2) amended by No. 74/2012 s. 40.

(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, NOPSEMA 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 38.

(7) All the members of the workforce in the designated work group are entitled to vote in the election.

Sch. 3 cl. 32(8) amended by No. 74/2012 s. 40.

(8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by NOPSEMA.

33 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

Sch. 3 cl. 33(b)(ii) amended by No. 26/2021 s. 42(6).

(ii) NOPSEMA inspectors.

34 Members of designated work group must be notified of selection etc. 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 31(3)(a) or (b)) as health and safety representative for the designated work group within a reasonable time after the selection is made.

35 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 25, 26, 27 or 28, the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office—for such a period; or

(b) in any other case—for 2 years—

beginning at the start of the day on which he or she was selected.

(2) However, the health and safety representative is eligible to be selected for further terms of office.

(3) Subclauses (1) and (2) have effect subject to this Part.

36 Training of health and safety representatives

Sch. 3 cl. 36(1) amended by No. 74/2012 s. 40.

(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 NOPSEMA for the purposes of this clause.

(2) The operator of the facility concerned must permit the representative to take such time off work, without loss of remuneration or other entitlements, as 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 such time off work, without loss of remuneration or other entitlements, as is necessary to undertake the training.

37 Resignation etc. 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 31, to be the health and safety representative for the designated work group for a further term; or

(d) the person is disqualified under clause 38.

(2) A person may resign as the health and safety representative for a designated work group by written notice 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.

38 Disqualification of health and safety representatives

Sch. 3 cl. 38(1) amended by No. 74/2012 s. 41(1).

(1) An application for the disqualification of a health and safety representative for a designated work group may be made to NOPSEMA 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 health and safety representative in the exercise or purported exercise of a power under clause 40(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 health and safety representative;

(b) that the health and safety 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.

Sch. 3 cl. 38(3) amended by No. 74/2012 s. 41(2)(a).

(3) If, on an application under subclause (1), NOPSEMA is satisfied that the health and safety representative has acted in a manner referred to in subclause (2), NOPSEMA may, after having 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

Sch. 3 cl. 38(3)(d) amended by No. 74/2012 s. 41(2)(b).

(d) such other matters as NOPSEMA thinks relevant—

disqualify the representative, for a specified period not exceeding 5 years, from being a health and safety representative for any designated work group.

39 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 31.

(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

40 Powers of health and safety representatives

(1) A health and safety representative for a designated work group in relation to a facility may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members—

(a) do any or all 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;

Sch. 3 cl. 40(1)(a)(iii) amended by Nos 74/2012 s. 42, 26/2021 s. 42(7).

(iii) make a request to a NOPSEMA inspector or to NOPSEMA that an inspection be conducted at the workplace;

Sch. 3 cl. 40(1)(a)(iv) amended by No. 26/2021 s. 42(8).

(iv) accompany a NOPSEMA inspector during any inspection at the workplace by the NOPSEMA 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 relation to 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 relation to 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) a NOPSEMA inspector; or

Sch. 3 cl. 40(1)(c)(i) amended by No. 26/2021 s. 42(9).

(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 44.

(2) Subclause (1)(d)(ii) has effect subject to clause 42.

41 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—

Sch. 3 cl. 41(2) amended by No. 74/2012 s. 42.

(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 by an operator or work group employer under clause 40(1)(d)—

only if the operator or NOPSEMA 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—

Sch. 3 cl. 41(4)(a) amended by No. 26/2021 s. 42(10).

(a) a NOPSEMA 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.

42 Information

(1) Neither—

(a) the health and safety representative; nor

(b) if the health and safety representative is assisted by a consultant—the consultant—

is entitled, under clause 40(1)(d)(ii), to have access to information in relation to which a group member is entitled to claim, and does claim, legal professional privilege.

(2) Neither—

(a) the health and safety representative; nor

(b) if the health and safety representative is assisted by a consultant—the consultant—

is entitled, under clause 40(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.

43 Obligations and liabilities 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.

44 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.

45 Effect of provisional improvement notice

Sch. 3 cl. 45(1) amended by Nos 74/2012 s. 42, 26/2021 s. 42(11).

(1) Within 7 days after a notice is issued under clause 44—

(a) the responsible person; or

(b) any other person to whom a copy of the notice has been given under clause 44(8)—

may make a request to NOPSEMA or to a NOPSEMA inspector that an inspection of the matter be conducted.

Sch. 3 cl. 45(2) amended by No. 26/2021 s. 42(11).

(2) Upon the request being made, the operation of the notice is suspended pending the determination of the matter by a NOPSEMA inspector.

Sch. 3 cl. 45(3) amended by No. 26/2021 s. 42(12).

(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 NOPSEMA 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 44(8), accordingly; and

(b) make such decisions, and exercise such powers, under Part 4 of this Schedule, as the NOPSEMA inspector considers necessary in relation to the work.

Sch. 3 cl. 45(3)(b) amended by No. 26/2021 s. 42(12).

(4) If the NOPSEMA inspector varies a notice, the notice as so varied has effect—

Sch. 3 cl. 45(4) amended by No. 26/2021 s. 42(13).

(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 a NOPSEMA inspector or by the health and safety representative; or

Sch. 3 cl. 45(6)(a) amended by No. 26/2021 s. 42(14).

(b) the responsible person—

(i) takes such action (if any) as is 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.

Sch. 3 cl. 45(8) amended by No. 26/2021 s. 42(15).

(8) For the purposes of clause 95, if the NOPSEMA inspector confirms or varies the notice, the NOPSEMA inspector is taken to have decided, under clause 89, to issue an improvement notice in those terms.

Subdivision 3—Duties of the operator and other employers in relation to health and safety representatives

46 Duties of the 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, where the changes 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 such inspection of the workplace as the representative is entitled to make in accordance with clause 40(1)(a)(i) and to accompany a NOPSEMA inspector during an inspection at the workplace by the NOPSEMA inspector; and

Sch. 3 cl. 46(b)(i) amended by No. 26/2021 s. 42(16).

(ii) if there is no health and safety committee in relation to 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 40(1)(c); and

(d) provide to the representative access to any information to which the representative is entitled to obtain access under clause 40(1)(d)(i) or (ii) and to which access has been requested; and

(e) permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to exercise the powers of a health and safety representative; and

(f) provide the representative with access to such facilities as 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 relation to which the operator is entitled to claim, and does claim, legal professional privilege.

(5) The duties imposed by this clause on the operator in relation to 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 4—Health and safety committees

47 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 the 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 such members to be chosen in a way inconsistent with the regulations.

(5) A health and safety committee must hold meetings 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 members of the workforce or any other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the operator.

48 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) such functions as are prescribed;

(e) such other functions as are agreed upon 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.

49 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 such 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 relation to which the operator or employer is entitled to claim, and does claim, legal professional privilege.

Division 5—Emergency procedures

50 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 such action as he or she thinks appropriate to remove that danger, and any such action 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 cease 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.

Sch. 3 cl. 50(4) amended by Nos 74/2012 s. 42, 26/2021 s. 42(17).

(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 paragraph that there is a need for a direction under that paragraph; or

(b) a health and safety representative gives a direction under subclause (3)(c)—

the representative or the supervisor may make a request to NOPSEMA or to a NOPSEMA inspector that an inspection be conducted of the work that is the subject of the direction.

Sch. 3 cl. 50(5) amended by No. 26/2021 s. 42(18).

(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 NOPSEMA inspector conducting the inspection must make such decisions, and exercise such powers, under Part 4 of this Schedule as the NOPSEMA inspector considers necessary in relation to the work.

Sch. 3 cl. 50(6) amended by Nos 74/2012 s. 42, 26/2021 s. 42(19).

(6) This clause does not limit the power of a health and safety representative under clause 40(1)(a)(iii) to make a request to a NOPSEMA inspector or to

NOPSEMA that an inspection be conducted at the workplace.

51 Direction to perform other work

(1) 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 50(1)(b) or (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) a NOPSEMA inspector has, under clause 50(5), made a decision to the effect that the employee should perform the work.

Sch. 3 cl. 51(1)(b)(ii) amended by No. 26/2021 s. 42(20).

(2) 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 6—Exemptions

52 Exemptions

(1) NOPSEMA may, in accordance with the regulations, make a written order exempting a specified person from any or all of the provisions of this Part (other than this clause).

Sch. 3 cl. 52(1) amended by No. 74/2012 s. 43.

Sch. 3 cl. 52(2) amended by No. 74/2012 s. 43.

(2) NOPSEMA 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—Introduction

53 Simplified outline

(1) This clause sets out a simplified outline of this Part.

Sch. 3 cl. 53(2) amended by No. 26/2021 s. 42(21).

(2) A NOPSEMA inspector may conduct an inspection—

(a) to ascertain whether a listed OHS law is 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 or near a facility.

Sch. 3 cl. 53(3) amended by No. 26/2021 s. 42(21).

(3) A NOPSEMA inspector may 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.

Sch. 3 cl. 53(4) amended by No. 26/2021 s. 42(21).

(4) A NOPSEMA inspector may issue an improvement notice specifying action that is to be taken to prevent contraventions of a listed OHS law.

Sch. 3 cl. 53(5) amended by Nos 74/2012 s. 44, 26/2021 s. 42(21).

(5) A NOPSEMA inspector must prepare a report about an inspection and give the report to NOPSEMA.

(6) This clause is intended only as a guide to readers as to the general scheme and effect of this Part.

54 Powers, functions and duties of NOPSEMA inspectors

Sch. 3 cl. 54 (Heading) amended by No. 26/2021 s. 42(22).

(1) A NOPSEMA inspector has the powers, functions and duties conferred or imposed by a listed OHS law.

Sch. 3 cl. 54(1) amended by No. 26/2021 s. 42(23).

(2) NOPSEMA may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on NOPSEMA inspectors by a listed OHS law are to be exercised. If it does so, the powers of NOPSEMA inspectors must be exercised in accordance with those directions.

Sch. 3 cl. 54(2) amended by Nos 74/2012 s. 45, 26/2021 s. 42(24).

(3) NOPSEMA may, by written notice, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular NOPSEMA inspector by a listed OHS law. If it does so, the powers of the NOPSEMA inspector are taken to have been restricted accordingly.

Sch. 3 cl. 54(3) amended by Nos 74/2012 s. 45, 26/2021 s. 42(25).

Division 2—Inspections

55 Inspections

(1) A NOPSEMA inspector may, at any time, conduct an inspection—

Sch. 3 cl. 55(1) amended by No. 26/2021 s. 42(26).

(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 or near a facility.

Sch. 3 cl. 55(2) amended by Nos 74/2012 s. 46, 26/2021 s. 42(27).

(2) NOPSEMA may direct a NOPSEMA 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 or near a facility—

and the NOPSEMA inspector must, unless NOPSEMA revokes the direction, conduct an inspection accordingly.

Sch. 3 Pt 4 Div. 3 (Heading) amended by No. 26/2021 s. 42(28).

Division 3—Powers of NOPSEMA inspectors in relation to the conduct of inspections

Subdivision 1—General powers of entry and search

56 Powers of entry and search—facilities

Sch. 3 cl. 56(1) amended by No. 26/2021 s. 42(29)(a).

(1) A NOPSEMA 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 any or all 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 NOPSEMA inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and

Sch. 3 cl. 56(1)(a)(iv) amended by No. 26/2021 s. 42(29)(b).

(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, a NOPSEMA inspector must take reasonable steps to notify the purpose of entering the facility to—

Sch. 3 cl. 56(2) amended by No. 26/2021 s. 42(30)(a).

(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 NOPSEMA inspector's identity card; and

Sch. 3 cl. 56(2)(c) amended by No. 26/2021 s. 42(30)(b).

(d) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and

Sch. 3 cl. 56(2)(d) amended by No. 74/2012 s. 47.

(e) a copy of the restrictions (if any) imposed on the powers of the NOPSEMA inspector under clause 54(3).

Sch. 3 cl. 56(2)(e) amended by No. 26/2021 s. 42(30)(c).

Sch. 3 cl. 56(3) amended by No. 26/2021 s. 42(31).

(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 NOPSEMA inspector must give the health and safety representative a reasonable opportunity to consult on the matter the subject of the inspection.

57 Powers of entry and search—regulated business premises (other than facilities)

Sch. 3 cl. 57(1) amended by No. 26/2021 s. 42(32)(a).

(1) A NOPSEMA inspector may, for the purposes of an inspection—

Sch. 3 cl. 57(1)(a) amended by No. 26/2021 s. 42(32)(b).

(a) at any reasonable time, enter any regulated business premises (other than a facility) if the NOPSEMA 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.

Sch. 3 cl. 57(2) amended by No. 26/2021 s. 42(33)(a).

(2) Immediately on entering premises referred to in subclause (1), a NOPSEMA 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—

Sch. 3 cl. 57(2)(a) amended by No. 26/2021 s. 42(33)(b).

(a) the NOPSEMA inspector's identity card; and

Sch. 3 cl. 57(2)(b) amended by No. 74/2012 s. 47.

(b) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and

(c) a copy of the restrictions (if any) imposed on the powers of the NOPSEMA inspector under clause 54(3).

Sch. 3 cl. 57(2)(c) amended by No. 26/2021 s. 42(33)(c).

58 Powers of entry and search—premises (other than regulated business premises)

(1) A NOPSEMA inspector may, for the purposes of an inspection—

Sch. 3 cl. 58(1) amended by No. 26/2021 s. 42(34)(a).

(a) enter any premises (other than regulated business premises) if the NOPSEMA 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

Sch. 3 cl. 58(1)(a) amended by No. 26/2021 s. 42(34)(b).

(b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

(2) A NOPSEMA inspector may exercise the powers referred to in subclause (1) to enter premises only—

Sch. 3 cl. 58(2) amended by No. 26/2021 s. 42(35).

(a) if the premises are not a residence—

(i) in accordance with a warrant under clause 59; 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), a NOPSEMA inspector must—

Sch. 3 cl. 58(3) amended by No. 26/2021 s. 42(36)(a).

(a) take reasonable steps to notify the purpose of the entry to the occupier of those premises; and

Sch. 3 cl. 58(3)(b) amended by No. 26/2021 s. 42(36)(b).

(b) take reasonable steps to produce, for inspection by the occupier, the NOPSEMA inspector's identity card; and

(c) on being requested to do so by the occupier, produce, for inspection by the occupier—

Sch. 3 cl. 58(3)(c)(i) amended by No. 74/2012 s. 47.

(i) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and

Sch. 3 cl. 58(3)(c)(ii) amended by No. 26/2021 s. 42(36)(c).

(ii) a copy of the restrictions (if any) imposed on the powers of the NOPSEMA inspector under clause 54(3).

Sch. 3 cl. 58(4) amended by No. 26/2021 s. 42(37)(b).

(4) If—

Sch. 3 cl. 58(4)(a) amended by No. 26/2021 s. 42(37)(a).

(a) a NOPSEMA inspector enters premises in accordance with a warrant under clause 59; and

(b) the occupier of the premises is present at the premises—

the NOPSEMA inspector must make a copy of the warrant available to the occupier.

Sch. 3 cl. 58(5) amended by No. 26/2021 s. 42(38).

(5) Before obtaining the consent of a person as mentioned in subclause (2)(a) or (b), a NOPSEMA 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.

59 Warrant to enter premises (other than regulated business premises)

(1) A NOPSEMA inspector may apply to a magistrate for a warrant authorising the NOPSEMA inspector, with such assistance as the NOPSEMA inspector thinks necessary, to exercise the powers referred to in clause 58(1) in relation to particular premises (other than a residence).

Sch. 3 cl. 59(1) amended by No. 26/2021 s. 42(39).

(2) The application must be supported by evidence on oath or affirmation (whether oral or by affidavit) that sets out the grounds on which the NOPSEMA inspector is applying for the warrant.

Sch. 3 cl. 59(2) amended by No. 26/2021 s. 42(40).

(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 NOPSEMA inspector; and

Sch. 3 cl. 59(4)(a) amended by No. 26/2021 s. 42(40).

(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) A warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in the form set out in the regulations under that Act.

(8) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this clause.

Sch. 3 cl. 60 (Heading) amended by No. 26/2021 s. 42(41).

60 Obstructing or hindering NOPSEMA inspector

Sch. 3 cl. 60(1) amended by No. 26/2021 s. 42(42).

(1) A person must not obstruct or hinder a NOPSEMA inspector in the exercise of his or her powers under clause 56, 57 or 58.

Penalty: 60 penalty units.

(2) Subclause (1) does not apply if the person has a reasonable excuse.

Subdivision 2—Offence-related searches and seizures

61 What is evidential material?

For the purposes of this Subdivision, a thing is ***evidential material*** if it is—

(a) a thing in respect of which an offence against a listed OHS law has been committed or is suspected, on reasonable grounds, to have been committed; or

(b) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against a listed OHS law; or

(c) a thing that there are reasonable grounds for suspecting was used, or is intended to be used, for the purposes of committing an offence against a listed OHS law.

62 Offence-related searches and seizures—NOPSEMA inspector already present at facility

Sch. 3 cl. 62 (Heading) amended by No. 26/2021 s. 42(43).

(1) This clause applies if, in connection with an inspection—

(a) a NOPSEMA inspector has entered a facility under clause 56; and

Sch. 3 cl. 62(1)(a) amended by No. 26/2021 s. 42(44)(a).

(b) the NOPSEMA inspector believes on reasonable grounds that there is at the facility any evidential material.

Sch. 3 cl. 62(1)(b) amended by No. 26/2021 s. 42(44)(b).

(2) The NOPSEMA inspector may, for the purposes of the inspection—

Sch. 3 cl. 62(2) amended by No. 26/2021 s. 42(45).

(a) search the facility for evidential material; and

(b) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, at the facility and in which the NOPSEMA inspector believes on reasonable grounds there to be any evidential material; and

Sch. 3 cl. 62(2)(b) amended by No. 26/2021 s. 42(45).

(c) examine any thing at the facility that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 62(2)(c) amended by No. 26/2021 s. 42(45).

(d) seize any thing at the facility that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 62(2)(d) amended by No. 26/2021 s. 42(45).

Sch. 3 cl. 62(2)(e) amended by No. 26/2021 s. 42(45).

(e) take samples of any thing at the facility that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

(f) exercise the data access powers set out in clause 64 in relation to the facility; and

(g) exercise the data seizure powers set out in clause 65 in relation to the facility.

Sch. 3 cl. 62(3) amended by No. 26/2021 s. 42(46).

(3) A NOPSEMA inspector may exercise the powers referred to in subclause (2)(a), (b), (c), (e) or (f) only—

(a) with the consent of—

(i) the operator; or

(ii) the operator's representative at the facility; or

(b) in accordance with a warrant issued under clause 73(1).

Sch. 3 cl. 62(4) amended by No. 26/2021 s. 42(46).

(4) A NOPSEMA inspector may exercise the powers referred to in subclause (2)(d) or (g) only in accordance with a warrant issued under clause 73(1).

Sch. 3 cl. 62(5) amended by No. 26/2021 s. 42(47)(a).

(5) Before searching a facility under subclause (2), a NOPSEMA inspector must—

(a) take reasonable steps to notify the purpose of the search to the operator's representative at the facility; and

Sch. 3 cl. 62(5)(b) amended by No. 26/2021 s. 42(47)(b).

(b) take reasonable steps to produce, for inspection by the operator's representative, the NOPSEMA inspector's identity card; and

(c) on being requested to do so by the operator's representative, produce, for inspection by the operator's representative—

(i) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and

Sch. 3 cl. 62(5)(c)(i) amended by No. 74/2012 s. 47.

(ii) a copy of the restrictions (if any) imposed on the powers of the NOPSEMA inspector under clause 54(3).

Sch. 3 cl. 62(5)(c)(ii) amended by No. 26/2021 s. 42(47)(c).

(6) If—

Sch. 3 cl. 62(6) amended by No. 26/2021 s. 42(48)(b).

(a) a NOPSEMA inspector searches a facility in accordance with a warrant issued under clause 73(1); and

Sch. 3 cl. 62(6)(a) amended by No. 26/2021 s. 42(48)(a).

(b) the operator's representative at the facility is present at the facility—

the NOPSEMA inspector must make a copy of the warrant available to the operator's representative.

(7) Before obtaining the consent of a person as mentioned in subclause (3)(a), a NOPSEMA inspector must inform the person that—

Sch. 3 cl. 62(7) amended by No. 26/2021 s. 42(49).

(a) the person may refuse consent; and

(b) the consent may be withdrawn.

(8) The consent of a person is not effective for the purposes of subclause (3) unless the consent is voluntary.

(9) If—

Sch. 3 cl. 62(9) amended by No. 26/2021 s. 42(50)(b).

(a) in the course of searching, in accordance with a warrant issued under clause 73(1) for particular evidential material relating to an offence against a listed OHS law, a

Sch. 3 cl. 62(9)(a) amended by No. 26/2021 s. 42(50).

NOPSEMA inspector finds a thing that the NOPSEMA inspector believes on reasonable grounds to be—

(i) a thing that is evidential material relating to that offence, although not evidential material of a kind specified in the warrant; or

(ii) a thing that is evidential material relating to another offence against a listed OHS law; and

Sch. 3 cl. 62(9)(b) amended by No. 26/2021 s. 42(50)(b).

(b) the NOPSEMA inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence—

the warrant is taken to authorise the NOPSEMA inspector to seize that thing.

Sch. 3 cl. 63 (Heading) amended by No. 26/2021 s. 42(51).

63 Offence-related searches and seizures—NOPSEMA inspector not already present at facility, premises or vessel

Sch. 3 cl. 63(1) amended by No. 26/2021 s. 42(52).

(1) This clause applies if, in connection with an inspection, a NOPSEMA inspector believes on reasonable grounds that—

(a) there is at a facility any evidential material; or

(b) there is at any premises (other than a facility) any evidential material; or

(c) there is on any vessel any evidential material.

Sch. 3 cl. 63(2) amended by No. 26/2021 s. 42(53).

(2) The NOPSEMA inspector may, for the purposes of the inspection—

(a) enter the facility, premises or vessel; and

(b) search the facility, premises or vessel for evidential material; and

(c) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, at the facility or premises or on the vessel and in which the NOPSEMA inspector believes on reasonable grounds there to be any evidential material; and

Sch. 3 cl. 63(2)(c) amended by No. 26/2021 s. 42(53).

(d) examine any thing at the facility or premises or on the vessel that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 63(2)(d) amended by No. 26/2021 s. 42(53).

(e) seize any thing at the facility or premises or on the vessel that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 63(2)(e) amended by No. 26/2021 s. 42(53).

(f) inspect, examine, take measurements of, conduct tests on, or take samples of, any thing at the facility or premises or on the vessel that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 63(2)(f) amended by No. 26/2021 s. 42(53).

(g) take photographs of, make video recordings of, or make sketches of the facility, premises or vessel or any thing at the facility or premises or on the vessel that the NOPSEMA inspector believes on reasonable grounds to be evidential material; and

Sch. 3 cl. 63(2)(g) amended by No. 26/2021 s. 42(53).

(h) exercise the data access powers set out in clause 64 in relation to the facility, premises or vessel; and

(i) exercise the data seizure powers set out in clause 65 in relation to the facility, premises or vessel.

Sch. 3 cl. 63(3) amended by No. 26/2021 s. 42(54).

(3) A NOPSEMA inspector may exercise the powers referred to in subclause (2)(a), (b), (c), (d), (f), (g) or (h) only—

(a) with the consent of—

(i) in the case of a facility—the operator's representative at the facility or the operator of the facility; or

(ii) in the case of premises—the occupier of the premises; or

(iii) in the case of a vessel—the master of the vessel; or

(b) in accordance with a warrant issued under clause 73(2) or (4).

Sch. 3 cl. 63(4) amended by No. 26/2021 s. 42(54).

(4) A NOPSEMA inspector may exercise the powers referred to in subclause (2)(e) or (i) only in accordance with a warrant issued under clause 73(1).

Sch. 3 cl. 63(5) amended by No. 26/2021 s. 42(55)(a).

(5) Immediately on entering a facility, premises or vessel under subclause (2), a NOPSEMA inspector must—

(a) take reasonable steps to notify the purpose of the entry to the operator's representative at the facility, the occupier of the premises, or the master of the vessel, as the case may be; and

Sch. 3 cl. 63(5)(b) amended by No. 26/2021 s. 42(55)(b).

(b) take reasonable steps to produce, for inspection by the operator's representative, the occupier, or the master, as the case may be, the NOPSEMA inspector's identity card; and

(c) on being requested to do so by the operator's representative, the occupier, or the master, produce, for inspection by the operator's representative, the occupier or the master, as the case may be—

(i) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and

Sch. 3 cl. 63(5)(c)(i) amended by No. 74/2012 s. 47.

(ii) a copy of the restrictions (if any) imposed on the powers of the NOPSEMA inspector under clause 54(3).

Sch. 3 cl. 63(5)(c)(ii) amended by No. 26/2021 s. 42(55)(c).

(6) If—

Sch. 3 cl. 63(6) amended by No. 26/2021 s. 42(56)(b).

(a) a NOPSEMA inspector enters a facility, premises or vessel in accordance with a warrant issued under clause 73(2) or (4); and

Sch. 3 cl. 63(6)(a) amended by No. 26/2021 s. 42(56)(a).

(b) in the case of a facility or premises—the operator's representative at the facility, or the occupier of the premises, is present at the facility or premises, as the case may be—

the NOPSEMA inspector must make a copy of the warrant available to the operator's representative, the occupier of the premises, or the master of the vessel, as the case may be.

(7) Before obtaining the consent of a person as mentioned in subclause (3)(a), a NOPSEMA inspector must inform the person that—

Sch. 3 cl. 63(7) amended by No. 26/2021 s. 42(57).

(a) the person may refuse consent; and

(b) the consent may be withdrawn.

(8) The consent of a person is not effective for the purposes of subclause (3) unless the consent is voluntary.

Sch. 3 cl. 63(9) amended by No. 26/2021 s. 42(58)(b).

(9) If—

Sch. 3 cl. 63(9)(a) amended by No. 26/2021 s. 42(58).

(a) in the course of searching, in accordance with a warrant issued under clause 73(2) or (4) for particular evidential material relating to an offence against a listed OHS law, a NOPSEMA inspector finds a thing that the NOPSEMA inspector believes on reasonable grounds to be—

(i) a thing that is evidential material relating to that offence, although not evidential material of a kind specified in the warrant; or

(ii) a thing that is evidential material relating to another offence against a listed OHS law; and

Sch. 3 cl. 63(9)(b) amended by No. 26/2021 s. 42(58)(b).

(b) the NOPSEMA inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence—

the warrant is taken to authorise the NOPSEMA inspector to seize that thing.

64 Data access powers

Sch. 3 cl. 64(1) amended by No. 26/2021 s. 42(59).

(1) This clause sets out the data access powers that a NOPSEMA inspector may exercise under—

(a) clause 62(2)(f) in relation to a facility; or

(b) clause 63(2)(h) in relation to a facility, premises or vessel.

(2) The NOPSEMA inspector may operate electronic equipment at the facility or premises or on the vessel to access data (including data not held at the facility or premises or on the vessel) if the NOPSEMA inspector believes on reasonable grounds that—

Sch. 3 cl. 64(2) amended by No. 26/2021 s. 42(60).

(a) the data might constitute evidential material; and

(b) the equipment can be operated without damaging it.

Note

Note to Sch. 3 cl. 64(2) amended by No. 26/2021 s. 42(61).

A NOPSEMA inspector can obtain an order requiring a person with knowledge of a computer or computer system to provide assistance: see clause 66.

(3) If the NOPSEMA inspector believes on reasonable grounds that any data accessed by operating the electronic equipment might constitute evidential material, the NOPSEMA inspector may—

Sch. 3 cl. 64(3) amended by No. 26/2021 s. 42(62).

(a) copy the data to a disk, tape or other associated device brought to the facility, premises or vessel; or

(b) if—

(i) the operator's representative at the facility; or

(ii) the occupier of the premises; or

(iii) the master of the vessel—

as the case may be, agrees in writing—copy the data to a disk, tape or other associated device at the facility or premises or on the vessel—

and take the disk, tape or device from the facility, premises or vessel.

Sch. 3 cl. 64(4) amended by No. 74/2012 s. 48.

(4) If—

Sch. 3 cl. 64(4)(a) amended by No. 26/2021 s. 42(62).

(a) the NOPSEMA inspector takes the disk, tape or device from the facility, premises or vessel; and

Sch. 3 cl. 64(4)(b) amended by No. 74/2012 s. 48.

(b) NOPSEMA is satisfied that the data is not required (or is no longer required) for—

(i) an inspection; or

(ii) the prosecution of a person—

NOPSEMA must arrange for—

Sch. 3 cl. 64(4)(c) amended by No. 74/2012 s. 48.

(c) the removal of the data from any disk, tape or device in the control of NOPSEMA; and

Sch. 3 cl. 64(4)(d) amended by No. 74/2012 s. 48.

(d) the destruction of any other reproduction of the data in the control of NOPSEMA.

Sch. 3 cl. 64(5) amended by No. 26/2021 s. 42(62).

(5) If the NOPSEMA inspector believes on reasonable grounds that—

(a) evidential material may be accessible by operating electronic equipment at the facility or premises or on the vessel; and

(b) expert assistance is required to operate the equipment; and

Sch. 3 cl. 64(5)(c) amended by No. 26/2021 s. 42(62).

(c) if the NOPSEMA inspector does not take action under this subclause, the material may be destroyed, altered or otherwise interfered with—

the NOPSEMA inspector may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

(6) The NOPSEMA inspector must give notice to— **Sch. 3 cl. 64(6) amended by No. 26/2021 s. 42(63).**

(a) the operator's representative at the facility; or

(b) the occupier of the premises; or

(c) the master of the vessel—

as the case may be, of the NOPSEMA inspector's intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.

(7) The equipment may be secured—

(a) for a period not longer than 24 hours; or

(b) until the equipment has been operated by the expert—

whichever happens first.

(8) If the NOPSEMA inspector believes on reasonable grounds that the expert assistance will not be available within 24 hours, the NOPSEMA inspector may apply to a magistrate for an extension of that period. **Sch. 3 cl. 64(8) amended by No. 26/2021 s. 42(64).**

(9) The NOPSEMA inspector must give notice to— **Sch. 3 cl. 64(9) amended by No. 26/2021 s. 42(65).**

(a) the operator's representative at the facility; or

(b) the occupier of the premises; or

(c) the master of the vessel—

as the case may be, of the NOPSEMA inspector's intention to apply for an extension, and the operator, occupier or master is entitled to be heard in relation to the application.

(10) The provisions of this Subdivision relating to the issue of warrants apply, with such modifications as are necessary, to the issuing of an extension.

65 Data seizure powers

Sch. 3 cl. 65(1) amended by No. 26/2021 s. 42(66).

(1) This clause sets out the data seizure powers that a NOPSEMA inspector may exercise under—

(a) clause 62(2)(g) in relation to a facility; or

(b) clause 63(2)(i) in relation to a facility, premises or vessel.

Sch. 3 cl. 65(2) amended by No. 26/2021 s. 42(67)(b).

(2) If—

Sch. 3 cl. 65(2)(a) amended by No. 26/2021 s. 42(67)(a).

(a) a NOPSEMA inspector operates electronic equipment under clause 64(2); and

Sch. 3 cl. 65(2)(b) amended by No. 26/2021 s. 42(67)(b).

(b) the NOPSEMA inspector, after operating the equipment, finds that evidential material is accessible by doing so—

the NOPSEMA inspector may—

(c) seize the equipment and any disk, tape or other associated device; or

(d) if the material can, by using a thing at the facility or premises or on the vessel, be put in documentary form—operate the thing to put the material in that form, and seize the documents so produced.

Sch. 3 cl. 65(3) amended by No. 26/2021 s. 42(68).

(3) The NOPSEMA inspector may seize equipment under subclause (2)(c) only if—

(a) it is not practicable to copy the data as mentioned in clause 64(3) or to put the material in documentary form as mentioned in subclause (2)(d) of this clause; or

(b) the equipment is in the possession of another person, and the possession by the other person could constitute an offence.

66 Access to computer data

Sch. 3 cl. 66(1) amended by No. 26/2021 s. 42(69).

(1) This clause applies if a warrant is in force under clause 73 authorising a NOPSEMA inspector to exercise data access powers under clause 64 in relation to a facility, premises or vessel.

Sch. 3 cl. 66(2) amended by No. 26/2021 s. 42(70).

(2) The NOPSEMA inspector may apply to a magistrate for an order requiring a specified person to provide any information or assistance that is reasonable and necessary to allow the NOPSEMA inspector to do one or more of the following—

(a) access data held in, or accessible from, a computer that is at the facility or premises or on the vessel;

(b) copy the data to a data storage device;

(c) convert the data into documentary form.

(3) The magistrate may grant the order if the magistrate is satisfied that—

(a) there are reasonable grounds for suspecting that evidential material is held in, or is accessible from, the computer; and

(b) the specified person is—

(i) reasonably suspected of having been involved in the offence stated in the warrant; or

(ii) the owner or lessee of the computer; or

(iii) an employee of the owner or lessee of the computer; and

(c) the specified person has relevant knowledge of—

(i) the computer or a computer network of which the computer forms a part; or

(ii) measures applied to protect data held in, or accessible from, the computer.

(4) A person who is subject to an order under this clause must comply with that order.

Penalty: Imprisonment for 6 months.

67 Compensation for damage to equipment

(1) This clause applies if—

(a) as a result of equipment being operated as mentioned in clause 64 or 65—

(i) damage is caused to the equipment; or

(ii) the data recorded on the equipment is damaged; or

(iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and

(b) the damage or corruption occurs because—

(i) insufficient care was exercised in selecting the person who was to operate the equipment; or

(ii) insufficient care was exercised by the person operating the equipment.

(2) The State must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the State and the owner or user agree on.

(3) However, if the owner or user and the State fail to agree, the owner or user may institute proceedings in the Supreme Court for such reasonable amount of compensation as the Supreme Court determines.

(4) In determining the amount of compensation payable, regard is to be had to—

(a) if the equipment was operated at a facility—whether the operator of the facility, or the operator's representative at the facility, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment; or

(b) if the equipment was operated at premises other than a facility—whether the occupier of the premises, or the occupier's employees and agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment; or

(c) if the equipment was operated on a vessel—whether the master of the vessel, or the crew of the vessel, provided any appropriate warning or guidance on the operation of the equipment.

(5) For the purposes of subclause (1) the Consolidated Fund is, to the necessary extent, appropriated accordingly.

(6) For the purposes of subclause (1)—

damage, in relation to data, includes damage by erasure of data or addition of other data.

68 Copies of things seized to be provided

(1) If a NOPSEMA inspector seizes, under this Subdivision—

Sch. 3 cl. 68(1) amended by No. 26/2021 s. 42(71).

(a) a document, film, computer file or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied—

the NOPSEMA inspector must, if requested to do so by—

(c) in the case of a facility—the operator's representative at the facility; or

(d) in the case of premises (other than a facility)—the occupier of the premises or another person who apparently represents the occupier and who is present when the thing is seized; or

(e) in the case of a vessel—the master of the vessel—

give a copy of the thing or the information to that person as soon as practicable after the seizure.

(2) However, subclause (1) does not apply if—

(a) the thing that has been seized was seized under clause 64(3) or 65(2)(d); or

(b) the document, film, computer file, thing or information is in the possession of another person, and the possession by the other person could constitute an offence.

69 Operator's representative, occupier or master entitled to be present during search

(1) If a warrant in relation to a facility is being executed, the operator's representative at the facility is entitled to observe the search being conducted.

(2) If a warrant in relation to premises is being executed, the following person is entitled to observe the search being conducted—

(i) if the occupier of the premises is present at the premises—the occupier;

(ii) if another person who apparently represents the occupier is present at the premises—the other person.

(3) If a warrant in relation to a vessel is being executed, the master of the vessel is entitled to observe the search being conducted.

(4) The right to observe the search being conducted ceases if the operator's representative, the occupier, the other person or the master, as the case may be, impedes the search.

(5) This clause does not prevent 2 or more areas of the facility, premises or vessel being searched at the same time.

70 Receipts for things seized

(1) If a NOPSEMA inspector seizes a thing under this Subdivision, the NOPSEMA inspector must provide a receipt for the thing.

Sch. 3 cl. 70(1) amended by No. 26/2021 s. 42(72).

(2) If 2 or more things are seized or moved, they may be covered in the one receipt.

71 Retention of things seized

(1) If a NOPSEMA inspector seizes a thing under this Subdivision, the NOPSEMA inspector or NOPSEMA may retain it until—

Sch. 3 cl. 71(1) amended by Nos 74/2012 s. 49(1), 26/2021 s. 42(73).

(a) the end of the period of 60 days after the seizure; or

(b) if proceedings for an offence in respect of which the thing may afford evidence are instituted within that period—the proceedings (including any appeal to a court in relation to those proceedings) are completed.

Sch. 3 cl. 71(2) amended by No. 74/2012 s. 49(2)(a).

(2) NOPSEMA may, by written instrument, authorise a thing seized under this Subdivision to be released to the owner, or to the person from whom it was seized, either—

(a) unconditionally; or

Sch. 3 cl. 71(2)(b) amended by No. 74/2012 s. 49(2)(b).

(b) on such conditions as NOPSEMA thinks fit.

72 Magistrate may permit a thing seized to be retained for a further period

Sch. 3 cl. 72(1) amended by Nos 74/2012 s. 50, 26/2021 s. 42(74).

(1) If a NOPSEMA inspector seizes a thing under this Subdivision, the NOPSEMA inspector or NOPSEMA may apply to a magistrate for an order that the NOPSEMA inspector, or NOPSEMA, as the case may be, may retain the thing for a further period if—

(a) before the end of 60 days after the seizure; or

(b) before the end of a period previously specified in an order of a magistrate under this clause—

proceedings for an offence in respect of which the thing may afford evidence have not been instituted.

Sch. 3 cl. 72(2) amended by Nos 74/2012 s. 50, 26/2021 s. 42(75).

(2) If the magistrate is satisfied that it is necessary for a NOPSEMA inspector, or NOPSEMA, as the case may be, to continue to retain the thing—

(a) for the purposes of an inspection; or

(b) to enable evidence of an offence against a listed OHS law to be secured for the purposes of a prosecution—

the magistrate may order that the NOPSEMA inspector or NOPSEMA may retain the thing for a period (not exceeding 3 years) specified in the order.

(3) Before making the application, the NOPSEMA inspector, or NOPSEMA, as the case may be, must—

Sch. 3 cl. 72(3) amended by Nos 74/2012 s. 50, 26/2021 s. 42(76).

(a) take reasonable steps to discover who has an interest in the retention of the thing; and

(b) if it is practicable to do so—notify the proposed application to each person whom the NOPSEMA inspector or NOPSEMA believes to have an interest in the retention of the thing.

Sch. 3 cl. 72(3)(b) amended by Nos 74/2012 s. 50, 26/2021 s. 42(76).

73 Magistrate may issue warrant

(1) If—

Sch. 3 cl. 73(1) amended by No. 26/2021 s. 42(77)(b).

(a) a NOPSEMA inspector has entered a facility under clause 56; and

Sch. 3 cl. 73(1)(a) amended by No. 26/2021 s. 42(77)(a).

(b) the NOPSEMA inspector believes on reasonable grounds that there is at the facility any evidential material; and

Sch. 3 cl. 73(1)(b) amended by No. 26/2021 s. 42(77)(b).

(c) the NOPSEMA inspector applies to a magistrate, by telephone, fax or other electronic means, for a search warrant under this subclause in relation to the evidential material—

Sch. 3 cl. 73(1)(c) amended by No. 26/2021 s. 42(77)(b).

the magistrate may issue a search warrant authorising the NOPSEMA inspector, with such assistance, and by such force, as is necessary and reasonable, to exercise the powers referred to in clause 62(2)(a) to (g) in respect of the evidential material.

Sch. 3 cl. 73(2) amended by No. 26/2021 s. 42(78)(b).

(2) If—

Sch. 3 cl. 73(2)(a) amended by No. 26/2021 s. 42(78)(a).

(a) evidence on oath or affirmation, or by affidavit, is submitted to a magistrate alleging that a NOPSEMA inspector believes on reasonable grounds that there is at a facility or premises or on a vessel any evidential material; and

(b) the evidence sets out those grounds—

the magistrate may issue a search warrant authorising the NOPSEMA inspector named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to—

(c) enter the facility, premises or vessel; and

(d) exercise the powers referred to in clause 63(2)(b) to (i) in respect of the evidential material.

Sch. 3 cl. 73(3) amended by No. 26/2021 s. 42(79).

(3) If, because of circumstances of urgency, a NOPSEMA inspector thinks it necessary to do so, the NOPSEMA inspector may apply to a magistrate for a warrant under subclause (2) by telephone, fax or other electronic means.

Sch. 3 cl. 73(4) amended by No. 26/2021 s. 42(80)(b).

(4) If—

Sch. 3 cl. 73(4)(a) amended by No. 26/2021 s. 42(80)(a).

(a) a NOPSEMA inspector has entered a facility under clause 56; and

Sch. 3 cl. 73(4)(b) amended by No. 26/2021 s. 42(80)(b).

(b) the NOPSEMA inspector believes on reasonable grounds that there is on a vessel any evidential material that relates to the listed OHS law covered by section 700(a); and

(c) the NOPSEMA inspector applies to a magistrate, by telephone, fax or other electronic means, for a search warrant under this subclause in relation to the evidential material—

Sch. 3 cl. 73(4)(c) amended by No. 26/2021 s. 42(80)(b).

the magistrate may issue a search warrant authorising the NOPSEMA inspector named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to—

(d) enter the vessel; and

(e) exercise the powers referred to in clauses 63(2)(b) to (i) in respect of the evidential material.

74 Reasonable grounds for issuing warrant etc.

A magistrate must not issue a warrant under clause 73 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 grounds 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.

75 Contents of warrant

(1) A warrant issued under clause 73 must state—

(a) the name of the NOPSEMA inspector; and

Sch. 3 cl. 75(1)(a) amended by No. 26/2021 s. 42(81).

(b) in the case of a warrant issued under clause 73(1)—whether the search may be carried out at any time or only during specified hours of the day; and

(c) in the case of a warrant issued under clause 73(2) or (4)—whether the entry or search may be carried out at any time or only during specified hours of the day; and

(d) a description of the kind of things to be seized; and

(e) the day on which the warrant ceases to have effect; and

(f) the purpose for which the warrant is issued.

(2) The day specified under subclause (1)(e) is not to be more than 7 days after the day on which the warrant is issued.

(3) The purpose specified under subclause (1)(f) must include the identification of the facility, premises or vessel in relation to which the warrant is issued.

(4) A warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in the form set out in the regulations under that Act.

(5) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this clause.

76 Provisions relating to issue of warrant by telephone etc.

(1) This clause applies to an application for a warrant under clause 73(1), (2) or (4) if the application is made by telephone, fax or other electronic means.

(2) Before making the application, a NOPSEMA inspector must prepare an affidavit that—

Sch. 3 cl. 76(2) amended by No. 26/2021 s. 42(82)(a).

(a) alleges that the NOPSEMA inspector believes on reasonable grounds that there is at a facility or premises or on a vessel any evidential material; and

Sch. 3 cl. 76(2)(a) amended by No. 26/2021 s. 42(82)(b).

(b) sets out those grounds.

(3) The affidavit must be on oath or affirmation. However, the NOPSEMA inspector may, if it is necessary to do so, make the application before the affidavit has been sworn or affirmed.

Sch. 3 cl. 76(3) amended by No. 26/2021 s. 42(83).

(4) If the magistrate to whom an application is made is satisfied—

(a) after having considered the terms of the affidavit prepared under subclause (2); and

(b) after having received any further affidavit that the magistrate requires concerning the grounds on which the issue of the warrant is being sought—

that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign such a search warrant.

(5) If the magistrate signs a warrant under subclause (4)—

(a) the magistrate must—

(i) inform the NOPSEMA inspector of the terms of the warrant; and

Sch. 3 cl. 76(5)(a)(i) amended by No. 26/2021 s. 42(83).

(ii) inform the NOPSEMA inspector of the day on which and the time at which the warrant was signed; and

Sch. 3 cl. 76(5)(a)(ii) amended by No. 26/2021 s. 42(83).

Sch. 3 cl. 76(5)(a)(iii) amended by No. 26/2021 s. 42(83).

(iii) inform the NOPSEMA inspector of the day (not more than 7 days after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and

(iv) record on the warrant the reasons for issuing the warrant; and

Sch. 3 cl. 76(5)(b) amended by No. 26/2021 s. 42(83).

(b) the NOPSEMA inspector must—

(i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and

(ii) write on it the magistrate's name and the day on which and the time at which the warrant was signed.

Sch. 3 cl. 76(6) amended by No. 26/2021 s. 42(83).

(6) The NOPSEMA inspector must, not later than the day after the date of expiry or execution of the warrant, whichever is the earlier, send to the magistrate—

Sch. 3 cl. 76(6)(a) amended by No. 26/2021 s. 42(83).

(a) the form of warrant completed by the NOPSEMA inspector; and

(b) the affidavit duly sworn or affirmed in connection with the warrant.

(7) On receiving the documents referred to in subclause (6), the magistrate must—

(a) attach to them the warrant signed by the magistrate; and

(b) deal with the documents in the way that the magistrate would have dealt with the affidavit if the application for the warrant had been made otherwise than by telephone, fax or other electronic means.

(8) A form of warrant duly completed by a NOPSEMA inspector under subclause (5), if it is in accordance with the terms of the warrant signed by the magistrate, is authority for a seizure or other exercise of a power that the warrant so signed authorises.

Sch. 3 cl. 76(8) amended by No. 26/2021 s. 42(84).

77 Proceedings involving warrant issued by telephone etc.

If—

(a) it is material in any proceedings for a court to be satisfied that a seizure or other exercise of power was authorised in accordance with clause 76; and

(b) a warrant signed by a magistrate under clause 76 authorising the seizure or other exercise of power is not produced in evidence—

the court is to assume, unless the contrary is proved, that the seizure or other exercise of power was not authorised by such a warrant.

78 This Subdivision does not limit other powers

(1) This Subdivision does not limit Subdivision 1.

(2) In particular, this Act does not prevent the concurrent exercise of powers under this Subdivision and Subdivision 1.

Note

Subdivision 1 deals with general powers of entry and search.

(3) This Subdivision does not limit clause 82.

Note

Clause 82 deals with the power to take possession of plant, take samples of substances etc.

Subdivision 3—Other powers

79 Power to require assistance

Sch. 3 cl. 79(1) amended by No. 26/2021 s. 42(85)(a)(b).

(1) A NOPSEMA 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 NOPSEMA 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

Sch. 3 cl. 79(1)(f) amended by No. 26/2021 s. 42(85)(c).

(f) for the effective exercise of the NOPSEMA 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—

Sch. 3 cl. 79(2)(a) amended by No. 26/2021 s. 42(86).

(a) appropriate transport to or from the facility for the NOPSEMA inspector and for any equipment required by the NOPSEMA inspector, or any article of which the NOPSEMA inspector has taken possession; and

Sch. 3 cl. 79(2)(b) amended by No. 26/2021 s. 42(86).

(b) reasonable accommodation and means of subsistence while the NOPSEMA inspector is at the facility.

(3) A person who is subject to a requirement under this clause must comply with that requirement.

Penalty: Imprisonment for 6 months.

(4) Subclause (3) does not apply if the person has a reasonable excuse.

80 Power to require the answering of questions and the production of documents or articles

(1) If—

Sch. 3 cl. 80(1) amended by No. 26/2021 s. 42(87)(b).

(a) a NOPSEMA 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

Sch. 3 cl. 80(1)(a) amended by No. 26/2021 s. 42(87)(a).

(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 NOPSEMA 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 NOPSEMA 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; and

(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(3) The day specified under subclause (2)(b) must be at least 14 days after the day on which the requirement is imposed.

Sch. 3 cl. 80(4) amended by No. 26/2021 s. 42(88)(b).

(4) If—

Sch. 3 cl. 80(4)(a) amended by No. 26/2021 s. 42(88)(a).

(a) a NOPSEMA 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 NOPSEMA 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.

(5) If, at the time when a requirement under subclause (4) 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; and

(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(6) The day specified under subclause (5)(b) must be at least 14 days after the day on which the requirement is imposed.

(7) A person who is subject to a requirement under this clause must comply with the requirement.

Penalty: Imprisonment for 6 months.

(8) Subclause (7) does not apply if the person has a reasonable excuse.

(9) A person must not, in compliance or purported compliance with a requirement under this clause, give information to another person knowing that the information is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

81 Privilege against self-incrimination abrogated

(1) A person is not excused from answering a question or producing a document or article when required to do so under clause 80(1) or (4) 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 this clause.

82 Power to take possession of plant, take samples of substances etc.

Sch. 3 cl. 82(1) amended by No. 26/2021 s. 42(89).

(1) In conducting an inspection, a NOPSEMA 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.

Sch. 3 cl. 82(2) amended by No. 26/2021 s. 42(90).

(2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the NOPSEMA inspector must, by written notice, 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 (other than the operator) of a member or members of the workforce at 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, and the reasons for it.

(3) If the NOPSEMA 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.

Sch. 3 cl. 82(3) amended by No. 26/2021 s. 42(90).

(4) If the NOPSEMA 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 NOPSEMA inspector must—

Sch. 3 cl. 82(4) amended by No. 26/2021 s. 42(90).

(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 NOPSEMA inspector must give a written statement setting out the results to each person whom the NOPSEMA inspector is required to notify under subclause (2).

Sch. 3 cl. 82(5) amended by No. 26/2021 s. 42(90).

83 Power to direct that workplace etc. not be disturbed

(1) If, in conducting an inspection, a NOPSEMA inspector has reasonable grounds to believe that it is reasonably necessary to give a direction in order to—

Sch. 3 cl. 83(1) amended by No. 26/2021 s. 42(91).

(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—

the NOPSEMA inspector may, by written notice given to the operator's representative at the facility, direct that the operator must ensure that—

(c) a particular workplace; or

(d) particular plant, or a particular substance or thing—

not be disturbed for a period specified in the direction.

Sch. 3 cl. 83(2) amended by No. 26/2021 s. 42(92).

(2) The period specified in the direction must be a period that the NOPSEMA 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.

(3) The direction may be renewed by another direction in the same terms.

Sch. 3 cl. 83(4) amended by No. 26/2021 s. 42(93).

(4) If a NOPSEMA inspector gives a notice to the operator's representative under subclause (1), 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.

Sch. 3 cl. 83(5) amended by No. 26/2021 s. 42(94).

(5) As soon as practicable after giving the direction, the NOPSEMA 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.

(6) A person who is subject to a direction under subclause (1) must not without reasonable excuse contravene the direction.

Penalty: 120 penalty units.

(7) A direction under subclause (1) must be accompanied by a statement setting out the reasons for the direction.

84 Power to issue prohibition notices

Sch. 3 cl. 84(1) amended by No. 26/2021 s. 42(95).

(1) If, having conducted an inspection, a NOPSEMA 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 NOPSEMA inspector may issue such a 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.

85 Matters to be specified in prohibition notice

(1) The notice must—

Sch. 3 cl. 85(1)(a) amended by No. 26/2021 s. 42(96).

(a) specify the activity in respect of which, in the NOPSEMA 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 a specified manner.

(2) 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.

Sch. 3 cl. 85(3) amended by No. 26/2021 s. 42(97).

(3) The notice may specify action that may be taken to satisfy a NOPSEMA inspector that adequate action has been taken to remove the threat to health and safety.

86 Copies of prohibition notice to be given

Sch. 3 cl. 86(1) amended by No. 26/2021 s. 42(98).

(1) If a prohibition notice under clause 84 relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the NOPSEMA inspector must, upon issuing the notice, give a copy of the notice to that person.

(2) 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.

87 Prohibition notice must not be breached

A person issued with a prohibition notice must comply with the notice.

Penalty: 240 penalty units.

88 When prohibition notice ceases to have effect

(1) A prohibition notice ceases to have effect when a NOPSEMA inspector notifies the operator that the NOPSEMA inspector is satisfied that the operator has taken adequate action to remove the threat to health or safety.

Sch. 3 cl. 88(1) amended by No. 26/2021 s. 42(99).

(2) If a NOPSEMA inspector is satisfied that action taken by the operator to remove the threat to health and safety is not adequate, the NOPSEMA inspector must inform the operator accordingly.

Sch. 3 cl. 88(2) amended by No. 26/2021 s. 42(99).

(3) In making a decision under subclause (2), a NOPSEMA inspector may exercise such of the powers of a NOPSEMA inspector conducting an inspection as the NOPSEMA inspector considers necessary for the purposes of making the decision.

Sch. 3 cl. 88(3) amended by No. 26/2021 s. 42(100).

89 Power to issue improvement notices

(1) If, in conducting an inspection, a NOPSEMA inspector believes on reasonable grounds that a person—

Sch. 3 cl. 89(1) amended by No. 26/2021 s. 42(101).

(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 NOPSEMA 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.

90 Matters to be specified in improvement notice

(1) An improvement notice must—

Sch. 3 cl. 90(1)(a) amended by No. 26/2021 s. 42(102).

(a) specify the contravention that the NOPSEMA inspector believes is occurring or is likely to occur, and set out the reasons for that belief; and

(b) specify a 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.

(2) The period specified in the notice must be reasonable.

(3) The notice may specify action that the responsible person is to take during the period specified in the notice.

(4) If the NOPSEMA inspector believes on reasonable grounds that it is appropriate to do so, the NOPSEMA inspector may, in writing and before the end of the period, extend the period specified in the notice.

Sch. 3 cl. 90(4) amended by No. 26/2021 s. 42(102).

91 Copies of improvement notice to be given

(1) 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 clause 89(3), the employer must immediately ensure that a copy of the notice is given to the operator's representative at the facility.

(2) 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.

(3) Upon issuing a notice, the NOPSEMA inspector must give a copy of the notice to—

Sch. 3 cl. 91(3) amended by No. 26/2021 s. 42(103).

(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.

92 Duty of responsible person to ensure compliance with improvement notice

The responsible person under clause 89 must ensure that the improvement notice is complied with to the extent that it relates to any matter over which the person has control.

Penalty: 120 penalty units.

93 Notices not to be tampered with or removed

(1) A person must not tamper with any notice that has been displayed under clause 82(3), 83(4), 86(2) or 91(2) while that notice is so displayed.

Penalty: 60 penalty units.

(2) If a notice has been displayed under clause 82(3), a person must not remove the notice until the plant, substance or thing to which the notice relates is returned to the workplace from which it was removed.

Penalty: 60 penalty units.

(3) If a notice has been displayed under clause 83(4), 86(2) or 91(2), a person must not remove the notice before the notice has ceased to have effect.

Penalty: 60 penalty units.

(4) Subclauses (1), (2) and (3) do not apply if the person has a reasonable excuse.

Sch. 3 cl. 93(4) amended by No. 55/2010 s. 80(13).

Division 4—Reports on inspections

94 Reports on inspections

(1) If a NOPSEMA inspector has conducted an inspection, the NOPSEMA inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to NOPSEMA.

Sch. 3 cl. 94(1) amended by Nos 74/2012 s. 51(1), 26/2021 s. 42(104).

(2) The report must include—

(a) the NOPSEMA inspector's conclusions from conducting the inspection and the reasons for those conclusions; and

Sch. 3 cl. 94(2)(a) amended by No. 26/2021 s. 42(105)(a).

(b) any recommendations that the NOPSEMA inspector wishes to make arising from the inspection; and

Sch. 3 cl. 94(2)(b) amended by No. 26/2021 s. 42(105)(b).

(c) such other matters (if any) as are prescribed.

(3) As soon as practicable after receiving the report, NOPSEMA must give a copy of the report, together with any written comments that it wishes to make—

Sch. 3 cl. 94(3) amended by No. 74/2012 s. 51(2).

(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—to that other person; or

(c) if the report relates to any plant, substance or thing owned by another person—to that other person.

Sch. 3 cl. 94(4) amended by No. 74/2012 s. 51(3).

(4) NOPSEMA may, in writing, request the operator or any other person to whom a copy of the report is given to provide to NOPSEMA, 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 84 or 85 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.

Sch. 3 cl. 94(5) amended by No. 74/2012 s. 51(4).

(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 NOPSEMA on the report—

(a) if there is a 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

95 Appeals against decisions of NOPSEMA inspectors

Sch. 3 cl. 95 (Heading) amended by No. 26/2021 s. 42(106).

Sch. 3 cl. 95(1) amended by No. 26/2021 s. 42(107).

(1) If a NOPSEMA inspector, in conducting an inspection or having conducted an inspection—

(a) decides, under clause 45, to confirm or vary a provisional improvement notice; or

(b) decides, under clause 82, to take possession of plant, a substance or a thing at a workplace; or

(c) decides, under clause 83, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or

(d) decides, under clause 84, to issue a prohibition notice; or

(e) decides, under clause 88(2), 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 89, to issue an improvement notice—

an appeal against the decision may be made, by written notice, to the reviewing authority by—

(g) the operator of the facility, or any employer (other than the operator), who is affected by the decision; or

(h) a person to whom a notice has been issued under clause 44(2) or 89(1); or

(i) the health and safety representative for a designated work group having a group member affected by the decision; or

(j) 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

(k) 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; or

(l) a person who owns any workplace, plant, substance or thing to which the decision referred to in paragraph (a), (b), (c) or (f) relates.

Sch. 3 cl. 95(2) amended by No. 26/2021 s. 42(107).

(2) If a NOPSEMA inspector, having conducted an inspection—

(a) decides under clause 45 to cancel a provisional improvement notice; or

(b) decides under clause 88 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 the decision may be made, by written notice, 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.

(3) Subject to this clause, the making of an appeal against a decision referred to in subclause (1) or (2) does not affect the operation of the decision or prevent the taking of action to implement the decision, except to the extent that the reviewing authority makes an order to the contrary.

(4) If the decision appealed against is a decision under clause 89, 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.

Sch. 3 cl. 95(5) amended by No. 26/2021 s. 42(107).

(5) If the decision appealed against is a decision of a NOPSEMA inspector, under clause 45, 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.

(6) The reviewing authority may—

(a) affirm or revoke the decision appealed against under subclause (1) or (2); and

(b) if it revokes the decision—substitute such other decision as it thinks appropriate.

(7) 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.

Sch. 3 cl. 95(8) amended by No. 26/2021 s. 42(108).

(8) If—

(a) the decision appealed against is a decision under clause 82 to take possession of plant, a substance or a thing at a workplace; and

(b) the decision is not affirmed—

the NOPSEMA 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 provisions

96 Notifying and reporting accidents and dangerous occurrences

Sch. 3 cl. 96(1) amended by No. 74/2012 s. 52(1).

(1) If, at or near a facility, there is—

(a) an accident that causes the death of, or serious injury to, any individual; 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 NOPSEMA notice of the accident or dangerous occurrence.

Penalty: 240 penalty units.

(2) Regulations made for the purposes of subclause (1) (other than regulations made for the purposes 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

(b) the form of such a notice.

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

Sch. 3 cl. 96(4) amended by No. 74/2012 s. 52(2).

(4) If, at or near a facility, there is—

(a) an accident that causes the death of, or serious injury to, any individual; 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 NOPSEMA a report about the accident or dangerous occurrence.

Penalty: 120 penalty units.

(5) Regulations made for the purposes of subclause (4) (other than regulations made for the purposes of subclause (4)(b)) may prescribe—

(a) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given; and

(b) the form of such a report.

(6) Subclause (5) does not limit regulations that may be made for the purposes of subclause (4).

97 Records of accidents and dangerous occurrences to be kept

Sch. 3 cl. 97(1) amended by No. 74/2012 s. 53.

(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 96 to notify NOPSEMA.

Penalty: 10 penalty units.

(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 such a record must be retained.

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

98 Codes 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 such 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.

99 Use of codes of practice in criminal 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 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.

100 Interference etc. with equipment etc.

(1) A person who—

(a) interferes with or renders ineffective, equipment or a device that is protective equipment or a safety device; and

(b) knows that the equipment or device is protective equipment or a safety device or is negligent as to whether the equipment or device is protective equipment or a safety device—

is guilty of an offence and liable to a term of imprisonment not exceeding 6 months.

(2) Subclause (1) does not apply if the person has a reasonable excuse.

(3) In this clause, ***protective equipment or a safety device*** means equipment or a device provided for the health, safety or welfare of members of the workforce at a facility.

Penalty: Imprisonment for 6 months.

101 Members of workforce not to be levied

A person who is—

(a) the operator of a facility; or

(b) an employer (other than the operator) of members of the workforce at a facility—

must not levy, or permit to be levied, on any member of the workforce at the facility, any charge in relation to anything done or provided in accordance with a listed OHS law in order to ensure the health, safety or welfare of persons at or near the facility.

Penalty: 240 penalty units.

102 Employer not to dismiss etc. employees on certain grounds

(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 50(1)(b) or (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) a NOPSEMA inspector has, under clause 50(5), made a decision that has the effect that the employee should perform the work.

Sch. 3 cl. 102(1)(g)(ii) amended by No. 26/2021 s. 42(109).

Penalty: 240 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.

103 Institution of prosecutions

(1) Proceedings for an offence against a listed OHS law may be instituted by NOPSEMA or by a NOPSEMA inspector.

Sch. 3 cl. 103(1) amended by Nos 74/2012 s. 54(1), 26/2021 s. 42(110).

(2) A health and safety representative for a designated work group may request NOPSEMA to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if—

Sch. 3 cl. 103(2) amended by No. 74/2012 s. 54(1).

(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.

Sch. 3 cl. 103(3) amended by No. 74/2012 s. 54(1).

(3) A workforce representative in relation to a designated work group may request NOPSEMA 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

Sch. 3 cl. 103(3)(d) amended by No. 74/2012 s. 54(1).

(d) a group member included in the group requests the workforce representative to request NOPSEMA to institute the proceedings.

(4) A request under subclause (2) or (3) must be in writing.

Sch. 3 cl. 103(5) amended by No. 74/2012 s. 54(2).

(5) NOPSEMA 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.

104 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 an individual in relation to particular conduct, it is sufficient to show—

(a) that the conduct was engaged in by an employee or agent of the individual 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 an individual by an employee or agent of the individual within the scope of actual or apparent authority is taken to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(6) If—

(a) an individual 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.

105 Schedule not to give rise to other liabilities etc.

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.

106 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 that thing because of an emergency prevailing at the relevant time.

107 Regulations—general

(1) The regulations may prescribe—

(a) procedures for the selection of persons, under clause 47, 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) Subclause (1) does not limit the power to make regulations.

(3) If the Minister is satisfied that—

(a) a power, function or duty is conferred or imposed on a person under a law of the State, the Commonwealth or of another State or a Territory; 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.

(4) Regulations made for the purposes of subclause (3) 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.

(5) In subclause (3)—

this Schedule includes regulations made for the purposes of this Schedule.

Sch. 4 amended by No. 20/2020 s. 32.

Schedule 4—Subject-matter for regulations

Section 794

1 The exploration for petroleum and the carrying on of operations, and the execution of works, for that purpose.

2 The recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose.

3 The exploration for potential greenhouse gas storage formations, potential greenhouse gas injection sites, and the carrying on of operations, and the execution of works, for any of those purposes.

4 The injection of a greenhouse gas substance into a part of a geological formation, the storage of a greenhouse gas substance in a part of a geological formation; and the carrying on of operations, and the execution of works, for any of those purposes.

5 The conservation of, and the prevention of the waste of, the natural resources (whether petroleum or otherwise) of the offshore area.

6 The restoration or maintenance of the suitability of a part of a geological formation for the permanent storage of greenhouse gas substances.

7 The restoration or maintenance of the suitability of a part of a geological formation for the recovery of petroleum.

8 The construction and operation of pipelines, water lines, secondary lines, greenhouse gas facility lines, greenhouse gas infrastructure lines, greenhouse gas injection lines, pumping stations, tank stations or valve stations, and the carrying on of operations, and the execution of works, for any of those purposes.

9 The construction, erection, maintenance, operation or use of installations, structures, equipment or facilities.

10 The control of the flow or discharge, and the prevention of the escape, of—

(a) petroleum, a greenhouse gas substance, water or drilling fluid; or

(b) a mixture of water or drilling fluid with petroleum, a greenhouse gas substance or any other matter.

11 The clean-up or other remediation of the effects of the escape of petroleum or a greenhouse gas substance.

12 The prevention of damage to petroleum-bearing strata in an area (whether in the offshore area or not) over which a petroleum exploration permit, petroleum retention lease, petroleum production licence, greenhouse gas assessment permit, greenhouse gas holding lease or greenhouse gas injection licence is not in force.

13 The keeping separate of—

(a) each petroleum pool discovered in a petroleum exploration permit area, a petroleum retention lease area, a petroleum production licence area, a greenhouse gas assessment permit area, a greenhouse gas holding lease area or a greenhouse gas injection licence area; and

(b) each source of water discovered in a petroleum exploration permit area, a petroleum retention lease area, a petroleum production licence area, a greenhouse gas assessment permit area, a greenhouse gas holding lease area or a greenhouse gas injection licence area.

14 The prevention of water or other matter from entering a petroleum pool through wells.

15 The prevention of the waste or escape of petroleum or water from a petroleum pipeline, water line, secondary line, petroleum pumping station, petroleum tank station or petroleum valve station.

16 The prevention of the waste or escape of a greenhouse gas substance or water from a greenhouse gas pipeline, water line, greenhouse gas facility line, greenhouse gas infrastructure line, greenhouse gas injection line, greenhouse gas pumping station, greenhouse gas tank station or greenhouse gas valve station.

17 The maintaining in good condition and repair of all structures, equipment and other property in the offshore area used or intended to be used for or in connection with exploring for, or exploiting, petroleum in the offshore area.

18 The maintaining in good condition and repair of all structures, equipment and other property in the offshore area used or intended to be used for or in connection with—

(a) the exploration for potential greenhouse gas storage formations in the offshore area; or

(b) the exploration for potential greenhouse gas injection sites in the offshore area; or

(c) the injection of a greenhouse gas substance into a part of a geological formation, where the part is in the offshore area; or

(d) the storage of a greenhouse gas substance in a part of a geological formation, where the part is in the offshore area.

19 The removal from the offshore area of structures, equipment and other items of property that—

(a) have been brought into the offshore area for or in connection with exploring for, or exploiting, petroleum; and

(b) are not used, or intended to be used, in connection with exploring for, or exploiting, petroleum in the offshore area.

20 The removal from the offshore area, of structures, equipment and other items of property that—

(a) have been brought into the offshore area for or in connection with—

(i) the exploration for potential greenhouse gas storage formations; or

(ii) the exploration for potential greenhouse gas injection sites; or

(iii) the injection of a greenhouse gas substance into a part of a geological formation; or

(iv) the storage of a greenhouse gas substance in a part of a geological formation; and

(b) are not used, or intended to be used, for or in connection with—

(i) the exploration for potential greenhouse gas storage formations; or

(ii) the exploration for potential greenhouse gas injection sites; or

(iii) the injection of a greenhouse gas substance into a part of a geological formation; or

(iv) the storage of a greenhouse gas substance in a part of a geological formation.

21 The decommissioning of structures, equipment and other items of property that—

(a) have been brought into the offshore area for or in connection with—

(i) the exploration for potential greenhouse gas storage formations; or

(ii) the exploration for potential greenhouse gas injection sites; or

(iii) the injection of a greenhouse gas substance into a part of a geological formation; or

(iv) the storage of a greenhouse gas substance in a part of a geological formation; and

(b) are not used, or intended to be used, for or in connection with—

(i) the exploration for potential greenhouse gas storage formations; or

(ii) the exploration for potential greenhouse gas injection sites; or

(iii) the injection of a greenhouse gas substance into a part of a geological formation; or

(iv) the storage of a greenhouse gas substance in a part of a geological formation.

22 The management of substances stored in a part of a geological formation and the interactions of those substances.

23 The determination of reasonable terms for the supply of petroleum.

24 The requirements for a notice to the Minister that petroleum is proposed to be supplied to an LNG exporter.

Schedule 5—Transitional provisions

Section 798

1 Definitions

(1) In this Schedule—

commencement day means the day on which section 799 comes into operation;

corresponding provision means a provision of this Act that re-enacts (with or without modification) a provision of the **Petroleum (Submerged Lands) Act 1982**;

eligible instrument means a declaration, a determination, a direction, an agreement, a delegation, an approval, an appointment, a notice or any other instrument, but does not include an old title;

old infrastructure licence means an infrastructure licence under Part III of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum access authority means an access authority under Part III of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum exploration permit means an exploration permit for petroleum under section 22, 27 or 32 of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum production licence means a production licence for petroleum under section 44, 49 or 51 of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum retention lease means a retention lease under Part III of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum scientific investigation consent means a scientific investigation consent under section 123 of the **Petroleum (Submerged Lands) Act 1982**;

old petroleum special prospecting authority means a special prospecting authority under Part III of the **Petroleum (Submerged Lands) Act 1982**;

old pipeline licence means a licence to construct and operate a pipeline under Part III of the **Petroleum (Submerged Lands) Act 1982**;

old title means any of the following as in force immediately before the commencement day—

(a) an old infrastructure licence;

(b) an old petroleum access authority;

(c) an old petroleum exploration permit;

(d) an old petroleum production licence;

(e) an old petroleum retention lease;

(f) an old petroleum scientific investigation consent;

(g) an old petroleum special prospecting authority;

(h) an old pipeline licence.

(2) For the purposes of the definition of ***corresponding provision*** in subclause (1), in determining whether a provision is a corresponding provision—

(a) regard must be had to the substance of the provision; and

(b) if the provision appears to have expressed the same idea in a different form of words for the purpose of using a clearer style—disregard the difference.

2 Re-enactment of the Petroleum (Submerged Lands) Act 1982

This Act re-enacts the **Petroleum (Submerged Lands) Act 1982** with certain modifications.

3 General transitional provisions

(1) This Schedule does not affect or take away from the **Interpretation of Legislation Act 1984**.

(2) Without limiting subclause (1), in declaring that this Act re-enacts with certain modifications the **Petroleum (Submerged Lands) Act 1982**, this Schedule must not be taken to—

(a) limit the operation of any provision of the **Interpretation of Legislation Act 1984** relating to the re-enactment; or

(b) be an exhaustive list of the provisions of the **Petroleum (Submerged Lands) Act 1982** re-enacted by this Act.

(3) This Schedule applies despite anything to the contrary in any other provision of this Act.

4 Old infrastructure licences

On the commencement day, an old infrastructure licence as in force immediately before that day is taken to be an infrastructure licence.

5 Old petroleum access authorities

On the commencement day, an old petroleum access authority as in force immediately before that day is taken to be a petroleum access authority.

6 Old petroleum exploration permits

(1) On the commencement day, an old petroleum exploration permit under section 22 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum exploration permit granted under Division 2 of Part 2.2 of this Act.

(2) On the commencement day, an old petroleum exploration permit under section 27 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum exploration permit granted under Division 4 of Part 2.2 of this Act.

(3) On the commencement day, an old petroleum exploration permit under section 32 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum exploration permit granted under Division 5 of Part 2.2 of this Act.

7 Old petroleum production licences

(1) On the commencement day, an old petroleum production licence under section 44 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum production licence granted under Division 2 of Part 2.4 of this Act.

(2) On the commencement day, an old petroleum production licence under section 49 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum production licence granted under Division 3 of Part 2.4 of this Act.

(3) On the commencement day, an old petroleum production licence under section 51 of the **Petroleum (Submerged Lands) Act 1982** as in force immediately before that day is taken to be a petroleum production licence granted under Division 4 of Part 2.4 of this Act.

8 Old petroleum retention leases

On the commencement day, an old petroleum retention lease as in force immediately before that day is taken to be a petroleum retention lease.

9 Old petroleum scientific investigations consents

On the commencement day, an old petroleum scientific investigation consent as in force immediately before that day is taken to be a petroleum scientific investigation consent.

10 Old petroleum special prospecting authorities

On the commencement day, an old petroleum special prospecting authority as in force immediately before that day is taken to be a petroleum special prospecting authority.

11 Old pipeline licences

On the commencement day, an old pipeline licence as in force immediately before that day is taken to be a pipeline licence.

12 Transitional—eligible instruments

(1) This clause applies to an eligible instrument if—

(a) the eligible instrument was in force immediately before the commencement day; and

(b) the eligible instrument was made or given under, or for the purposes of, a particular provision of the **Petroleum (Submerged Lands) Act 1982**.

(2) The eligible instrument has effect, on and after the commencement day, as if it had been made or given under, or for the purposes of, the corresponding provision of this Act.

(3) If—

(a) under the eligible instrument, a particular act or thing was required, permitted or proposed to be done within, or at the end of, a particular period; and

(b) if the **Petroleum (Submerged Lands) Act 1982** had not been repealed, that period would have—

(i) begun before the commencement day; and

(ii) ended on or after the commencement day—

this Act and the eligible instrument have effect, on and after the commencement day, as if the act or thing was required, permitted or proposed to be done within, or at the end of—

(c) if that period was one month—whichever is the longer of—

(i) 30 days; or

(ii) one month; or

(d) if that period was 3 months—whichever is the longer of—

(i) 90 days; or

(ii) 3 months; or

(e) in any other case—that period—

instead of the period that would otherwise be applicable.

13 Transitional—acts or things done before commencement

(1) This clause applies to an act or thing (other than the grant of an old title or the making or giving of an eligible instrument) if—

(a) the act or thing was done before the commencement day; and

(b) the act or thing was done under, or for the purposes of, a particular provision of the **Petroleum (Submerged Lands) Act 1982**.

(2) The act or thing has effect, on and after the commencement day, as if it had been done under, or for the purposes of, the corresponding provision of this Act.

14 Transitional—conditions of old titles

In a condition of an old title, the expression ***the Act*** includes this Act.

15 Translation of references in documents

(1) The Minister may, by writing, make any or all of the following declarations in relation to a specified document—

(a) that the document has effect, on and after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to the **Petroleum (Submerged Lands) Act 1982** included a reference to this Act;

(b) that the document has effect, on and after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of the **Petroleum (Submerged Lands) Act 1982** included a reference to the corresponding provision of this Act;

(c) that the document has effect, on and after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to regulations under the **Petroleum (Submerged Lands) Act 1982** included a reference to regulations under this Act;

(d) that the document has effect, on and after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to the adjacent area within the meaning of the **Petroleum (Submerged Lands) Act 1982** were a reference to the offshore area within the meaning of this Act;

(e) that the document has effect, after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to the Commonwealth adjacent area within the meaning of section 9 of the **Petroleum (Submerged Lands) Act 1982** were a reference to the Commonwealth defined offshore area within the meaning of this Act;

(f) that the document has effect, on and after the commencement day, as if a specified reference, or each reference other than a specified reference, in the document to the relinquished area within the meaning of the **Petroleum (Submerged Lands) Act 1982** were a reference to the corresponding vacated area within the meaning of this Act.

(2) A declaration under subclause (1) has effect accordingly.

(3) In this clause—

document includes—

(a) an eligible instrument; and

(b) an old title.

16 Transitional regulations

(1) The Governor in Council may make regulations in relation to matters of a savings or transitional nature consequent on the enactment of this Act and the repeal of the **Petroleum (Submerged Lands) Act 1982**.

(2) A provision of regulations under this clause may be retrospective in operation to the commencement day or a day after the commencement day.

(3) Regulations under this clause have effect despite anything to the contrary in any Act other than this Act or in any subordinate instrument.

17 Petroleum project inspectors

On the commencement day, an inspector within the meaning of the **Petroleum (Submerged Lands) Act 1982** is taken to be a petroleum project inspector and a greenhouse gas project inspector.

18 Offshore area

(1) The offshore area within the meaning of this Act corresponds to the area which, immediately before the repeal of the **Petroleum (Submerged Lands) Act 1982**, was the adjacent area within the meaning of the **Petroleum (Submerged Lands) Act 1982**.

(2) The Commonwealth defined offshore area within the meaning of this Act corresponds to the area which, immediately before the repeal of the **Petroleum (Submerged Lands) Act 1982** was

the Commonwealth adjacent area within the meaning of section 9 of the **Petroleum (Submerged Lands) Act 1982**.

19 Registers

(1) The Register kept under section 505 of this Act for the offshore area is, for all purposes, a continuation of the register kept in pursuance of Division 5 of Part III of the **Petroleum (Submerged Lands) Act 1982**.

(2) Section 551(1) of this Act has effect as if the reference in that section to Chapter 4 of this Act included a reference to Division 5 of Part III of the **Petroleum (Submerged Lands) Act 1982**.

Note

Section 551(1) of this Act deals with the reception in evidence of a Register.

(3) Despite the repeal of section 87(2) of the **Petroleum (Submerged Lands) Act 1982**, that section continues to apply, in relation to a copy or extract certified before the commencement day, as if that repeal had not happened.

Note

Section 87(2) of the **Petroleum (Submerged Lands) Act 1982** deals with the evidentiary effect of certified copies and extracts.

(4) Despite the repeal of section 87(3) of the **Petroleum (Submerged Lands) Act 1982**, that subsection continues to apply, in relation to a certificate given before the commencement day, as if that repeal had not happened.

Note

Section 87(3) of the **Petroleum (Submerged Lands) Act 1982** is about evidentiary certificates.

20 Registration fees—transfer

(1) This clause applies if, before the commencement day—

(a) an application for approval of a transfer of a title was made under section 78 of the **Petroleum (Submerged Lands) Act 1982**; and

(b) a payment was made in relation to the approval as mentioned in section 78(9) of that Act; and

(c) the Minister had not entered in the Register a memorandum of the transfer.

(2) On and after the commencement day, section 514(3) of this Act has effect, in relation to the approval, as if that payment had been the payment mentioned in that section.

21 Registration fees—dealings

(1) This clause applies if, before the commencement day—

(a) either—

(i) an application for approval of a dealing was made under section 81 of the **Petroleum (Submerged Lands) Act 1982**; or

(ii) a provisional application for approval of a dealing was made under section 81A of the **Petroleum (Submerged Lands) Act 1982**; and

(b) a payment was made in relation to the approval as mentioned in section 81(12) of that Act; and

(c) the Minister had not made an entry in the Register of the approval.

(2) On and after the commencement day, section 529(3) of this Act has effect, in relation to the approval, as if that payment had been the payment mentioned in that section.

22 Retention and inspection of documents

(1) This clause applies if a provision of Division 5 of Part III of the **Petroleum (Submerged Lands) Act 1982** required that a particular document be—

(a) retained by the Minister; and

(b) made available for inspection in accordance with that Division.

(2) On and after the commencement day, the document must be—

(a) retained by the Minister; and

(b) made available for inspection in accordance with Chapter 4 of this Act.

23 Assessment of registration fee

On and after the commencement day, section 555 of this Act has effect as if the reference in subsection (2)(b) of that section to section 547 of this Act included a reference to section 82(1) of the **Petroleum (Submerged Lands) Act 1982**.

24 Payments by the State to the Commonwealth

(1) Despite the repeal of section 129 of the **Petroleum (Submerged Lands) Act 1982**, that section continues to apply, in relation to an amount received by the Minister before the commencement day, as if that repeal had not happened.

(2) Despite the repeal of section 129 of the **Petroleum (Submerged Lands) Act 1982**, that section continues to apply, in relation to an amount that became payable under Part III of that Act before the commencement day, as if that repeal had not happened.

(3) If, apart from this subclause, the same amount would be counted for the purposes of a provision of section 129 of the **Petroleum (Submerged Lands) Act 1982** and for the purposes of the corresponding provision of this Act, the amount is to be counted only for the purposes of one of those provisions.

(4) Section 281 of this Act has effect, in relation to an amount received by the Minister, as if a reference in that section to this Act included a reference to the **Petroleum (Submerged Lands) Act 1982**.

25 Adjustment to period required or allowed for doing an act or thing etc.

(1) If—

(a) under a particular provision of the **Petroleum (Submerged Lands) Act 1982**, a particular act or thing was required or permitted to be done within a period of one month; and

(b) if that Act had not been repealed, the period of one month would have—

(i) begun before the commencement day; and

(ii) ended after the commencement day; and

(c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 30 days; and

(d) the period of one month is longer than the period of 30 days—

this Act has effect as if the act or thing was required or permitted to be done within the period of one month instead of within the period of 30 days.

(2) If—

(a) under a particular provision of the **Petroleum (Submerged Lands) Act 1982**, the Minister was required to give not less than one month's notice of something; and

(b) the Minister gave notice before the commencement day; and

(c) if that Act had not been repealed, the period of one month would have—

(i) begun before the commencement day; and

(ii) ended after the commencement day; and

(d) under the corresponding provision of this Act, the Minister is required to give at least 30 days notice of that thing; and

(e) the period of one month is longer than the period of 30 days—

this Act has effect as if the Minister had been required to give at least one month's notice of that thing instead of at least 30 days notice.

(3) If—

(a) under a particular provision of the **Petroleum (Submerged Lands) Act 1982**, a particular act or thing was required or permitted to be done within a period of 3 months; and

(b) if that Act had not been repealed, the period of 3 months would have—

(i) begun before the commencement day; and

(ii) ended after the commencement day; and

(c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 90 days; and

(d) the period of 3 months is longer than the period of 90 days—

this Act has effect as if the act or thing was required or permitted to be done within the period of 3 months instead of within the period of 90 days.

(4) If—

(a) under a particular provision of the **Petroleum (Submerged Lands) Act 1982**, a particular act or thing was required or permitted to be done within a period of 6 months; and

(b) if that Act had not been repealed, the period of 6 months would have—

(i) begun before the commencement day; and

(ii) ended after the commencement day; and

(c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 180 days—

this Act has effect as if the act or thing was required or permitted to be done within the period of 6 months instead of within the period of 180 days.

26 Old titles—continuation in force beyond date of expiry

(1) This clause applies if, immediately before the commencement day, an old title was being continued in force beyond its date of expiry subject to, and in accordance with, a particular provision of the **Petroleum (Submerged Lands) Act 1982**.

(2) On the commencement day, the old title continues in force subject to, and in accordance with, the corresponding provision of this Act.

Note

For example, see section 32(8) of the **Petroleum (Submerged Lands) Act 1982** and section 102(5) of this Act.

27 Applications for old infrastructure licences

On the commencement day, an application for the grant of an old infrastructure licence that has not been granted or refused before that day is taken to be an application for the grant of an infrastructure licence under Part 2.5 of this Act.

28 Applications for old petroleum access authorities

On the commencement day, an application for the grant of an old petroleum access authority that has not been granted or refused before that day is taken to be an application for the grant of a petroleum access authority under Part 2.8 of this Act.

29 Applications for old petroleum exploration permits

(1) On the commencement day, an application for the grant of an old petroleum exploration permit under section 22 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum

exploration permit under Division 2 of Part 2.2 of this Act.

(2) On the commencement day, an application for the grant of an old petroleum exploration permit under section 27 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum exploration permit under Division 4 of Part 2.2 of this Act.

(3) On the commencement day, an application for the grant of an old petroleum exploration permit under section 32 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum exploration permit under Division 5 of Part 2.2 of this Act.

(4) Sections 108 and 109 of this Act have effect, in relation to an application for the renewal of an old petroleum exploration permit, as if—

(a) each reference in those sections to Chapter 2, Chapter 4, Chapter 6 or Part 7.1 of this Act included a reference to Part III of the **Petroleum (Submerged Lands) Act 1982**; and

(b) each reference in those sections to regulations under this Act included a reference to regulations under the **Petroleum (Submerged Lands) Act 1982**.

(5) In addition, the reference in item 1(b) of the table in section 105(2) of this Act to section 86(1) of this Act includes a reference to section 20(1) of the **Petroleum (Submerged Lands) Act 1982**.

Note

Item 1(b) is about invitations to apply for the grant of a petroleum exploration permit.

30 Applications for old petroleum production licences

(1) On the commencement day, an application for the grant of an old petroleum production licence under section 44 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum production licence under Division 2 of Part 2.4 of this Act.

(2) On the commencement day, an application for the grant of an old petroleum production licence under section 49 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum production licence under Division 3 of Part 2.4 of this Act.

(3) On the commencement day, an application for the grant of an old petroleum production licence under section 51 of the **Petroleum (Submerged Lands) Act 1982** that has not been granted or refused before that day is taken to be an application for the grant of a petroleum production licence under Division 4 of Part 2.4 of this Act.

31 Applications for old petroleum retention leases

(1) On the commencement day, an application for the grant of an old petroleum retention lease that has not been granted or refused before that day is taken to be an application for the grant of a petroleum retention lease under Part 2.3 of this Act.

(2) Sections 143 and 144 of this Act have effect, in relation to an application for the renewal of an old petroleum retention lease, as if—

(a) each reference in those sections (other than section 144(8)) to Chapter 2, Chapter 4, Chapter 6 or Part 7.1 of this Act included a reference to Part III of the **Petroleum (Submerged Lands) Act 1982**; and

(b) each reference in those sections to regulations under this Act included a reference to the regulations under the **Petroleum (Submerged Lands) Act 1982**.

32 Applications for old petroleum scientific investigation consents

On the commencement day, an application for the grant of an old petroleum scientific investigation consent that has not been granted or refused before that day is taken to be an application for the grant of a petroleum scientific investigation consent under Part 2.9 of this Act.

33 Applications for old petroleum special prospecting authorities

On the commencement day, an application for the grant of an old petroleum special prospecting authority that has not been granted or refused before that day is taken to be an application for the grant of a petroleum special prospecting authority under Part 2.7 of this Act.

34 Applications for old pipeline licences

(1) On the commencement day, an application for the grant of an old pipeline licence that has not been granted or refused before that day is taken to be an application for the grant of a pipeline licence under Part 2.6 of this Act.

(2) Sections 219, 220, 221 and 222 of this Act have effect, in relation to an application for the grant of a pipeline licence in a case where the applicant is the licensee of an old petroleum production licence, as if—

(a) each reference in those sections to Chapter 2, Chapter 4, Chapter 6 or Part 7.1 of this Act included a reference to Part III of the **Petroleum (Submerged Lands) Act 1982**; and

(b) each reference in those sections to regulations under this Act included a reference to the regulations under the **Petroleum (Submerged Lands) Act 1982**.

35 Requirement to provide further information in connection with application for title

Section 254 of this Act has effect as if a requirement under any of the following provisions of the **Petroleum (Submerged Lands) Act 1982** were a requirement under section 254(2) of this Act—

(a) section 21(4);

(b) section 23(5);

(c) section 38A(3);

(d) section 38BB(3);

(e) section 38F(4);

(f) section 41(2);

(g) section 47(7);

(h) section 59B(3);

(i) section 59K(3);

(j) section 64(4);

(k) section 71(3).

36 Revocation of old petroleum exploration permits, old petroleum retention leases, old petroleum production licences and old petroleum access authorities

(1) If an old petroleum exploration permit or old petroleum retention lease was wholly determined under the **Petroleum (Submerged Lands) Act 1982**, this Act has effect as if the permit or lease had been wholly revoked.

(2) If an old petroleum exploration permit or old petroleum retention lease was partly determined to a particular extent under the **Petroleum (Submerged Lands) Act 1982**, this Act has effect as if the permit or lease had been partly revoked to that extent.

(3) If an old petroleum production licence was determined under the **Petroleum (Submerged Lands) Act 1982**, this Act has effect as if the licence had been revoked.

(4) If an old petroleum retention lease was cancelled under section 38E of the **Petroleum (Submerged Lands) Act 1982**, this Act has effect as if the lease had been revoked.

(5) If an old petroleum access authority was cancelled under the **Petroleum (Submerged Lands) Act 1982**, this Act has effect as if the authority had been revoked.

37 Surrender of old title

Section 266 of this Act has effect, in relation to the surrender of an old title, as if—

(a) the reference in subsection (3)(a) of that section to this Act included a reference to the **Petroleum (Submerged Lands) Act 1982**; and

(b) each reference in subsections (3)(b) and (5)(a) of that section to Chapter 2, Chapter 4, Chapter 6 or Part 7.1 of this Act included a reference to Part III of the **Petroleum (Submerged Lands) Act 1982**; and

(c) each reference in subsections (3)(b) and (5)(a) of that section to regulations under this Act included a reference to regulations under the **Petroleum (Submerged Lands) Act 1982**.

38 Cancellation of old titles

Sections 270 and 273 of this Act have effect, in relation to the cancellation of an old title, as if—

(a) each reference in those sections to Chapter 2, Chapter 4, Chapter 6 or Part 7.1 of this Act included a reference to Part III of the **Petroleum (Submerged Lands) Act 1982**; and

(b) each reference in those sections to regulations under this Act included a reference to regulations under the **Petroleum (Submerged Lands) Act 1982**; and

(c) each reference in those sections to this Act included a reference to the **Petroleum (Submerged Lands) Act 1982**.

39 Commencement of works or operations

(1) This clause applies if, immediately before the commencement day, an instrument under section 96(2) of the **Petroleum (Submerged Lands) Act 1982** was in force in relation to—

(a) an old petroleum exploration permit; or

(b) an old petroleum retention lease; or

(c) an old petroleum production licence; or

(d) an old infrastructure licence; or

(e) an old pipeline licence.

(2) The instrument ceases to be in force on the commencement day.

(3) Section 615(2) of this Act has effect, in relation to the permit, lease or licence referred to in subclause (1)(a), (b), (d) or (e), as if the period specified in the instrument under section 96(2)(b) of the **Petroleum (Submerged Lands) Act 1982** had been allowed by the Minister under section 615(2)(b) of this Act.

40 Deduction of debts from proceeds of sale of property

Section 638(2) of this Act has effect as if the reference in that section to this Act included a reference to the **Petroleum (Submerged Lands) Act 1982**.

41 Authorised persons

(1) This clause applies if, immediately before the commencement day, an authorisation under section 151A(4) of the **Petroleum (Submerged Lands) Act 1982** was in force in relation to a person or a person included in a class of persons.

(2) This Act has effect as if the Minister had made a declaration under section 667(2) of this Act in relation to that person, or a person included in that class of persons, as the case requires.

42 Release of technical information—deemed time of receipt of certain information and samples

(1) For the purposes of Part 7.3 of this Act—

(a) cores and cuttings relating to the drilling of a well; and

(b) well data relating to the drilling of a well; and

(c) logs relating to the drilling of a well; and

(d) sample descriptions and other documents relating to the drilling of a well—

are taken to have been given to the Minister not later than 30 days after the drilling of the well was, in the Minister's opinion, substantially completed.

(2) For the purposes of Part 7.3 of this Act, geophysical or geochemical data relating to geophysical or geochemical surveys are taken to have been given to the Minister not later than one year after the geophysical or geochemical field work was, in the Minister's opinion, substantially completed.

43 Liability for acts and omissions

Despite the repeal of section 151ZS of the **Petroleum (Submerged Lands) Act 1982**, that section continues to apply, in relation to an act or matter done or omitted to be done before the commencement day, as if that repeal had not happened.

44 Meaning of petroleum in the Petroleum (Submerged Lands) Act 1982

Disregard the definition of ***petroleum*** in section 6 of this Act in determining the meaning that the expression ***petroleum*** has or had in the **Petroleum (Submerged Lands) Act 1982**.

45 OHS inspections

Clause 55 of Schedule 3 to this Act has effect, after the commencement day, as if the following paragraphs were inserted after each of subclauses (1)(c) and (2)(c) of that clause—

(d) to ascertain whether the requirements of, or any requirements properly made under—

(i) Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** (as in force before the commencement day); or

(ii) the regulations (within the meaning of Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** as in force before 1 January 2005); or

(iii) regulations set out in or prescribed for the purposes of section 151ZD of the repealed **Petroleum (Submerged Lands) Act 1982** as in force during the period that began on 1 January 2005 and ended immediately before the commencement day—

were being complied with before the commencement day; or

(e) concerning a contravention, or possible contravention, before the commencement day, of—

(i) Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** (as in force before the commencement day); or

(ii) the regulations (within the meaning of Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** as in force before 1 January 2005); or

(iii) regulations set out in or prescribed for the purposes of section 151ZD of the repealed **Petroleum (Submerged Lands) Act 1982** as in force during the period that began on 1 January 2005 and ended immediately before the commencement day; or

(f) concerning an accident or dangerous occurrence that has happened, before the commencement day, in the performing of work (within the meaning of Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** as in force before the commencement day).

46 OHS prosecutions

Clause 103 of Schedule 3 to this Act has effect, after the commencement day, as if each reference in that clause to a listed OHS law included a reference to—

(a) Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982** as in force before the commencement day; and

(b) the regulations within the meaning of that Schedule as in force before 1 January 2005.

47 Disqualification of health and safety representatives

Clause 38(2) of Schedule 3 to this Act has effect as if—

(a) the reference in that clause to clause 40(1) of that Schedule included a reference to the corresponding provision of Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982**; and

(b) the reference in that clause to Schedule 3 to this Act included a reference to Schedule 7 to the repealed **Petroleum (Submerged Lands) Act 1982**.

Sch. 5 cl. 48 inserted by No. 68/2014 s. 68.

48 Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014

(1) Part 6.10 of this Act applies in relation to the following—

(a) offshore information, to the extent that it is personal information, obtained on and after the day on which section 67 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014** came into operation;

(b) other offshore information obtained before, on or after that day;

(c) things obtained before, on or after that day.

(2) The Governor in Council may make regulations in relation to matters of a savings or transitional nature consequent on the enactment of section 67 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014**.

(3) In this clause—

offshore information has the same meaning as in section 718D;

personal information has the same meaning as in the **Privacy and Data Protection Act 2014**.

* * * * *

Sch. 6 amended by Nos 62/2010 s. 142, 80/2010 s. 161, repealed by No. 70/2013 s. 3(Sch. 1 item 39 2).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 4 February 2010

Legislative Council: 25 February 2010

The long title for the Bill for this Act was "A Bill for an Act to regulate petroleum exploration and recovery activities and petroleum facilities and the geological storage of carbon dioxide in the Victorian offshore area and for other purposes."

The **Offshore Petroleum and Greenhouse Gas Storage Act 2010** was assented to on 23 March 2010 and came into operation on 1 January 2012: section 2(2).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Offshore Petroleum and Greenhouse Gas Storage Act 2010** by Acts and subordinate instruments.

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date:	14.9.10
Commencement Date:	S. 80 on 14.10.10: Government Gazette 14.10.10 p. 2404
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date:	21.9.10
Commencement Date:	Ss 141, 142 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Transport Accident and Accident Compensation Legislation Amendment Act 2010, No. 80/2010

Assent Date:	19.10.10
Commencement Date:	S. 161 on 20.10.10: s. 2(1)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Resources Legislation Amendment Act 2011, No. 53/2011

Assent Date:	18.10.11
Commencement Date:	Ss 20, 21 on 20.3.12: Special Gazette (No. 91) 20.3.12 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Statute Law Revision Act 2012, No. 43/2012

Assent Date:	27.6.12
Commencement Date:	S. 3(Sch. item 35) on 28.6.12: s. 2(1)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Resources Legislation Amendment (General) Act 2012, No. 64/2012

Assent Date:	30.10.12
Commencement Date:	Ss 62–68 on 1.12.12: Special Gazette (No. 399) 27.11.12 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Offshore Petroleum and Greenhouse Gas Storage Amendment (NOPSEMA) Act 2012, No. 74/2012

Assent Date:	4.12.12
Commencement Date:	Ss 4–54 on 1.1.13: s. 2
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Statute Law Revision Act 2013, No. 70/2013

Assent Date:	19.11.13
Commencement Date:	S. 3(Sch. 1 item 39) on 1.12.13: s. 2(1)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date:	3.6.14
Commencement Date:	S. 10(Sch. item 118) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Privacy and Data Protection Act 2014, No. 60/2014

Assent Date:	2.9.14
Commencement Date:	S. 140(Sch. 3 item 32) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014, No. 68/2014

Assent Date:	23.9.14
Commencement Date:	Ss 66-68 on 1.9.15: s. 2(3)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Offshore Petroleum and Greenhouse Gas Storage Amendment Act 2018, No. 16/2018

Assent Date:	29.5.18
Commencement Date:	Ss 4–32 on 1.10.18: s. 2(2)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Marine and Coastal Act 2018, No. 26/2018

Assent Date:	26.6.18
Commencement Date:	S. 95 on 1.8.18: Special Gazette (No. 337) 17.7.18 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Environment Protection Amendment Act 2018, No. 39/2018 (as amended by No. 11/2020)

Assent Date:	28.8.18
Commencement Date:	S. 45 on 1.7.21: Special Gazette (No. 124) 16.3.21 p. 1
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Petroleum Legislation Amendment Act 2020, No. 20/2020

Assent Date:	23.6.20
Commencement Date:	Ss 31, 32 on 24.6.20: s. 2(2)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021, No. 26/2021

Assent Date:	28.6.21
Commencement Date:	Ss 4–43 on 29.6.21: s. 2
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

Regulatory Legislation Amendment (Reform) Act 2022, No. 13/2022

Assent Date:	29.3.22
Commencement Date:	Ss 62, 70, 74 on 30.3.22: s. 2(3)
Current State:	This information relates only to the provision/s amending the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**

3 Explanatory details

No entries at date of publication.