

Authorised Version No. 027

Petroleum Act 1998

No. 96 of 1998

Authorised Version incorporating amendments as at
1 July 2021

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
Part 1—Preliminary matters	1
1 Purpose	1
2 Commencement	1
3 Objectives	1
4 General definitions	2
5 Reference provisions	7
6 Meaning of <i>petroleum</i>	8
7 Meaning of <i>petroleum exploration</i>	9
8 Meaning of <i>petroleum production</i>	9
9 Act binds the Crown	9
10 Relationship of this Act to certain other Acts	10
Part 2—General matters	11
11 Application of this Act	11
12 Minister may exempt land from the application of this Act	11
13 Petroleum is the property of the Crown	11
14 Crown retains Crown land petroleum rights	11
15 Offence to explore for petroleum unless authorised	12
16 Offence to produce petroleum unless authorised	12
16A Offence to carry out hydraulic fracturing	12
17 Petroleum becomes the property of the person extracting it	13
17A Moratorium on petroleum exploration and petroleum production	13
Part 3—Exploration permits	15
Division 1—Rights conferred by permit	15
18 Rights conferred by permit	15
Division 2—Process for granting permits	15
19 Minister may invite tender applications for exploration permits	15

<i>Section</i>	<i>Page</i>
19A Public consultation before tender invitation—exploration permits	15
20 Application for permits	16
20A Grant of exploration permit	16
20B Chief factors to be considered when there is only one application	17
21 Chief factors to be considered in deciding between competing offers	17
22 Notice to be given to applicants	18
23 Minister may make new grant if former grant refused	18
24 Procedure if initial invitation does not result in the granting of a permit	18
25 Permit area for exploration permits	19
26 Term of permit	19
27 Key objects of work programs	19
Division 3—Renewals	20
28 Renewal of permit	20
29 Application for renewal	20
30 Other factors to be considered in renewing permits	21
31 Permit not to be renewed if key objects not achieved	22
32 Renewed permit area to be reduced	22
33 Key objects of work programs	23
34 Variation of work programs for renewed permits	23
Division 4—Ministerial directions if petroleum discovered	23
35 Minister may give directions if petroleum discovered	23
Part 4—Retention leases	25
36 Purpose of a retention lease	25
37 Rights conferred by lease	25
38 Right to apply for lease	25
39 Details to be supplied with application	26
39A Notice of application for retention lease	26
39B Submissions—retention leases	27
40 Factors determining grant of application	27
41 Restrictions on area to which lease applies	28
42 Term of lease	29
43 Procedure if lease not to be granted	29
44 Minister may require review of commercial viability	30
45 Minister may give directions if extraction viable	31
Part 5—Production licences	32
Division 1—Rights conferred by licence	32
46 Rights conferred by licence	32

<i>Section</i>	<i>Page</i>
Division 2—Issue of licences to holders of permits or leases	32
47 Right to apply for licence	32
48 Details to be supplied with application	32
48A Notice of application for production licence	32
48B Submissions—production licences	33
49 Factors determining grant of application	34
Division 3—Grant of licences by tender	35
50 Minister may invite tender applications	35
50A Public consultation before tender invitation—production licences	36
51 Applications	36
52 Procedure for deciding between competing bids	37
52A Chief factors to be considered when there is only one application—production licences	37
53 Notice to be given to applicants	38
54 Refund of deposits	38
55 Minister may make new grant if former grant refused	38
56 Extension of time in which to make licence payment	39
57 Minister must not issue licence unless cash bid paid	39
Division 4—General provisions	39
58 Restrictions on area to which licence applies	39
59 Term of licence	39
Division 5—Directions concerning the rate of extraction or recovery of petroleum	40
60 Direction if petroleum not being extracted/recovered to the Minister's satisfaction	40
61 Form of direction	40
62 Licence holder must comply with directions	40
Division 6—Petroleum production development plan	41
63 Petroleum production development plan	41
64 Development plan to be lodged before production can start	41
65 Development plan must be adhered to	41
66 Minister may require variation of development plan	41
67 Minister may permit variation of development plan	42
Division 7—Underground storage of petroleum	42
68 Storage development plan	42
69 Storage development plan to be lodged before operations can start	42
70 Storage development plan must be adhered to	42
71 Minister may require variation of storage development plan	43
72 Minister may permit variation of development plan	43

<i>Section</i>	<i>Page</i>
Division 8—Underground storage of petroleum by third party	43
73 Application of this Division	43
74 Application to excise reservoir from a licence area	43
75 Minister must seek comments from licence holder	43
76 Restrictions on ability of Minister to grant application	44
77 Minister may refer application to advisory panel	44
78 Procedure if application granted	45
Division 9—Unit development	45
79 Unit development	45
80 Consultation concerning unit development must take place if part of pool interstate	46
81 Minister may amend licence for unit development	47
Division 10—Gathering lines	47
82 Meaning of <i>gathering line</i>	47
83 Minister may exempt gathering line from Pipelines Act	48
Part 6—Special access authorisations	49
84 Special access authorisation	49
85 Application for authorisation	49
86 General criteria the Minister must consider	50
87 Criteria that apply to permit, lease and licence areas	50
88 Exception to section 87	51
89 Minister may vary area to which authorisation applies	52
90 Authorisation does not give exclusive rights	52
91 Term of authorisation	52
92 Extension of term of authorisation	53
93 Permit, lease or licence holder not liable for actions of authorisation holder	53
94 Authorisation holder must give data to the Minister	53
95 Authorisation holder must give data to permit, lease or licence holder	54
Part 6A—Special drilling authorisations	55
95A Special drilling authorisation	55
95B Application for special drilling authorisation	56
95C General criteria the Minister must consider	56
95D Criteria that apply to permit, lease and licence areas	57
95E Exception to section 95D	57
95F Minister may vary area to which authorisation applies	58
95G Authorisation does not give exclusive rights	58
95H Term of authorisation	59
95I Existing permit, lease or licence holder not liable for actions of authorisation holder	59
95J Authorisation holder must give data to the Minister	59

<i>Section</i>	<i>Page</i>
95K Authorisation holder must give data to permit, lease or licence holder	60
Part 7—Provisions applying to authorities generally	61
Division 1—Applications	61
96 Application for authorities	61
97 Work programs	61
98 Applications are not transferable	62
99 Existing permits and leases continue until renewal applications etc. decided	62
Division 2—Conditions	63
100 Conditions that may apply to authorities	63
101 Statutory condition of authority	64
101B Further statutory condition of authority—agreements under Traditional Owner Settlement Act 2010	64
102 Minister may vary conditions unilaterally	64
103 Minister may vary conditions by consent	65
104 Variation of conditions on renewal, consolidation or transfer	66
105 Suspension of conditions	66
106 Term of authority may be extended if condition suspended	67
Division 3—Transfers of authorities	67
107 Transfers	67
107A Transfers in relation to special drilling authorisations	68
108 Matters Minister must consider in assessing transfer application	68
109 Execution of transfer document insufficient to create interest	69
110 Partial transfers of permits and licences	69
Division 4—Surrender or cancellation of authorities	70
111 Surrender of authority	70
112 Partial surrender of authority	71
113 Cancellation of authority	72
113A Special drilling authorisation surrendered, suspended or cancelled if primary authorisation surrendered, suspended or cancelled	73
113B Special drilling authorisation expires or is terminated if primary authorisation expires or is terminated	74
114 Additional grounds for the cancellation or partial cancellation of production licence	74
115 Procedure to be followed before authority cancelled	75
116 Minister may give directions if authority expires or is surrendered or cancelled	76

<i>Section</i>	<i>Page</i>
Division 5—Planning matters	77
117 Definition of planning scheme	77
118 Exploration under authority overrides planning schemes	77
119 Production operations also override planning schemes	78
120 Alternative approvals	79
121 Amendments to planning schemes to facilitate exploration and production	80
Division 6—Miscellaneous matters	81
122 Minister must publish certain details in case of reportable event	81
123 Variation of an authority	82
124 Consolidation of adjoining authorities	83
125 Excision of area does not affect authority	84
126 Expedited procedure for replacement of invalidated title	84
127 Occupiers liability	84
127A Authorities not personal property	85
Part 8—Compensation	86
128 Consent of, or compensation agreement with, owner etc. needed before operation on private land starts	86
129 What compensation is payable for—private/native title land	86
130 Limit on total amount of compensation	88
131 Compensation not payable for petroleum	88
132 What compensation is payable for—Crown land	89
133 Time limit on compensation claims	90
134 Determination of disputes—private/native title land	91
135 Determination of disputes—Crown land	92
136 Native Title Act rights prevail	93
Part 9—Consent/notice required before operations allowed on land	94
Division 1—Wilderness Crown land	94
137 Petroleum operations on wilderness land barred	94
Division 2—Operations requiring prior consent	94
138 Consent of Minister needed to carry out petroleum operations on any land	94
139 Petroleum operations on restricted Crown land	95
140 Petroleum operations on water authority land	95
141 Petroleum operations on highways, roads etc.	96
142 Provisions applying to consents	96
143 Right to seek review of refusal to give consent	96
Division 3—Operations requiring notice	97
144 Operations on unrestricted Crown land	97

<i>Section</i>	<i>Page</i>
145 Notice to be given before operation carried out on any land	97
Division 4—Other matters	98
146 Areas of aboriginal significance	98
Division 5—Statement of pre-operation requirements	98
147 Requirements to be complied with before petroleum operation carried out	98
Part 10—Royalties and rent	101
148 Application of this Part	101
149 Liability for, and rate of, royalty	101
150 Rate of royalty	101
151 Meaning of <i>well-head</i>	101
152 How value to be determined	102
153 How quantity to be determined	102
154 When royalty must be paid	103
155 Circumstances in which royalty is not payable	103
156 Minister may vary royalty	104
157 Minister may increase royalty rate to 10%	104
158 Royalty payable if excess petroleum recovered from reservoir	104
159 Penalty for late payment	105
160 Rent payable in relation to Crown land	105
Part 11—Other obligations on the holders of authorities	107
Division 1—Conduct of operations etc.	107
161 Operation plan to be prepared	107
162 Plan must be observed in carrying out operation	109
163 Minister may permit variation of operation plan	109
163A Minister may require variation of accepted operation plan	111
164 Operation to be conducted in proper manner	112
165 Other specific obligations concerning conduct of operations	112
166 Maintenance etc. of property	113
167 Authority holder must not interfere with other rights	113
168 Equipment must be removed once authority ceases	114
169 Minister may remove equipment	114
170 Rehabilitation	115
171 Insurance must be held	115
Division 2—Rehabilitation bond	115
172 Definition of rehabilitation bond	115
173 Requirement to take out rehabilitation bond	116
174 Minister may require increased rehabilitation bond	116
175 Minister may carry out rehabilitation	116
176 Return of bond if rehabilitation satisfactory	117

<i>Section</i>	<i>Page</i>
Division 3—Information to be given to the Minister	118
177 Minister must be told if petroleum discovered	118
178 Minister may require certain information if petroleum discovered	118
179 Authority holder must provide information to Minister	119
180 Minister may require position of wells etc. to be surveyed	120
181 Minister may require person to provide information on petroleum operation	120
182 False information not to be given	121
Part 12—Release of information obtained or given under this Act	123
183 Meaning of <i>release</i> and <i>information</i>	123
184 Meaning of <i>interpretive information</i>	123
185 Meaning of <i>information collection date</i>	123
186 Information that is not to be released	124
187 Information about applications that may be released	124
188 Release of information about area that is no longer an authority area	125
189 Release of factual information concerning licence areas	125
190 Release of factual information concerning other authority areas	125
191 Restriction on release of information collected so that it could be sold	126
192 Earlier release of information if consent given	126
193 Release of interpretive information relating to current authorities	127
194 Procedure to be followed before interpretive information is released	127
195 Right to seek review of disputed release decision	128
196 Minister may give information etc. to other Ministers	129
197 Restriction on obtaining information to meet work program obligation	130
Part 13—Enforcement	131
Division 1—Inspections	131
198 Authorisation of inspectors	131
199 Monitoring compliance with this Act	131
200 Emergencies	132
201 Offence-related searches and seizures	133
202 Occupier to be given copy of consent	134
203 Search warrant	134
204 Announcement before entry	135
205 Copy of warrant to be given to occupier	136
206 Receipt must be given for any thing seized	136
207 Copies of certain seized things to be given	136
208 Use of equipment to examine or process things	137

<i>Section</i>	<i>Page</i>
209 Use or seizure of electronic equipment at premises	138
210 Compensation for damage	139
211 Return of seized things	139
212 Magistrates' Court may extend period	140
213 Power of inspector to require information or documents	140
214 Protection against self-incrimination	141
215 Offence to obstruct inspector	141
Division 2—Improvement and prohibition notices	141
216 Improvement notice	141
217 Prohibition notice	142
218 Minister may obtain enforcement order	143
219 Form of notices	143
220 Right to review	144
221 Defences to charge of failing to comply with a notice	144
222 Minister may remedy failure to comply with improvement notice	145
Division 3—Offences concerning corporations etc.	145
223 Increased maximum fine for corporations	145
224 Corporation deemed to have the knowledge of its officers	145
225 Certain offences by corporations may also be offences by officers	146
226 Offences by partners	146
227 Offences by joint venturers	146
228 Offences by employees and agents	147
229 Default penalties	147
Part 14—Administrative matters	148
Division 1—Petroleum register	148
230 Establishment of register	148
231 Need for registration	148
232 Other documents to be registered	148
233 Entries in register on devolution of title	148
234 Registration	149
235 Effect of registration	150
236 Inspection of register and documents	150
237 Minister's certificates	150
238 Minister may make corrections to register	150
239 Right to review of register entries	151
240 Offences relating to the register	151
Division 2—Other administrative matters	152
241 Minister may require further information	152
242 Form of documents	152
243 Pecuniary interest statement	152

<i>Section</i>	<i>Page</i>
244 Department surveys	152
245 Delegation	153
246 Applications not to be processed unless fee paid	153
Part 15—Miscellaneous matters	154
247 Officials must not disclose information	154
248 Fees and penalties debts due to the State	154
249 Minister may vary geodetic system	155
250 Codes of practice	155
251 Use of codes of practice in proceedings	157
251A State liability	157
251B Minister may pay for surrender of authority	159
Part 16—Regulations	160
252 Regulations	160
Part 17—Consequential, savings and transitional provisions	164
Division 1—Transitional provisions—Repeal of Petroleum Act 1958	164
253 Repeal of former Act	164
254 Effect of repeal on existing permits	164
255 Effect of repeal on existing leases	165
256 Release of information provided under the Petroleum Act 1958	166
Division 2—Transitional provisions—Petroleum Legislation Amendment Act 2020	167
257 Definitions	167
258 Suspension of conditions	168
259 Term of authority may be extended if condition suspended	168
260 New work programs	168
261 Exploration permits	169
262 Retention leases	170
263 Work programs—hydraulic fracturing	170
264 Requirement for new or varied operation plans	171
<hr style="border-top: 3px double #000;"/>	
Endnotes	173
1 General information	173
2 Table of Amendments	175
3 Amendments Not in Operation	178
4 Explanatory details	179

Authorised Version No. 027

Petroleum Act 1998

No. 96 of 1998

Authorised Version incorporating amendments as at
1 July 2021

The Parliament of Victoria enacts as follows:

Part 1—Preliminary matters

1 Purpose

The purpose of this Act is to regulate petroleum exploration and production in Victoria.

2 Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 1 December 1999, it comes into operation on that day.

3 Objectives

- (1) The objectives of this Act are to encourage the exploration for petroleum in Victoria and to promote petroleum production for the benefit of all Victorians by providing—
 - (a) an orderly, fair and competitive system for granting authorities enabling petroleum exploration and production; and
 - (b) clear and effective administrative frameworks for organising petroleum development activities; and

- (c) fiscal regimes that offer petroleum explorers a fair return while benefiting all Victorians; and
- (d) easy and effective access to information on Victoria's petroleum geology.

(2) In encouraging petroleum exploration and production, this Act seeks to have regard to economic, social and environmental interests by ensuring—

S. 3(2)(a)
amended by
No. 55/2010
s. 57(1).

- (a) the efficient exploration for, and production of, petroleum; and

S. 3(2)(b)
amended by
No. 55/2010
s. 57(2).

- (b) that the impacts on individuals, public safety, public amenity and the environment as a result of petroleum activities will be minimised as far as is practicable; and
- (c) that land affected by petroleum activities is rehabilitated; and
- (d) that there will be just compensation for access to, and the use of, land; and

S. 3(2)(e)
amended by
No. 20/2020
s. 4(a).

- (e) that petroleum explorers and producers will comply with all authority conditions that apply to them; and

S. 3(2)(f)
inserted by
No. 20/2020
s. 4(b).

- (f) that the views and interests of Victorians are taken into consideration during decision making.

4 General definitions

In this Act—

S. 4 def. of
authority
amended by
No. 57/2009
s. 35(b).

authority means an exploration permit, a retention lease, a production licence, special access authorisation or a special drilling authorisation;

Crown land means land that is, or that is by any Act deemed to be, unalienated land of the Crown, and includes—

- (a) land of the Crown that is reserved permanently or temporarily by or under any Act; and
- (b) land of the Crown occupied by a person under a lease, licence or other right under this or any other Act—

but does not include—

- (c) native title land that is not also wilderness Crown land; or
- (d) land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**;

current authority holder means a holder of a primary authorisation;

S. 4 def. of *current authority holder* inserted by No. 57/2009 s. 35(a).

Department means the Department of Jobs, Precincts and Regions;

S. 4 def. of *Department* amended by Nos 56/2003 s. 11(Sch. item 14), 70/2013 s. 4(Sch. 2 item 34), 20/2020 s. 5(1).

drilling authorisation area means the area specified in a special drilling authorisation granted under Part 6A;

S. 4 def. of *drilling authorisation area* inserted by No. 57/2009 s. 35(a).

gathering line has the meaning set out in section 82;

Petroleum Act 1998
No. 96 of 1998
Part 1—Preliminary matters

S. 4 def. of
*good oil-field
practice*
repealed by
No. 55/2010
s. 58.

* * * * *

S. 4 def. of
*hydraulic
fracturing*
inserted by
No. 8/2017
s. 8.

hydraulic fracturing means the injection of a substance or substances into a bore under pressure for the purposes of stimulating a geological formation;

improvement notice means a notice issued under section 216;

inspector means a person authorised by the Minister under section 198 to act as an inspector;

Native Title Act means the Native Title Act 1993 of the Commonwealth;

native title land means land in which native title (within the meaning of the Native Title Act) may exist;

S. 4 def. of
offshore area
inserted by
No. 64/2012
s. 46(1).

offshore area has the same meaning as in the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**;

S. 4 def. of
*offshore
petroleum
exploration
permit*
inserted by
No. 64/2012
s. 46(1).

offshore petroleum exploration permit means a petroleum exploration permit within the meaning of the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**;

S. 4 def. of
*offshore
petroleum
production
licence*
inserted by
No. 64/2012
s. 46(1).

offshore petroleum production licence means a petroleum production licence within the meaning of the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**;

offshore petroleum retention lease means a petroleum retention lease within the meaning of the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**;

S. 4 def. of *offshore petroleum retention lease* inserted by No. 64/2012 s. 46(1).

owner means—

- (a) in relation to land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**, the licensee of that land under that Part;
- (b) in relation to native title land, the native title holder (within the meaning of the Native Title Act) of the land;

parks Crown land means any land that is a national, State or other park under the **National Parks Act 1975**;

petroleum has the meaning set out in section 6;

petroleum exploration has the meaning set out in section 7;

petroleum operation means any activity relating to petroleum exploration or to petroleum production;

petroleum pool means a naturally occurring discrete accumulation of petroleum;

petroleum production has the meaning set out in section 8;

petroleum register means the register established under Division 1 of Part 14;

S. 4 def. of
*primary
authorisation*
inserted by
No. 57/2009
s. 35(a),
substituted by
No. 64/2012
s. 46(2).

primary authorisation means—

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence; or
- (d) an offshore petroleum exploration permit; or
- (e) an offshore petroleum retention lease; or
- (f) an offshore petroleum production licence;

private land means land that is not Crown land or native title land;

prohibition notice means a notice issued under section 217;

S. 4 defs of
*P(SL)A lease,
P(SL)A
licence,
P(SL)A permit*
inserted by
No. 57/2009
s. 35(a),
repealed by
No. 64/2012
s. 46(3).

* * * * *

reservoir means an underground natural reservoir that is suitable for the storage of petroleum;

S. 4 def. of
*restricted
Crown land*
amended by
No. 63/2006
s. 61(Sch.
item 27).

restricted Crown land means any land specified in Schedule 3 to the **Mineral Resources (Sustainable Development) Act 1990**;

retention period means a period of 60 days after the seizure of a thing under this Act;

Secretary means the Department Head, within the meaning of the **Public Administration Act 2004**, of the Department;

S. 4 def. of
Secretary
inserted by
No. 20/2020
s. 5(2).

Tribunal means the Victorian Civil and Administrative Tribunal;

unit development agreement means an agreement made under Division 9 of Part 5;

unrestricted Crown land means any Crown land other than wilderness Crown land, parks Crown land and restricted Crown land;

vary, in relation to the conditions of an authority, includes adding conditions to, and removing conditions from, the authority;

well means a hole in the sub-soil made by drilling, boring or any other means in connection with a petroleum operation, but does not include a seismic shot hole;

well-head has the meaning set out in section 151;

wilderness Crown land means land that is a reference area under the **Reference Areas Act 1978** or that is a wilderness zone or wilderness park under the **National Parks Act 1975**;

work program has the meaning set out in section 97.

5 Reference provisions

- (1) A reference in this Act to a permit area, a lease area, a licence area, an authorisation area or an authority area is a reference to the area to which the permit, lease, licence, authorisation or authority applies at the relevant time.
- (2) A reference in this Act to this Act includes a reference to the regulations.

- (3) Without limiting section 37(a) of the **Interpretation of Legislation Act 1984**, a reference in this Act to a person using a neuter pronoun is not to be taken to indicate that an individual is not included as well as any other person, unless the contrary intention appears.
- (4) For the purposes of this Act, a person carries out a petroleum operation by starting, or continuing to carry on, the operation.

6 Meaning of *petroleum*

- (1) Petroleum is—
 - (a) any naturally occurring hydrocarbon (whether in a gaseous, liquid or solid state);
or
 - (b) any naturally occurring mixture of hydrocarbons (whether in a gaseous, liquid or solid state); or
 - (c) any naturally occurring mixture of one or more hydrocarbons (whether in a gaseous, liquid or solid state), and one or more of the following: hydrogen sulphide, nitrogen, helium or carbon dioxide.
- (2) For the purposes of this Act—
 - (a) petroleum includes any petroleum as defined by subsection (1)(a), (b) or (c), and any petroleum product specified by the regulations for the purposes of this section, that has been returned to a reservoir in Victoria; but
 - (b) petroleum does not include any naturally occurring hydrocarbon, or mixture of hydrocarbons, within a deposit of coal or oil shale.

7 Meaning of *petroleum exploration*

Petroleum exploration is the carrying out of one or more of the following activities for the purpose of finding petroleum or reservoirs—

- (a) conducting geological, geophysical and geochemical surveys;
- (b) making wells;
- (c) taking samples for the purposes of chemical or other analysis;
- (d) extracting petroleum from land for the purpose of determining whether it will be viable to extract it commercially.

8 Meaning of *petroleum production*

Petroleum production is—

- (a) the extraction of petroleum from land for the purpose of producing it commercially;
- (b) the injection and storage of petroleum in reservoirs for the purpose of later recovering it;
- (c) the recovering of petroleum from reservoirs into which the petroleum was previously injected;
- (d) any activity incidental to any activity listed in paragraph (a), (b) or (c), including the processing of petroleum and transportation of petroleum within the area in which the petroleum is being produced.

9 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.

S. 10
amended by
No. 107/2004
s. 183.

10 Relationship of this Act to certain other Acts

If this Act makes provision in relation to a matter and provision is also made in relation to that matter by, or under, the **Occupational Health and Safety Act 2004** or the **Dangerous Goods Act 1985**, the provision made by this Act—

- (a) if not inconsistent with that other provision, must be observed in addition to that other provision; and
- (b) if inconsistent with that other provision, is, to the extent of the inconsistency, of no force or effect and that other provision prevails.

Part 2—General matters

11 Application of this Act

This Act applies to all land in Victoria, other than land that is within the area defined as the offshore area in the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**.

S. 11
amended by
No. 10/2010
s. 800(Sch. 6
item 11).

12 Minister may exempt land from the application of this Act

- (1) Despite section 11, the Minister may, by notice published in the Government Gazette and registered in the petroleum register, exempt any land from the application of some or all of the provisions of this Act.
- (2) The Minister may do this—
 - (a) to protect the land for significant environmental reasons; or
 - (b) to protect significant commercial or economic activity; or
 - (c) for any other reason the Minister considers to be appropriate.
- (3) The Minister may, by notice published in the Government Gazette and registered in the petroleum register, revoke any exemption granted under this section.

13 Petroleum is the property of the Crown

The Crown owns all petroleum on or below the surface of any land in Victoria that came to be on or below that surface without human assistance.

14 Crown retains Crown land petroleum 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 petroleum on or below that land, unless otherwise stated in the document by which the grant, lease, licence or other tenure is conferred.

15 Offence to explore for petroleum unless authorised

A person must not carry out any petroleum exploration operation in Victoria except—

- (a) under, and in accordance with, an authority;
or
- (b) as otherwise permitted by this Act.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

16 Offence to produce petroleum unless authorised

A person must not carry out any petroleum production operation in Victoria except—

- (a) under, and in accordance with, a production licence; or
- (b) as otherwise permitted by this Act.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

16A Offence to carry out hydraulic fracturing

A person must not carry out any hydraulic fracturing in the course of carrying out any petroleum operation.

Penalty: 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

S. 16A
inserted by
No. 8/2017
s. 9.

17 Petroleum becomes the property of the person extracting it

On a person extracting from any land in Victoria in accordance with this Act any petroleum that came to be on or below the surface of the land without human assistance, the person becomes the owner of that petroleum.

17A Moratorium on petroleum exploration and petroleum production

S. 17A
inserted by
No. 8/2017
s. 10.

- (1) Subject to this section, despite anything to the contrary in this Act or any condition of a relevant authority, the carrying out of any petroleum exploration or petroleum production during the moratorium period is not authorised under that authority.
- (2) Subsection (1) does not affect any requirement or obligation imposed on the holder of a relevant authority by or under this Act or under a condition of the authority during the moratorium period.
- (3) In addition, subsection (1) does not affect—
 - (a) the authorisation of petroleum exploration or petroleum production during the moratorium period by the following production licences—
 - (i) Production Licence 1 registered in the petroleum register on 1 March 1985;
 - (ii) Production Licence 2 registered in the petroleum register on 31 December 1990;
 - (iii) Production Licence 3 registered in the petroleum register on 10 May 1993;
 - (iv) Production Licence 11 registered in the petroleum register on 14 May 2002;

- (v) Production Licence 13 registered in the petroleum register on 7 February 2006;
or
- (b) the authorisation under a production licence of petroleum storage in a reservoir that is carried out in accordance with a storage development plan approved under Division 7 of Part 5 that applies to the production licence.
- (4) Despite anything to the contrary in this Act, the Minister must not grant a relevant authority during the moratorium period.
- (5) In this section—

S. 17A(5)
def. of
*moratorium
period*
amended by
No. 20/2020
s. 6.

moratorium period means the period beginning on the day on which the **Resources Legislation Amendment (Fracking Ban) Act 2017** comes into operation and ending on 30 June 2021;

relevant authority means an exploration permit, a retention lease or a production licence.

Part 3—Exploration permits

Division 1—Rights conferred by permit

18 Rights conferred by permit

An exploration permit authorises the holder of the permit, subject to and in accordance with the conditions of the permit—

- (a) to carry out petroleum exploration in the permit area; and
- (b) to do any thing in that area that is necessary for, or incidental to, that purpose.

Division 2—Process for granting permits

19 Minister may invite tender applications for exploration permits

- (1) The Minister may invite applications for an exploration permit to explore a specified area.
- (2) The invitation must specify—
 - (a) the chief factors that will be considered by the Minister in assessing applications; and
 - (b) a date by which applications must be made.
- (3) In subsection (2), *chief factors* means the chief factors set out in section 20B(2)(a) and (b) or 21(2)(a) and (b), as the case requires.

S. 19(3)
inserted by
No. 64/2012
s. 47.

19A Public consultation before tender invitation— exploration permits

- (1) If the Minister proposes to invite applications for an exploration permit under section 19(1), the Minister must publish notice of the proposed invitation on an Internet site maintained by the Department.

S. 19A
inserted by
No. 20/2020
s. 7.

- (2) A notice under subsection (1) must—
- (a) contain a description of the area to which the proposed exploration permit is to apply; and
 - (b) state that any person may make a written submission to the Minister about the proposed invitation; and
 - (c) specify the period during which submissions may be made to the Minister (the *submission period*).
- (3) In determining whether to invite applications for the exploration permit, the Minister must take into account any written submission received during the submission period.
- (4) A decision to grant an exploration permit is not invalid merely because of a failure to comply with subsection (3).

20 Application for permits

In addition to complying with section 96, an applicant for an exploration permit must submit details of—

- (a) its relevant technical qualifications and of the relevant technical qualifications of its employees; and
- (b) the relevant technical advice available to it; and
- (c) the financial resources available to it.

20A Grant of exploration permit

The Minister may grant or refuse to grant an exploration permit.

S. 20A
inserted by
No. 55/2010
s. 59.

20B Chief factors to be considered when there is only one application

S. 20B
inserted by
No. 64/2012
s. 48.

- (1) This section applies if only one application for an exploration permit is received in respect of an area.
- (2) In deciding whether to grant or refuse to grant an exploration permit, the chief factors the Minister must take into account are—
 - (a) the merits of the work program proposed by the applicant; and
 - (b) the likelihood that the work program will be carried out; and
 - (c) any prescribed factor.

S. 20B(2)(b)
amended by
No. 20/2020
s. 8(1).

S. 20B(2)(c)
inserted by
No. 20/2020
s. 8(2).

21 Chief factors to be considered in deciding between competing offers

- (1) This section applies if more than one application is received in respect of an area and the Minister decides to grant an exploration permit in respect of the area.
- (2) In determining which applicant, if any, is to be granted the permit, the chief factors the Minister must take into account are—
 - (a) the respective merits of the work programs proposed by the applicants; and
 - (b) the likelihood that the work programs will be carried out; and
 - (c) any prescribed factor.

S. 21(2)(b)
amended by
No. 20/2020
s. 9(1).

S. 21(2)(c)
inserted by
No. 20/2020
s. 9(2).

22 Notice to be given to applicants

S. 22(1)
amended by
No. 64/2012
s. 49(1).

(1) If the Minister decides to grant an exploration permit, she or he must give every unsuccessful applicant (if any) for the permit written notice of that decision within 14 days after making it.

S. 22(2)
amended by
No. 64/2012
s. 49(2).

(2) If the Minister decides not to grant an exploration permit, the Minister must notify every applicant in writing of that decision.

23 Minister may make new grant if former grant refused

(1) This section applies if the Minister decides to grant an exploration permit to an applicant but the applicant states in writing that it does not intend to accept the grant.

(2) The Minister may grant the permit to any other applicant for the permit.

(3) This section applies regardless of how many times the Minister has decided to grant the permit.

24 Procedure if initial invitation does not result in the granting of a permit

(1) This section applies if—

(a) no applications are received in response to an invitation made under section 19; or

(b) the Minister refuses to grant an exploration permit to any applicant who responded to such an invitation; or

(c) no applicant who responded to such an invitation is willing to accept the grant of the exploration permit by the Minister.

(2) The Minister may invite further applications for an exploration permit for the relevant area.

- (3) Sections 20, 22 and 23 apply to applications made in response to an invitation made under subsection (2).
- (4) If more than one application is received, the Minister must consider the applications in the order in which they were received by the Minister.

25 Permit area for exploration permits

S. 25
substituted by
No. 64/2012
s. 50.

- (1) In issuing an exploration permit, the Minister must determine the area to which the exploration permit applies in accordance with this section.
- (2) The area to which the permit applies must not be more than 12 500 square kilometres.
- (3) In addition, no part of the area to which the permit applies may be within an area that is already the subject of an exploration permit.
- (4) The area that is determined may—
 - (a) be less than that applied for by the applicant;
 - (b) be an area from which there are parts that are excised;
 - (c) consist of non-continuous parcels of land.

26 Term of permit

S. 26
amended by
No. 64/2012
s. 51.

An exploration permit expires 5 years after the day on which it is registered in the petroleum register, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.

27 Key objects of work programs

- (1) In granting an exploration permit, the Minister must declare in writing that certain specified elements of the work program submitted in relation to the permit are key objects of the work program.

- (2) The holder of an exploration permit must ensure that the key objects of the work program are achieved to the maximum extent that is practicable.
- (3) On the application of the holder of an exploration permit, the Minister may vary a declaration to remove a key object, substitute a key object or vary the details of a key object.
- (4) The Minister may only exercise her or his powers under subsection (3) if she or he is satisfied that there are extraordinary circumstances that justify the variation.

Division 3—Renewals

28 Renewal of permit

- (1) The Minister may renew an exploration permit for a further 5 years from the date of its expiry.
- (2) A renewed exploration permit expires 10 years after the day on which the initial permit was registered in the petroleum register, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.
- (3) The Minister may only renew an exploration permit once.

29 Application for renewal

- (1) The holder of an exploration permit may apply to the Minister for the renewal of the permit.
- (2) A renewal application must be given to the Minister at least 90 days before the permit is due to expire.
- (3) On the payment of any late fee required by the regulations for the purposes of this section, the Minister may also consider any application for renewal that does not comply with subsection (2).

S. 28(2)
amended by
No. 64/2012
s. 52.

- (4) However, the Minister must not consider any application to renew a permit that is made after the permit has expired.

30 Other factors to be considered in renewing permits

- (1) The Minister must renew an exploration permit if—
- (a) the holder of the permit applies for the renewal in the form and manner required by the Minister; and
 - (b) the application is accompanied by the renewal fee set out in the regulations for the purposes of this paragraph; and
 - (c) the permit holder has complied with the conditions of the permit and all applicable laws; and
 - (d) the application is accompanied by details of the work program the holder of the permit proposes to undertake if the permit is renewed; and
 - (e) the Minister is satisfied that the proposed work program is adequate; and
 - (f) the holder of the permit has nominated in the application the area that it wishes to relinquish (unless section 32(4) applies); and
 - (g) the Minister will not breach section 32(1), (2) or (3) by renewing the permit for the remaining area.
- (2) In any other case the Minister may renew a permit if she or he is satisfied that there are special circumstances that justify the renewal of the permit.

31 Permit not to be renewed if key objects not achieved

- (1) Despite section 30, the Minister must not renew a permit if the key objects of the work program that were to have been conducted under the permit have not been achieved to the maximum extent that is practicable.
- (2) Subsection (1) does not apply if the Minister is satisfied that the failure was the result of one or more events that were beyond the control of the holder of the permit.

32 Renewed permit area to be reduced

- (1) In renewing an exploration permit, the Minister must ensure that the permit area is reduced by at least 50%.
- (2) In renewing an exploration permit and reducing the permit area, the Minister must be satisfied that both the area to which the renewed permit will apply and the area to which the permit will no longer apply are of such a nature that it will still be practicable for petroleum exploration to be carried out on them.
- (3) In reducing the area to which a renewed exploration permit will apply, the Minister must ensure that the reduced area forms no more than 2 continuous parcels of land.
- (4) Despite subsection (1), the Minister may issue a renewed exploration permit without reducing the permit area, or without reducing the permit area by at least 50%, if—
 - (a) the Minister is satisfied, on the written application of the holder of the permit—
 - (i) that it was unable to explore a relevant area as a result of one or more events that were beyond its control; or

- (ii) that there are exceptional circumstances that justify such a renewal; or
- (b) it is necessary to do so to enable the Minister to comply with subsection (3).

33 Key objects of work programs

- (1) In renewing an exploration permit, the Minister must declare in writing that certain specified elements of the work program submitted in the application for the renewal of the permit are key objects of the work program.
- (2) The holder of the permit must ensure that the key objects of the work program are achieved to the maximum extent that is practicable.
- (3) On the application of the holder of an exploration permit, the Minister may vary a declaration to remove a key object, substitute a key object or vary the details of a key object.

34 Variation of work programs for renewed permits

- (1) If an exploration permit is renewed, the holder of the permit may apply to the Minister for permission to vary the work program.
- (2) The Minister may allow the holder of the permit to vary its work program if the Minister is satisfied that the variation will improve the work program.

Division 4—Ministerial directions if petroleum discovered

35 Minister may give directions if petroleum discovered

- (1) If the holder of an exploration permit discovers any petroleum in the permit area, the Minister may require the holder of the permit to apply for a

retention lease or a production licence in respect of the discovery.

- (2) Such a requirement must be made in writing and must allow the holder of the permit at least 90 days within which to make the application.
- (3) The Minister may only make a requirement under this section if the holder of the permit has extracted petroleum as a result of the discovery.
- (4) If the holder of the permit fails to comply with a requirement made under this section, the Minister may cancel the permit.

Part 4—Retention leases

36 Purpose of a retention lease

A retention lease enables the holder of an exploration permit to retain certain rights to a petroleum discovery that it is not commercially viable to develop under a production licence at the time the lease is granted, but which might become viable to develop within 15 years.

37 Rights conferred by lease

A retention lease authorises the holder of the lease, subject to and in accordance with the conditions of the lease—

- (a) to carry out petroleum exploration in the lease area; and
- (b) to do any thing in the lease area that is necessary for, or incidental to, that purpose; and
- (c) to retain a right to apply for a production licence in respect of the lease area under Division 2 of Part 5 without complying with any requirement that there might otherwise be under this Act to carry out a work program in respect of the area.

38 Right to apply for lease

- (1) The holder of an exploration permit may apply to the Minister for the grant of a retention lease in respect of any part of the permit area on which the holder has discovered petroleum.
- (2) An application for a retention lease must be made at least 90 days before the applicant's exploration permit is due to expire.

S. 38
amended by
No. 25/2008
s. 21 (ILA
s. 39B(1)).

S. 38(2)
inserted by
No. 25/2008
s. 21.

S. 38(3)
inserted by
No. 25/2008
s. 21.

- (3) Despite subsection (2), the Minister may on the payment of any late fee required by the regulations consider an application for a retention lease that does not comply with that subsection.

39 Details to be supplied with application

In addition to complying with section 96, an applicant for a retention lease must submit details of—

- (a) the area in respect of which the lease is sought; and
- (b) the commercial viability of extracting petroleum from that area at the time the application is made; and
- (c) the possible future commercial viability of extracting petroleum from that area.

S. 39A
inserted by
No. 20/2020
s. 10.

39A Notice of application for retention lease

- (1) The applicant for a retention lease must cause notice of the application to be published—
 - (a) in a newspaper circulating generally in Victoria; and
 - (b) on an Internet site maintained by the applicant.
- (2) A notice under subsection (1) must—
 - (a) contain details of the area in respect of which the retention lease is sought, including a description and plan of the area; and
 - (b) state that any person may make a written submission to the Minister about the application during the prescribed period; and
 - (c) contain any prescribed information.

- (3) The Secretary must make a copy of the application and all information accompanying the application available for inspection by the public in a place and form approved by the Minister.

39B Submissions—retention leases

S. 39B
inserted by
No. 20/2020
s. 10.

- (1) If the Minister receives a submission in accordance with section 39A, the Minister must—
- (a) provide the applicant with a copy of the submission; and
 - (b) give the applicant the opportunity to address any matter raised in the submission.
- (2) The Minister may require the applicant to provide details of how the applicant has addressed or proposes to address any matter raised in a submission.
- (3) In deciding whether to grant or refuse a retention lease, the Minister must take into account—
- (a) any submission received in accordance with section 39A in relation to that lease; and
 - (b) any details provided under subsection (2) in relation to that submission.
- (4) A decision to grant a retention lease is not invalid merely because of a failure to comply with subsection (3).

40 Factors determining grant of application

- (1) The Minister must grant a retention lease if—
- (a) the applicant for the lease has provided all the information required by the Minister and has otherwise complied with section 39; and
 - (b) the applicant has complied with the conditions of its exploration permit and all applicable laws in relation to that permit; and

S. 40(1)(c)(ii)
amended by
No. 20/2020
s. 11(1)(a).

- (c) the Minister is satisfied that the extraction of petroleum from the proposed lease area—
 - (i) was not commercially viable on the day the application for the lease was made; but
 - (ii) is likely to become commercially viable within the next 15 years; and

S. 40(1)(d)
inserted by
No. 20/2020
s. 11(1)(b).

- (d) the Minister is satisfied that the applicant has addressed the matters raised in any submission received under section 39A or taken reasonable steps to do so; and

S. 40(1)(e)
inserted by
No. 20/2020
s. 11(1)(b).

- (e) the Minister is satisfied that the applicant has addressed any prescribed factor or taken reasonable steps to do so.

S. 40(2)(a)
amended by
No. 20/2020
s. 11(2).

- (2) The Minister may grant a retention lease if—
 - (a) subsection (1)(a), (c), (d) and (e) apply; and
 - (b) she or he is satisfied that there are special circumstances concerning the failure to comply with the conditions of the exploration permit, or with an applicable law, that justify the granting of the lease.
- (3) The Minister must not grant a retention lease in any other circumstances.

41 Restrictions on area to which lease applies

- (1) In granting a retention lease, the Minister must ensure that the lease area is the minimum area necessary—
 - (a) to cover the maximum extent of the petroleum field; and

- (b) to enable future petroleum production and storage in relation to the field and future storage in relation to any reservoir.
- (2) Nothing in subsection (1) authorises the Minister to include in the lease area any area that was not within the area to which the lease holder's exploration permit applied.

42 Term of lease

- (1) A retention lease starts on the day it is registered in the petroleum register.
- (2) A retention lease expires on the last day of the period specified by the Minister in the lease as the term of the lease, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.
- (3) The Minister may specify that a retention lease is to have a term of up to 15 years.
- (4) A retention lease cannot be renewed.

43 Procedure if lease not to be granted

- (1) The Minister must not refuse to grant a retention lease unless the Minister—
 - (a) has given the applicant for the lease not less than 30 days' written notice of the Minister's intention to refuse to grant the lease; and
 - (b) has served a copy of the notice on any other people that the Minister considers may have an interest in the refusal; and
 - (c) has, in the notice—
 - (i) given detailed reasons for the proposed refusal; and
 - (ii) invited the person who is given the notice to make any submissions it wishes to make by a specified date; and

- (d) has considered any submissions made on or before the specified date in response to such an invitation.

44 Minister may require review of commercial viability

- (1) The Minister may require the holder of a retention lease to re-evaluate the commercial viability of petroleum production in the lease area and to report to the Minister in writing the results of the re-evaluation.
- (2) In making such a requirement, the Minister—
 - (a) must make the requirement by giving the holder of the lease written notice of the requirement; and
 - (b) must allow the holder of the lease at least 90 days within which to comply with the requirement; and
 - (c) cannot require the holder of the lease to make any wells.
- (3) The Minister may, on the written application of the holder of a lease, allow the holder of the lease more time within which to comply with a requirement made under this section.
- (4) The Minister may not make a requirement under this section if the holder of the lease has already complied with a requirement made under this section on 2 occasions in the 5 years immediately before the making of the requirement.
- (5) If the holder of a lease fails to comply with a requirement made under this section, the Minister may cancel the lease.

45 Minister may give directions if extraction viable

- (1) This section applies if, after receiving a report under section 44, the Minister is of the opinion that the extraction of petroleum from the lease area is commercially viable.
- (2) The Minister may require the lease holder to apply for a production licence in respect of the lease area.
- (3) Such a requirement must be made in writing and must allow the holder of the lease at least 90 days within which to make the application.
- (4) If the holder of the lease fails to comply with a requirement made under this section, the Minister may cancel the lease.

Part 5—Production licences

Division 1—Rights conferred by licence

46 Rights conferred by licence

A production licence authorises the holder of the licence, subject to and in accordance with the conditions of the licence—

- (a) to carry out petroleum production in the licence area; and
- (b) to carry out petroleum exploration in the licence area; and
- (c) to do any thing in the licence area that is necessary for, or incidental to, those purposes.

Division 2—Issue of licences to holders of permits or leases

47 Right to apply for licence

The holder of an exploration permit or a retention lease may apply to the Minister for the grant of a production licence in respect of any part of the permit or lease area on which the holder has discovered petroleum or a reservoir.

48 Details to be supplied with application

In addition to complying with section 96, an applicant for a production licence under this Division must submit details of the area in respect of which the licence is sought.

48A Notice of application for production licence

- (1) The applicant for a production licence must cause notice of the application to be published—
 - (a) in a newspaper circulating generally in Victoria; and

S. 48A
inserted by
No. 20/2020
s. 12.

- (b) on an Internet site maintained by the applicant.
- (2) A notice under subsection (1) must—
 - (a) contain details of the area in respect of which the production licence is sought, including a description and plan of the area; and
 - (b) state that any person may make a written submission to the Minister about the application during the prescribed period; and
 - (c) contain any prescribed information.
- (3) The Secretary must make a copy of the application and all information accompanying the application available for inspection by the public in a place and form approved by the Minister.

48B Submissions—production licences

S. 48B
inserted by
No. 20/2020
s. 12.

- (1) If the Minister receives a submission in accordance with section 48A, the Minister must—
 - (a) provide the applicant with a copy of the submission; and
 - (b) give the applicant the opportunity to address any matter raised in the submission.
- (2) The Minister may require the applicant to provide details of how the applicant has addressed or proposes to address any matter raised in a submission.
- (3) In deciding whether to grant or refuse a production licence, the Minister must take into account—
 - (a) any submission received in accordance with section 48A in relation to that licence; and
 - (b) any details provided under subsection (2) in relation to that submission.

- (4) A decision to grant a production licence is not invalid merely because of a failure to comply with subsection (3).

49 Factors determining grant of application

- (1) The Minister must grant a production licence if—

(a) the applicant for the licence has provided all the information required by the Minister and has otherwise complied with section 48; and

S. 49(1)(b)
amended by
No. 20/2020
s. 13(1)(a).

(b) the applicant has complied with the conditions of its exploration permit and its retention lease (if any) and all applicable laws in relation to that permit and lease; and

S. 49(1)(c)
inserted by
No. 20/2020
s. 13(1)(b).

(c) the Minister is satisfied that the applicant has addressed the matters raised in any submission received under section 48A or taken reasonable steps to do so; and

S. 49(1)(d)
inserted by
No. 20/2020
s. 13(1)(b).

(d) the Minister is satisfied that the applicant has addressed any prescribed factor or taken reasonable steps to do so.

- (2) The Minister may grant a production licence if—

S. 49(2)(a)
amended by
No. 20/2020
s. 13(2).

(a) subsection (1)(a), (c) and (d) apply; and

(b) she or he is satisfied that there are special circumstances concerning the failure to comply with the conditions of the exploration permit or retention lease, or with an applicable law, that justify the granting of the licence.

- (3) The Minister must not grant a production licence under this Division in any other circumstances.

Division 3—Grant of licences by tender

50 Minister may invite tender applications

- (1) The Minister may invite applications for the grant of a production licence in respect of an area if—
- (a) in the opinion of the Minister, there is petroleum or a reservoir in the area; and
 - (b) the area—
 - (i) is not the subject of an exploration permit, a retention lease or a production licence; or
 - (ii) was the subject of an exploration permit, a retention lease or a production licence that has expired or that has been surrendered or cancelled in respect of that area.

- (1A) In determining whether to invite applications for the grant of a production licence, the Minister must take into account any prescribed factor.

S. 50(1A)
inserted by
No. 20/2020
s. 14.

- (2) The invitation must specify—
- (a) the chief factors that will be considered by the Minister in assessing applications; and
 - (b) a date by which applications must be made.
- (3) The invitation may specify—
- (a) that an applicant must specify the amount that it is willing to pay for the grant of the licence or the royalty regime that it is prepared to accept under the licence; and
 - (b) the basis on which applications will be primarily decided (for example, work program, cash bid or royalty bid).

S. 50A
inserted by
No. 20/2020
s. 15.

50A Public consultation before tender invitation— production licences

- (1) If the Minister proposes to invite applications for the grant of a production licence under section 50(1), the Minister must publish notice of the proposed invitation on an Internet site maintained by the Department.
- (2) A notice under subsection (1) must—
 - (a) contain a description of the area to which the proposed production licence would apply; and
 - (b) state that any person may make a written submission to the Minister about the proposed invitation; and
 - (c) specify the period during which submissions may be made to the Minister (the *submission period*).
- (3) In determining whether to invite applications for the production licence, the Minister must take into account any written submission received during the submission period.
- (4) A decision to grant a production licence is not invalid merely because of a failure to comply with subsection (3).

51 Applications

In addition to complying with section 96, an applicant for a licence offered under this Division—

- (a) must submit details of—
 - (i) its relevant technical qualifications and of the relevant technical qualifications of its employees; and
 - (ii) the relevant technical advice available to it; and

- (iii) the financial resources available to it;
and
- (b) must include in the application anything else required in the invitation; and
- (c) if the invitation requires applicants to specify a cash bid for the licence, must be accompanied by a deposit of 10% of the amount bid.

52 Procedure for deciding between competing bids

- (1) The Minister must decide between competing applications on the basis of the chief factors specified in the invitation for the applications.
- (2) Nothing in this section requires the Minister to grant an application that, in the opinion of the Minister, is deficient or defective or not in the best interests of the people of Victoria.
- (3) In deciding which applicant, if any, is to be granted the licence, the Minister may take into account any prescribed factor.

S. 52(3)
inserted by
No. 20/2020
s. 16.

52A Chief factors to be considered when there is only one application—production licences

S. 52A
inserted by
No. 20/2020
s. 17.

- (1) This section applies if only one application for a production licence is received in respect of an invitation for applications.
- (2) The Minister must decide whether to grant the licence to the applicant on the basis of the chief factors specified in the invitation for the applications.
- (3) In deciding whether the applicant is to be granted the licence, the Minister may take into account any prescribed factor.

- (4) Nothing in this section requires the Minister to grant an application that, in the opinion of the Minister, is deficient or defective or not in the best interests of the people of Victoria.

53 Notice to be given to applicants

- (1) If the Minister decides to grant a production licence, she or he must give every unsuccessful applicant for the licence written notice of that decision within 14 days of making it.
- (2) If the Minister decides not to grant a production licence to any of the applicants for the licence, she or he must notify all applicants in writing of that decision.

54 Refund of deposits

- (1) The Minister must refund any deposit paid under section 51(c) by an applicant who is not granted a production licence.
- (2) If, in the opinion of the Minister there are exceptional circumstances or the interests of fairness so require, she or he may refund the deposit of an applicant who is granted a licence, but who does not accept that grant.

55 Minister may make new grant if former grant refused

- (1) This section applies if the Minister decides to grant a production licence under this Division to an applicant but the applicant states in writing that it does not intend to accept the grant.
- (2) Subject to section 52, the Minister may grant the licence to any other applicant for the licence.
- (3) This section applies regardless of how many times the Minister has decided to grant the licence.

56 Extension of time in which to make licence payment

On the written application of a person made within 90 days after receiving notice that it has been granted a production licence, the Minister may extend by up to 90 days the period within which the person may pay a required amount for the licence.

57 Minister must not issue licence unless cash bid paid

Subject to section 56, if cash bids were made for a production licence, the Minister must not issue the licence to a person unless it has paid the amount it bid for the licence.

Division 4—General provisions

58 Restrictions on area to which licence applies

- (1) In granting a production licence, the Minister must ensure that the licence area is the minimum area necessary—
 - (a) to cover the maximum extent of the relevant petroleum field or reservoir; and
 - (b) to enable future petroleum production and storage in relation to the field and future storage in relation to any reservoir.
- (2) In the case of licences granted under Division 2, nothing in subsection (1) authorises the Minister to include in the licence area any area that was not within the area to which the licence holder's exploration permit or retention lease applied at the time it applied for the licence.

59 Term of licence

A production licence continues in force until it is surrendered or the Minister cancels it in accordance with this Act.

Division 5—Directions concerning the rate of extraction or recovery of petroleum

60 Direction if petroleum not being extracted/recovered to the Minister's satisfaction

- (1) If petroleum is being extracted or recovered in a licence area, the Minister may direct the holder of the licence to take all necessary and practicable steps to reduce the rate at which petroleum is being extracted or recovered in the area to the rate specified by the Minister in the direction.
- (2) The Minister may only give a direction if, in the opinion of the Minister, the direction is necessary to ensure that petroleum is extracted or recovered from the licence area at a rate that is consistent with good oilfield practice.
- (3) If the Minister gives a direction but is not satisfied with the steps taken or being taken by the holder of the licence, the Minister may direct the holder of the licence to do anything else that the Minister thinks is necessary for, or in relation to, the reduction of the rate at which petroleum is being extracted or recovered in the area.

61 Form of direction

Any direction given by the Minister under this Division must be in writing.

62 Licence holder must comply with directions

The holder of a production licence must comply with any direction validly given under this Division.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

Division 6—Petroleum production development plan

63 Petroleum production development plan

- (1) A petroleum production development plan is a plan in relation to a production licence that outlines how petroleum production will be undertaken in the licence area.
- (2) A petroleum production development plan must contain the details required by the regulations.

64 Development plan to be lodged before production can start

The holder of a production licence must not carry out petroleum production in the licence area unless the Minister has approved its petroleum production development plan for the licence area.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

65 Development plan must be adhered to

The holder of a production licence must ensure that petroleum production in the licence area is carried out in accordance with its petroleum production development plan.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

66 Minister may require variation of development plan

- (1) The Minister may require the holder of a production licence to vary the petroleum production development plan that applies to the licence.
- (2) The Minister may only do this after consulting with the holder of the licence.

67 Minister may permit variation of development plan

On the written application of the holder of a production licence, the Minister may permit the holder of the licence to vary the petroleum production development plan that applies, or is to apply, to the licence.

Division 7—Underground storage of petroleum

68 Storage development plan

- (1) A storage development plan is a plan in relation to a production licence that outlines how petroleum storage in a reservoir in the licence area will be carried out.
- (2) A storage development plan must contain the details required by the regulations.

69 Storage development plan to be lodged before operations can start

The holder of a production licence must not inject any petroleum into a reservoir in the licence area for the purposes of storage unless the Minister has approved its storage development plan for the licence area.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

70 Storage development plan must be adhered to

The holder of a production licence must ensure that petroleum storage in reservoirs in the licence area is carried out in accordance with its storage development plan.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

71 Minister may require variation of storage development plan

- (1) The Minister may require the holder of a production licence to vary any storage development plan that applies to the licence.
- (2) The Minister may only do this after consulting with the holder of the licence.

72 Minister may permit variation of development plan

On the written application of the holder of a production licence, the Minister may permit the holder of the licence to vary the storage development plan that applies, or is to apply, to the licence.

Division 8—Underground storage of petroleum by third party

73 Application of this Division

This Division applies if a person wishes to store petroleum in a particular suitable reservoir in a production licence area, but is unable to obtain the agreement of the holder of the licence to do so.

74 Application to excise reservoir from a licence area

- (1) The person who wishes to store the petroleum may apply to the Minister to excise from the production licence area the land in which the reservoir is situated.
- (2) The application must be made in the manner required by the Minister.

75 Minister must seek comments from licence holder

- (1) On receiving an application, the Minister must give a copy of the application to the holder of the production licence and invite it to make any submissions it wishes to make in relation to the

application within the time specified by the Minister.

- (2) The Minister must specify a period of at least 28 days.

76 Restrictions on ability of Minister to grant application

The Minister may only grant an application if the Minister is satisfied—

- (a) that the holder of the production licence is not using the reservoir and has no present intention to use the reservoir; and
- (b) that the excision of the land will not interfere with the operations of the holder of the production licence.

77 Minister may refer application to advisory panel

- (1) In this section *panel* means one or more people chosen by the Minister.
- (2) At any time after the expiry of the time specified by the Minister under section 75, the Minister may refer an application to a panel for a recommendation concerning the application.
- (3) If the Minister refers an application to a panel, she or he—
 - (a) must ensure that any submissions made under section 75 are also referred to the panel; and
 - (b) must specify by when the panel must make its recommendation; and
 - (c) may specify the procedure of the panel.
- (4) For the purposes of subsection (3)(b), the Minister must not specify a period of more than 28 days.

- (5) On the application of one or more members of the panel, the Minister may extend the date by when the panel must make its recommendation by up to 28 days from the date specified by the Minister under subsection (3)(b).
- (6) The costs of the panel are to be borne by the person who applied for the excision of the land.

78 Procedure if application granted

- (1) If the Minister grants an application, she or he must—
 - (a) amend the production licence to excise the relevant land from the licence area; and
 - (b) notify the applicant and the holder of the production licence in writing that the licence has been amended in that way; and
 - (c) invite applications for the grant of a production licence in relation to the excised land; and
 - (d) notify the applicant and the holder of the production licence in writing of the invitation.
- (2) Division 3 (other than section 50(1)) applies to the grant of a production licence under this section and applies as if a reference in that Division—
 - (a) to an invitation was a reference to an invitation under subsection (1); and
 - (b) to "this Division" was a reference to this Division.

Division 9—Unit development

79 Unit development

- (1) This section applies if a petroleum pool extends over a number of areas in a way that legally entitles more than one holder of a production

licence or other person to carry out operations for the extraction of petroleum from the pool.

- (2) The Minister may require the people who are entitled to extract petroleum from the pool to enter into a co-operative arrangement for the extraction of petroleum from the pool for one or more of the following purposes—
 - (a) to extract the petroleum as effectively as possible;
 - (b) to keep disruptions to the environment to a minimum.
- (3) In making such a requirement, the Minister must ensure—
 - (a) that written notice of the requirement is given to each person on whom the requirement is made; and
 - (b) that the notice specifies by when the requirement must be complied with; and
 - (c) that the notice specifies how any dispute concerning the terms of the required co-operative arrangement is to be resolved; and
 - (d) that the notice specifies what action the Minister may take if the requirement is not complied with.
- (4) For the purposes of subsection (3)(b), the Minister must allow a period of at least 90 days from the date the notice is given.

80 Consultation concerning unit development must take place if part of pool interstate

- (1) This section applies if section 79 applies, but part of the petroleum pool is outside Victoria (or the Minister reasonably believes that part of the pool is outside Victoria).

- (2) The Minister must not make a requirement under section 79 unless she or he has obtained the approval of any authority or body that is responsible for regulating the extraction of petroleum from that pool outside Victoria.

81 Minister may amend licence for unit development

Despite anything to the contrary in this Act, the Minister may amend a production licence (including any condition of the licence)—

- (a) for the purpose of giving effect to a co-operative arrangement made under section 79; or
- (b) as a result of a failure of a person to comply with a requirement made under section 79, but only for the purpose of attempting to achieve to the maximum extent that is possible the object that the requirement sought to achieve.

Division 10—Gathering lines

82 Meaning of *gathering line*

A *gathering line* is a pipeline that is—

- (a) situated wholly within—
- (i) a production licence area; or
- (ii) a drilling authorisation area; and
- (b) used (or intended to be used) or designed to convey petroleum (or a petroleum product)—
- (i) from one place to another in that area; or
- (ii) between a drilling authorisation area and a production licence area.

S. 82
amended by
No. 57/2009
s. 36,
substituted by
No. 55/2010
s. 60.

83 Minister may exempt gathering line from Pipelines Act

S. 83(1)
amended by
No. 61/2005
s. 220.

(1) The Minister may exempt a gathering line from the application of the **Pipelines Act 2005**.

(2) The Minister—

(a) may only grant an exemption in writing; and

(b) may require that certain conditions be met before she or he grants the exemption; and

S. 83(2)(c)
amended by
No. 61/2005
s. 220.

(c) may exempt the gathering line wholly from the **Pipelines Act 2005** or from specified provisions of that Act; and

(d) may impose conditions that must be complied with to maintain the exemption.

S. 83(3)
amended by
No. 61/2005
s. 220.

(3) The **Pipelines Act 2005** does not apply to a gathering line to the extent set out in any exemption granted under this section.

Part 6—Special access authorisations

84 Special access authorisation

- (1) A special access authorisation authorises the person holding it to carry out the petroleum exploration operations specified in the authorisation in the area in respect of which it is granted.
- (2) A special access authorisation does not authorise the holder of the authorisation to make a well.
- (3) A special access authorisation does not give the holder of the authorisation any rights with respect to any petroleum within the area in respect of which it is granted.
- (4) It is not necessary for the holder of a special access authorisation to be the holder of an exploration permit, a retention lease or a production licence.

85 Application for authorisation

- (1) A person may apply to the Minister for the grant of a special access authorisation in respect of any area.
- (2) In addition to complying with section 96, an applicant for a special access authorisation—
 - (a) must describe and precisely identify the area in respect of which the authorisation is sought; and
 - (b) must describe in detail the petroleum exploration operations that the person seeks to carry out in that area; and
 - (c) must submit details of—
 - (i) its relevant technical qualifications and of the relevant technical qualifications of its employees; and

- (ii) the relevant technical advice available to it; and
- (iii) the financial resources available to it.

86 General criteria the Minister must consider

- (1) In determining whether or not to grant a special access authorisation, the Minister must take into account the geological and geophysical nature of the area in respect of which the application is made, and any discoveries that have been made in the area by any other person.
- (2) The Minister must not grant an application for an authorisation unless she or he is satisfied that the applicant—
 - (a) has the technical qualifications (or has employees that have the technical qualifications), has access to the technical advice and has the financial resources that will be necessary to enable the operations proposed in the application to be undertaken; and
 - (b) has the ability to comply with this Act.
- (3) The Minister must not grant an authorisation in respect of an area unless she or he is satisfied that the size of the area is appropriate having regard to the operations proposed in respect of the area by the person applying for the authorisation.

87 Criteria that apply to permit, lease and licence areas

- (1) This section applies if any part of the area in respect of which a special access authorisation is sought falls within an area that is the subject of an exploration permit, a retention lease or a production licence.

- (2) The Minister must not grant an authorisation in respect of that part of the area unless—
- (a) she or he has taken into account the work program of the holder of the permit, lease or licence; and
 - (b) she or he is satisfied that the operations proposed to be carried out under the authorisation will not be detrimental to, or unduly interfere with, any current or proposed future operations of the holder of the permit, lease or licence; and
 - (c) the holder of the permit, lease or licence has consented in writing to the issue of the authorisation in respect of that part of the area.

88 Exception to section 87

Despite section 87(2)(c), the Minister may grant a special access authorisation in respect of an area that is the subject of an exploration permit, a retention lease or a production licence without the consent of the holder of the permit, lease or licence if—

- (a) in the opinion of the Minister, the likely geological information to be gained if the authorisation is granted in respect of that area will be of significant benefit to Victoria; and
- (b) the Minister—
 - (i) notifies the holder of the permit, lease or licence in writing that the Minister is proposing to exercise her or his powers under this section, and of the reasons why she or he is proposing to do so; and

- (ii) gives the holder 28 days to make any submissions it wishes in relation to the proposal; and
- (c) the Minister considers any submissions made in response to the notice and also takes into account any commercial consequences to the holder of the permit, lease or licence that may be likely if the authorisation is granted.

89 Minister may vary area to which authorisation applies

In granting a special access authorisation, the Minister may vary in any way she or he considers appropriate the size or the boundaries of the area in respect of which the authorisation was sought.

90 Authorisation does not give exclusive rights

- (1) The Minister may grant a special access authorisation in respect of an area, or any part of an area, that is already the subject of another special access authorisation.
- (2) The Minister may grant an exploration permit, a retention lease or a production licence in respect of an area, or any part of an area, that is already the subject of a special access authorisation.

91 Term of authorisation

- (1) A special access authorisation continues in force for the period specified on the authorisation by the Minister, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.
- (2) The Minister may specify a period of up to 1 year on the authorisation.

92 Extension of term of authorisation

- (1) On the application of the holder of a special access authorisation, the Minister may extend the period for which the authorisation remains in force by up to 1 year.
- (2) The Minister may only grant such an extension once in relation to an authorisation.

93 Permit, lease or licence holder not liable for actions of authorisation holder

- (1) This section applies if any part of the area in respect of which a special access authorisation is granted falls within an area that is the subject of an exploration permit, a retention lease or a production licence.
- (2) The holder of the permit, lease or licence is not liable in any way for any thing that is done or not done by the holder of the authorisation.
- (3) Subsection (2) applies even if the holder of the permit, lease or licence consented to the granting of the authorisation in respect of the permit, lease or licence area.

94 Authorisation holder must give data to the Minister

- (1) The holder of a special access authorisation must give a copy of all factual information obtained as a result of operations carried out under the authorisation to the Minister within 30 days of the information being obtained.

Penalty: 60 penalty units.

- (2) A reference to factual information in this section includes any report compiled on the basis of information obtained under the authorisation.

95 Authorisation holder must give data to permit, lease or licence holder

- (1) This section applies if any part of a special access authorisation area falls within an area that is the subject of an exploration permit, a retention lease or a production licence.
- (2) The holder of the authorisation must give a copy of any factual information obtained as a result of operations carried out under the authorisation in that part of the area to the holder of the permit, lease or licence within 30 days after completing in that part of the area the operations from which the information was obtained.
- (3) If there is an agreement between the holder of the authorisation and the holder of the permit, lease or licence in relation to the supply of the information, that agreement prevails over anything to the contrary in this section.
- (4) A person must not impose any conditions on the supply of information under this section.
- (5) A person must comply with any obligation imposed on it by this section.

Penalty: 60 penalty units.

Part 6A—Special drilling authorisations

Pt 6A
(Heading and
ss 95A–95K)
inserted by
No. 57/2009
s. 37.

95A Special drilling authorisation

S. 95A
inserted by
No. 57/2009
s. 37.

- (1) A special drilling authorisation authorises a current authority holder to—
- (a) in the case of the holder of an exploration permit, retention lease, production licence, offshore petroleum exploration permit, offshore petroleum production licence or an offshore petroleum retention lease—
 - (i) carry out petroleum exploration operations in the drilling authorisation area; and
 - (ii) do anything in the drilling authorisation area that is necessary for the purposes of subparagraph (i);
 - (b) in the case of a holder of a production licence or an offshore petroleum production licence—
 - (i) carry out petroleum production in the area specified in the drilling authorisation area; and
 - (ii) do anything in the drilling authorisation area that is necessary for the purposes of subparagraph (i).
- (2) A special drilling authorisation does not give a current authority holder any rights in respect of resources in the drilling authorisation area.

S. 95A(1)(a)
amended by
No. 64/2012
s. 53(1).

S. 95A(1)(b)
amended by
No. 64/2012
s. 53(2).

S. 95B
inserted by
No. 57/2009
s. 37.

95B Application for special drilling authorisation

- (1) A current authority holder may apply to the Minister for the grant of a special drilling authorisation in respect of an area (other than an area to which the **Petroleum (Submerged Lands) Act 1982** applies) adjacent to the area set out in a primary authorisation held by the holder.
- (2) In addition to complying with section 96, an applicant for a special drilling authorisation must—
 - (a) describe and precisely identify the area in respect of which the authorisation is sought; and
 - (b) describe in detail the operations that the person seeks to carry out in that area; and
 - (c) submit details of—
 - (i) its relevant technical qualifications and of the relevant technical qualifications of its employees; and
 - (ii) the relevant technical advice available to it; and
 - (iii) the financial resources available to it.

S. 95C
inserted by
No. 57/2009
s. 37.

95C General criteria the Minister must consider

- (1) The Minister must not grant an application for an authorisation unless the Minister is satisfied that the applicant holds a primary authorisation in respect of an area that is adjacent to the proposed drilling authorisation area.
- (2) The Minister must not grant an authorisation in respect of an area unless the Minister is satisfied that the size of the area is appropriate having regard to the operations proposed in respect of the area by the person applying for the authorisation.

95D Criteria that apply to permit, lease and licence areas

S. 95D
inserted by
No. 57/2009
s. 37.

- (1) This section applies if any part of the area in respect of which a special drilling authorisation is sought falls within an area that is the subject of an exploration permit, a retention lease or a production licence held by a current authority holder who is not the applicant.
- (2) The Minister must not grant an authorisation in respect of that part of the area unless that current authority holder has consented in writing to the issue of the authorisation in respect of that part of the area.

95E Exception to section 95D

S. 95E
inserted by
No. 57/2009
s. 37.

Despite section 95D(2), the Minister may grant a special drilling authorisation in respect of an area that is the subject of a primary authorisation held by a current authority holder who is not the applicant without the consent of that holder if—

- (a) the Minister—
 - (i) notifies that holder in writing that the Minister is proposing to exercise the Minister's powers under this section, and of the reasons why the Minister is proposing to do so; and
 - (ii) gives that holder 28 days to make any submissions it wishes in relation to the proposal; and
- (b) the Minister considers any submissions made in response to the notice and also takes into account any commercial consequences to that holder that may be likely if the authorisation is granted.

S. 95F
inserted by
No. 57/2009
s. 37.

95F Minister may vary area to which authorisation applies

In granting a special drilling authorisation, the Minister may vary in any way the Minister considers appropriate the size or the boundaries of the area in respect of which the authorisation was sought.

S. 95G
inserted by
No. 57/2009
s. 37.

95G Authorisation does not give exclusive rights

- (1) The Minister may grant a special drilling authorisation in respect of an area, or any part of an area, that is already the subject of another special drilling authorisation.
- (2) The Minister must not grant a special drilling authorisation in respect of an area, or any part of an area, that is already the subject of another special drilling authorisation unless—
 - (a) the Minister has taken into account the work program of the current holder of the special drilling authorisation; and
 - (b) the Minister is satisfied that the operations proposed to be carried out under the authorisation will not be detrimental to, or unduly interfere with, any current or proposed future operations of the current holder of the special drilling authorisation; and
 - (c) the current holder of the special drilling authorisation has consented in writing to the issue of another special drilling authorisation in respect of that part of the area.
- (3) The Minister may grant an exploration permit, a retention lease or a production licence in respect of an area, or any part of an area, that is already the subject of a special drilling authorisation.

95H Term of authorisation

S. 95H
inserted by
No. 57/2009
s. 37.

A special drilling authorisation continues in force for the period specified in the authorisation by the Minister—

- (a) until it is cancelled by the Minister; or
- (b) until it is surrendered; or
- (c) until a primary authorisation in respect of or adjacent to the drilling authorisation area specified in the authorisation expires or is surrendered, cancelled or terminated; or
- (d) unless this Act otherwise provides.

95I Existing permit, lease or licence holder not liable for actions of authorisation holder

S. 95I
inserted by
No. 57/2009
s. 37.

- (1) This section applies if any part of the drilling authorisation area falls within an area that is the subject of a primary authorisation held by a current authority holder that is not the holder of a special drilling authorisation.
- (2) The current authority holder is not liable in any way for any thing that is done or not done by the holder of the special drilling authorisation.
- (3) Subsection (2) applies even if the current authority holder consented to the granting of the special drilling authorisation in respect of the drilling authorisation area.

95J Authorisation holder must give data to the Minister

S. 95J
inserted by
No. 57/2009
s. 37.

- (1) The holder of a special drilling authorisation must give a copy of all factual information obtained as a result of operations carried out under the authorisation to the Minister within 30 days of the information being obtained.

Penalty: 60 penalty units.

- (2) A reference to factual information in this section includes any report compiled on the basis of information obtained under the authorisation.

S. 95K
inserted by
No. 57/2009
s. 37.

95K Authorisation holder must give data to permit, lease or licence holder

- (1) This section applies if any part of a special drilling authorisation area falls within an area that is the subject of an exploration permit, a retention lease or a production licence held by a current authority holder who is not the holder of the special drilling authorisation.
- (2) The holder of the special drilling authorisation must give a copy of any factual information obtained as a result of operations carried out under the authorisation in that part of the area to the current authority holder within 30 days after completing in that part of the area the operations from which the information was obtained.
- (3) If there is an agreement between the holder of the authorisation and the current authority holder in relation to the supply of the information, that agreement prevails over anything to the contrary in this section.
- (4) A person must not impose any conditions on the supply of information under this section.
- (5) A person must comply with any obligation imposed on it by this section.

S. 95K(2)
amended by
No. 64/2012
s. 54.

Penalty: 60 penalty units.

Part 7—Provisions applying to authorities generally

Division 1—Applications

96 Application for authorities

- (1) An applicant for an authority—
 - (a) must apply for the authority in the manner required by the Minister; and
 - (b) must submit a proposed work program and details of how much it intends to spend on each part of that program; and
 - (c) must submit details of any matter required by the Minister to enable the Minister to assess the application; and
 - (d) must submit evidence of its ability to comply with this Act; and
 - (e) may set out other matters that it wishes the Minister to consider.
- (2) In the case of an applicant for a retention lease who does not intend to carry out any petroleum operations under the lease, it is sufficient compliance with subsection (1)(b) if the applicant submits a document declaring that intention.

97 Work programs

A work program in relation to an authority is a document—

- (a) that outlines the work that it is intended to do under the authority; and
- (b) that outlines how the work is to be structured and the intended extent of the work; and
- (c) that sets out proposed timelines for the various phases of the work; and

- (d) that is in the form required by the regulations; and
- (e) that contains any other details required by the regulations.

98 Applications are not transferable

An application for an authority is not transferable.

99 Existing permits and leases continue until renewal applications etc. decided

- (1) This section applies if—
 - (a) an application is made for—
 - (i) the renewal of an exploration permit; or
 - (ii) a retention lease in respect of an area held under an exploration permit; or
 - (iii) a production licence in respect of an area held under a retention lease or an exploration permit; and
 - (b) the application has not been determined at the time the original permit or lease is due to expire.
- (2) The original permit or lease continues in force until the first of these events occurs—
 - (a) the Minister gives the applicant a written notice stating that she or he refuses to grant the application; or
 - (b) if the application is granted, the lease, licence or new permit takes effect; or
 - (c) the application is withdrawn or lapses.
- (3) If the application is not made in respect of exactly the same area to which the original permit or lease applies, subsection (2) only applies to the area that is common to the original permit or lease and the area in respect of which the application is made.

Division 2—Conditions

100 Conditions that may apply to authorities

- (1) The Minister may specify that an authority to be granted is to be subject to any conditions that she or he considers to be appropriate.
- (2) The Minister may also specify that a person must comply with any conditions that the Minister considers to be appropriate before the Minister will issue an authority to the person.
- (3) Without limiting the conditions the Minister may specify under this section, the Minister may specify conditions—
 - (a) relating to the operations that are to be carried out under the authority;
 - (b) requiring the expenditure of a minimum amount of money in relation to operations under the authority;
 - (c) requiring the carrying out of approved work programs during the term of the authority;
 - (d) concerning the protection of the environment;
 - (e) concerning the rehabilitation of any land affected by operations under the authority;
 - (f) requiring compliance with any written directions of the Minister in relation to any matters covered by the authority that are not otherwise the subject of a condition;
 - (g) requiring the holder of the authority to obtain specified approvals or submit specified information to the Minister before beginning a specified operation or using specified equipment;

- (h) requiring the holder of the authority to provide other specified information to the Minister.

101 Statutory condition of authority

- (1) In addition to the conditions specified on the authority by the Minister under this Part, an authority is subject to the condition that the holder of the authority must comply with all applicable laws in carrying out any activity under the authority.
- (2) Despite anything to the contrary in this Act (other than Division 5), this condition cannot be varied.

S. 101B
inserted by
No. 68/2014
s. 70.

**101B Further statutory condition of authority—
agreements under Traditional Owner Settlement
Act 2010**

In addition to any other conditions, an authority is subject to the condition that the holder of the authority comply with any conditions specified in a land use activity agreement under section 31(3) of the **Traditional Owner Settlement Act 2010** that were accepted by the applicant for the authority.

102 Minister may vary conditions unilaterally

- (1) The Minister may vary any condition imposed on an authority.
- (2) To do this, the Minister must—
- (a) notify the holder of the authority in writing of the variation the Minister proposes to make and invite the holder to make any submissions it may wish to make in respect of the proposal within the time specified by the Minister; and
- (b) consider any submissions made by the holder of the authority.

- (3) The Minister must allow a period of at least 28 days for the purposes of subsection (2)(a).
- (4) If, after complying with subsection (2), the Minister decides to vary the condition, she or he must give the holder of the authority notice in writing of the decision.
- (5) The Minister may only vary a condition on a retention lease or a production licence if at least 5 years have elapsed since the condition was imposed or last varied (whichever is the later event) under this section.
- (6) For the purposes of subsection (5), a condition is not imposed or varied if the holder of the authority, in response to a notice under subsection (2)(a), does not object to the imposition or variation of the condition.

103 Minister may vary conditions by consent

- (1) On the application of the holder of an authority, the Minister may vary any condition imposed on an authority.
- (2) In varying a condition under this section, the Minister—
 - (a) may also vary any associated condition; and
 - (b) need not vary the condition in exactly the way sought in the application.
- (3) The holder of the authority may withdraw an application if the Minister indicates that she or he will exercise her or his powers under subsection (2) in granting the application.
- (4) The Minister may not, under this section, vary a condition imposed on an authority if the holder of the authority has withdrawn its application to vary the condition.

104 Variation of conditions on renewal, consolidation or transfer

- (1) The Minister may vary the conditions that apply to an authority on renewing, wholly transferring or consolidating that authority.
- (2) On transferring part of an authority area to another authority, the Minister may vary the conditions that apply to the area that is being transferred.

105 Suspension of conditions

- (1) On the application of the holder of an authority, the Minister may suspend any condition imposed on an authority for a period of up to 1 year.
- (2) In suspending a condition under this section, the Minister—
 - (a) may also suspend any associated condition; and
 - (b) need not suspend the condition in exactly the way, or on the terms, sought in the application; and
 - (c) may impose conditions in relation to the suspension.
- (3) The holder of the authority may withdraw an application if the Minister indicates that she or he will exercise her or his powers under subsection (2) in granting the application.
- (4) The Minister may not, under this section, suspend a condition imposed on an authority if the holder of the authority has withdrawn its application to suspend the condition.
- (5) The holder of an authority that has a condition suspended must comply with any conditions imposed by the Minister under subsection (2)(c).

Penalty: 240 penalty units.

- (6) While a condition of an authority is suspended, the holder of the authority need not comply with the condition.
- (7) Subsection (6) does not apply during any time that the holder of the authority is not complying with a condition imposed under subsection (2)(c).
- (8) The Minister may suspend under this section all of the conditions that apply to an authority.

106 Term of authority may be extended if condition suspended

If the Minister suspends a condition of an authority, the Minister may also extend the term of the authority by a period not exceeding the period of the suspension.

Division 3—Transfers of authorities

107 Transfers

- (1) If the holder of an authority, other than a special drilling authorisation, wishes to transfer the authority to another person, either it or the person to whom the authority is to be transferred may apply to the Minister for approval of the transfer.
- (2) A person applying for the approval of a transfer—
 - (a) must apply for the approval in the manner required by the Minister; and
 - (b) must submit the following details concerning the person to whom the authority is to be transferred—
 - (i) its relevant technical qualifications and the relevant technical qualifications of its employees; and
 - (ii) the relevant technical advice available to it; and

S. 107(1)
amended by
No. 57/2009
s. 38.

- (iii) the financial resources available to it; and
- (c) must submit evidence of the ability of the person to whom the authority is to be transferred to comply with this Act; and
- (d) must submit any other details or matter required by the Minister to enable the Minister to assess the application; and
- (e) may set out other matters that it wishes the Minister to consider; and
- (f) must submit a transfer document in the form approved by the Minister that has been executed by the parties to the proposed transfer.

S. 107A
inserted by
No. 57/2009
s. 39.

107A Transfers in relation to special drilling authorisations

S. 107A(1)
amended by
No. 64/2012
s. 55.

- (1) This section applies if a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A is transferred under this Act or the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**.
- (2) Despite anything to the contrary in this Act, the special drilling authorisation to which that primary authorisation relates is taken to be transferred to the person to whom the primary authorisation is transferred on the same day the primary authorisation is transferred.

108 Matters Minister must consider in assessing transfer application

- (1) The Minister may approve the transfer of an authority if, in her or his opinion, the transfer will maintain or increase petroleum operations in the authority area.

- (2) The Minister may approve the transfer of a retention lease even if the transfer does not comply with subsection (1).
- (3) The Minister must not approve the transfer of an authority that, in her or his opinion, is not in the best interests of the people of Victoria.

109 Execution of transfer document insufficient to create interest

The mere execution of a document purporting to transfer an authority creates no interest in the authority.

110 Partial transfers of permits and licences

- (1) The holder of an exploration permit or a production licence may apply to the Minister to transfer part of the permit or licence area to another person.
- (2) The Minister may transfer the area if, in the opinion of the Minister, the transfer will maintain or increase petroleum operations in the area.
- (3) A transfer is to be effected by the issue of a separate permit or licence to the other person.
- (4) The separate permit or licence—
 - (a) expires when the permit or licence from which it was derived expires; and
 - (b) is subject to the same conditions as applied to that permit or licence (unless those conditions are varied by the Minister in accordance with this Act).
- (5) The Minister must not approve a transfer under this section that, in her or his opinion, is not in the best interests of the people of Victoria.

S. 110(6)
inserted by
No. 57/2009
s. 40.

- (6) If the area that is the subject of an application under subsection (1) is also the subject of a special drilling authorisation, an applicant for a transfer under this section must specify in the application—
- (a) that the applicant is retaining the special drilling authorisation for that part of the area that is not being transferred; or
 - (b) that the applicant is transferring the special drilling authorisation to the other person.

Division 4—Surrender or cancellation of authorities

111 Surrender of authority

- (1) The holder of an authority may surrender the authority with the consent of the Minister.
- (2) The Minister must not give her or his consent to the surrender of an authority unless she or he is satisfied that the holder of the authority—
 - (a) has complied with all the relevant requirements of this Act in relation to the authority; and
 - (b) has complied with all of the conditions that apply to the authority; and
 - (c) has plugged or closed off all wells that were made in the authority area under the authority; and
 - (d) in the case of an exploration permit that has not been renewed, has achieved the key objects of the work program declared by the Minister under Part 3; and

- (e) in the case of an exploration permit that has been renewed, has achieved the key objects of the work program declared by the Minister under Part 3 that were to have been achieved by or during the year in which the surrender is sought; and
- (f) has addressed any prescribed factor or taken reasonable steps to do so.
- (3) The Minister must not unreasonably refuse to give her or his consent under this section.
- (4) If the Minister is not satisfied as to any matter referred to in subsection (2)(a), (b) or (d), she or he may still consent to the surrender of the authority if she or he is satisfied that the failure to comply with the relevant requirement was the result of one or more events beyond the control of the holder of the authority.

S. 111(2)(e)
amended by
No. 20/2020
s. 18(a).

S. 111(2)(f)
inserted by
No. 20/2020
s. 18(b).

112 Partial surrender of authority

- (1) The holder of an authority may apply to the Minister for the Minister's consent to the surrender of part of the area to which the authority applies.
- (2) The Minister must not give her or his consent to the surrender of the part of the area unless she or he is satisfied that the holder of the authority has complied with all of the requirements listed in section 111(2) in respect of the part of the area.
- (3) The Minister may make the giving of her or his consent conditional on the holder of the authority agreeing to the variation of the conditions that apply to the area that will be retained under the authority.

- (4) Sections 111(3) and (4) also apply to applications for consent under this section.

113 Cancellation of authority

The Minister may cancel an authority if—

- (a) the holder of the authority has not complied with the work program that was to have been carried out under the authority; or
- (b) any conditions of the authority or any of the provisions of this Act that apply to the authority have not been complied with; or
- (c) the holder of the authority has failed to maintain any insurance policy it is required to maintain under this Act or has failed to lodge any bond it was required to lodge under this Act; or
- (d) any petroleum operation carried out under the authority has caused an unexpected significant adverse impact on the environment; or
- (e) the holder of the authority fails to observe good oilfield practices; or
- (f) the holder of the authority no longer has the funds to carry out its work program; or
- (g) the holder of the authority has not paid any amount that is payable under this Act within 90 days after it was due and within 30 days after receiving a written notice from the Minister warning it of the Minister's power under this provision.

S. 113(b)
amended by
No. 64/2012
s. 56.

**113A Special drilling authorisation surrendered,
suspended or cancelled if primary authorisation
surrendered, suspended or cancelled**

S. 113A
(Heading)
amended by
No. 68/2014
s.71(1).

S. 113A
inserted by
No. 57/2009
s. 41.

(1) If a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A is cancelled under this Act or the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, the special drilling authorisation that relates to that primary authorisation is taken to be cancelled on the same day the primary authorisation is cancelled.

S. 113A(1)
amended by
No. 64/2012
s. 57(1).

(2) If a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A is suspended under this Act or the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, the special drilling authorisation that relates to that primary authorisation is taken to be suspended on the same day the primary authorisation is suspended.

S. 113A(2)
amended by
No. 64/2012
s. 57(2).

(3) If a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A is surrendered under this Act or the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, the special drilling authorisation that relates to that primary authorisation is taken to be surrendered on the same day the primary authorisation is surrendered.

S. 113A(3)
inserted by
No. 68/2014
s. 71(2).

S. 113B
inserted by
No. 57/2009
s. 41.

113B Special drilling authorisation expires or is terminated if primary authorisation expires or is terminated

S. 113B(1)
amended by
No. 64/2012
s. 58(1).

(1) If a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A expires under this Act or the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, the special drilling authorisation that relates to that primary authorisation is taken to expire on the same day the primary authorisation expires.

S. 113B(2)
amended by
No. 64/2012
s. 58(2).

(2) If a primary authorisation that is the basis for a special drilling authorisation granted under Part 6A is terminated under the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, the special drilling authorisation that relates to that primary authorisation is taken to be terminated on the same day the primary authorisation is terminated.

114 Additional grounds for the cancellation or partial cancellation of production licence

(1) The Minister may also cancel a production licence if the Minister is satisfied—

- (a) that it is no longer commercially viable to produce or store petroleum in the licence area; or
- (b) that no petroleum is being produced or stored in the licence area and the holder of the licence has no present intention to produce or store petroleum in that area in the immediate future; or
- (c) that no petroleum has been produced in the licence area in the last 2 years.

- (2) The Minister may amend a production licence to remove an area from the licence area if—
- (a) the holder of the licence has failed to comply with a condition of the licence with respect to the area to be removed from the licence area; or
 - (b) the Minister is satisfied that it is no longer commercially viable to produce or store petroleum in the area to be removed from the licence area; or
 - (c) the area to be removed from the licence area is not subject to a work program.

115 Procedure to be followed before authority cancelled

The Minister must not cancel an authority under this Act unless she or he—

- (a) has given the holder of the authority a written notice—
 - (i) stating that the Minister believes that there may be grounds for—
 - (A) cancelling the authority; or
 - (B) in the case of a production licence, removing an area from the licence area; and
 - (ii) providing details of those grounds and providing a copy of the information available to the Minister concerning those grounds; and
 - (iii) inviting the holder of the authority to submit to the Minister within 30 days of the date the holder of the authority is given the notice any material that the holder wishes to submit; and

- (b) has considered any material submitted by the holder of the authority in response to the notice; and
- (c) is satisfied that one of the grounds set out in section 113 or 114 that is relevant to the authority exists.

116 Minister may give directions if authority expires or is surrendered or cancelled

- (1) This section applies if—
 - (a) an authority is surrendered or cancelled or expires; or
 - (b) an area is removed from an authority area as the result of a partial surrender or of action taken by the Minister under section 114(2).
- (2) The Minister may direct the person who held the authority immediately before the surrender, cancellation, expiry or removal to do one or more of the following to the satisfaction of the Minister—
 - (a) to remove, or cause to be removed, from the relevant area all property brought into that area under the authority, or to make other arrangements with respect to that property; and
 - (b) to plug or close off all wells made in the relevant area under the authority; and
 - (c) subject to this Act, to provide for the conservation and protection of the natural resources in the relevant area; and
 - (d) to make good any damage to the surface of the land or the subsoil in the relevant area caused by any person engaged or concerned in the operations conducted under the authority; and

- (e) to give to the Minister any information that it was obliged to give to the Minister.
- (3) A direction must be given in writing and must specify by when it must be complied with.
- (4) A person to whom a direction is given must comply with the direction within the time specified in the direction.
Penalty: 240 penalty units.
- (5) If subsection (1)(b) applies and the Minister gives a direction in relation to the relevant area, it is a condition of the authority that previously applied to that area that the direction be complied with within the time specified in the direction.
- (6) Nothing in this section requires the Minister to give a direction to any person.
- (7) In this section *relevant area* means—
- (a) if an authority expires or is surrendered or cancelled in its entirety, the area to which the authority applied;
 - (b) in any other case, the area to which the authority no longer applies.

Division 5—Planning matters

117 Definition of planning scheme

In this Division, *planning scheme* means a planning scheme approved under the **Planning and Environment Act 1987**.

118 Exploration under authority overrides planning schemes

- (1) The holder of an authority may carry out in accordance with the authority a petroleum exploration operation in the authority area—

- (a) without obtaining a permit under the planning scheme that applies to the authority area; and
 - (b) without complying with any conditions specified in that planning scheme in relation to the use or development of that land for exploration.
- (2) Subsection (1) applies even if the planning scheme wholly or partly prohibits the use or development of the authority area for exploration.

119 Production operations also override planning schemes

S. 119(1)
substituted by
No. 64/2012
s. 59(1).

- (1) The holder of a production licence may be granted a permit under a planning scheme to carry out in the licence area for that licence any petroleum production operation authorised by that licence.

S. 119(1A)
inserted by
No. 64/2012
s. 59(1).

- (1A) In addition, if the holder of a production licence or an offshore petroleum production licence holds a special drilling authorisation, the holder may be granted a permit under a planning scheme to carry out in the drilling authorisation area for that authorisation any petroleum production operation authorised by that authorisation.

S. 119(1B)
inserted by
No. 64/2012
s. 59(1).

- (1B) Subsections (1) and (1A) apply despite anything to the contrary in a planning scheme that applies to a licence area or drilling authorisation area mentioned in those subsections.

S. 119(2)
amended by
No. 64/2012
s. 59(2).

- (2) Subsections (1) and (1A) apply even if the planning scheme prohibits the carrying out of petroleum production operations in the licence area or drilling authorisation area (whether absolutely or unless specified conditions are complied with) and does not provide for the granting of a permit for the carrying out of those operations.

120 Alternative approvals

(1) This section applies if—

(a) a permit is required under any planning scheme to enable the holder of a production licence to carry out any petroleum production operation authorised by the licence; or

(b) the holder of a production licence who is not also a holder of a special drilling authorisation may be granted a permit under section 119 to carry out a petroleum production operation in the licence area; or

S. 120(1)(b)
amended by
No. 64/2012
s. 60(1).

(c) the holder of a production licence or an offshore petroleum production licence who holds a special drilling authorisation may be granted a permit under section 119 to carry out a petroleum production operation in the special drilling authorisation area.

S. 120(1)(c)
inserted by
No. 64/2012
s. 60(2).

(2) The holder of the authority is not required to obtain a permit under the planning scheme or section 119 to carry out the operation if—

(a) an Environment Effects Statement has been prepared under the **Environment Effects Act 1978** in relation to the carrying out of the operation; and

(b) an assessment of that Statement by the Minister administering the **Environment Effects Act 1978** has been submitted to the Minister; and

(c) the Minister has authorised the holder of the authority in writing to carry out the operation.

S. 120(2)(c)
amended by
No. 64/2012
s. 60(3).

121 Amendments to planning schemes to facilitate exploration and production

- (1) In addition to any other power to prepare, adopt or approve amendments to planning schemes, the Minister administering the **Planning and Environment Act 1987** may—
- (a) on the recommendation of the Minister, prepare; and
 - (b) adopt and approve—
- amendments to any planning scheme to facilitate a petroleum operation on any land to which the planning scheme applies.
- (2) Without limiting what an amendment may include, an amendment prepared under subsection (1) may provide that, in the circumstances set out in section 120, no permit is required to do any thing authorised by an authority.
- (3) The **Planning and Environment Act 1987** (except section 12(2), Divisions 1 and 2 of Part 3 and sections 39(1) to (6) and any regulations made for the purposes of those provisions) applies to the preparation, adoption and approval of an amendment under subsection (1).
- (4) Section 39(7) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under subsection (1) as if before "Division 1" there were inserted "section 12(1) or".
- (5) Section 39(8) of the **Planning and Environment Act 1987** applies to an amendment prepared or adopted under subsection (1) as if—
- (a) the expression "Except for an application under this section," were deleted; and
 - (b) before "Division 1" there were inserted "section 12(1) or".

- (6) Section 46 of the **Planning and Environment Act 1987** does not apply to a planning scheme to the extent to which, because of an amendment prepared, adopted or approved under subsection (1), it is expressed or purports to deal with any land that has been permanently reserved for any purpose set out in section 4 of the **Crown Land (Reserves) Act 1978** in any manner inconsistent with that reservation.
- (7) Nothing in this section prevents either House of Parliament exercising its power under section 38 of the **Planning and Environment Act 1987**.

Division 6—Miscellaneous matters

122 Minister must publish certain details in case of reportable event

S. 122
(Heading)
inserted by
No. 20/2020
s. 19(1).

- (1) In this section—
reportable event means—
- (a) the granting of an exploration permit under Part 3; or
 - (b) the granting of a production licence under Division 3 of Part 5; or
 - (c) the acceptance of an operation plan under Division 1 of Part 11; or
 - (d) the issuing of an improvement notice or a prohibition notice.
- (2) The Minister must publish notice of each reportable event in the Government Gazette within 14 days of the event occurring.

S. 122(1)
substituted by
No. 20/2020
s. 19(2).

S. 122(3)(b)
amended by
No. 20/2020
s. 19(3)(a).

- (3) The notice must—
- (a) state that the reportable event has occurred and when it occurred; and
 - (b) set out details of who holds the relevant permit or licence or, in the case of an improvement notice or a prohibition notice, the relevant authority; and
 - (c) contain a brief description of the authority area.

S. 122(3)(c)
amended by
No. 20/2020
s. 19(3)(b).

S. 122(4)
amended by
No. 20/2020
s. 19(4).

- (4) In the case of an exploration permit or production licence, if there was more than one application for the relevant permit or licence, the notice must also contain—
- (a) an outline of the reasons why the permit or licence was granted to the successful applicant; and
 - (b) if the chief reason was the superiority of the intended work program of the successful applicant, an outline of that work program.

(5) The notice may contain any other details the Minister considers to be appropriate.

S. 122(6)
inserted by
No. 20/2020
s. 19(5).

(6) The notice must contain any prescribed details.

S. 122(7)
inserted by
No. 20/2020
s. 19(5).

(7) The notice must not contain any information that the Minister considers to be of a confidential or commercially sensitive nature.

123 Variation of an authority

(1) The Minister may vary the details of an authority at any time.

- (2) The Minister may not vary the expiry date of an authority under this section.
- (3) A reference to details in this section does not include a reference to the conditions to which the authority is subject.

124 Consolidation of adjoining authorities

- (1) In this section a reference to an authority does not include a reference to a special access authorisation.
- (2) This section applies if the same person holds 2 or more authorities of the same type and each of the authority areas has at least one common boundary with another of those authority areas.
- (3) The person may apply to the Minister to have a single authority of that type issued in respect of all of those authorities.
- (4) The Minister may grant an application if she or he is satisfied—
 - (a) that the consolidation of the authorities will not affect the work programs being, or to be, conducted under each of the authorities in respect of which the application is made; and
 - (b) that the consolidated authority area will form one continuous parcel of land.
- (5) An authority that is the result of the consolidation of 2 or more authorities expires on the earliest date any of the authorities that have been consolidated would have expired.
- (6) The Minister must not consolidate 2 or more exploration permits under this section into an exploration permit that has a permit area of more than 12 500 square kilometres.

125 Excision of area does not affect authority

The excision of an area from an authority area does not affect the authority except in the ways expressly provided for in this Act.

126 Expedited procedure for replacement of invalidated title

- (1) This section applies if—
 - (a) a court or tribunal finds an authority to be wholly or partly invalid and the invalidity stems from circumstances that were beyond the control of the holder of the authority; and
 - (b) the person who held the authority applies within 60 days after the finding to the Minister for the grant of an authority of the same type for all or part of the former authority area.
- (2) The Minister may grant the authority to the person without the need to comply with any procedural requirement that would usually apply to the grant of such an authority.
- (3) In granting an authority under this section, the Minister may impose any conditions the Minister considers to be appropriate on the authority.

127 Occupiers liability

- (1) For the purposes of Part IIA of the **Wrongs Act 1958** and the rules of common law with respect to the liability of occupiers to people entering on their premises, the holder of an authority is the occupier of that part of any premises on which any operation is being carried out under the authority, and not any other person.

- (2) An occupier of any premises that is in an area to which an authority applies does not, unless the occupier is also the holder of the authority, owe a duty to take care of any person entering on those premises for the purpose of carrying out an operation under the authority.
- (3) Subsection (2) applies despite anything to the contrary in Part IIA of the **Wrongs Act 1958** or the rules of common law with respect to the liability of an occupier to a person entering on the occupier's premises.
- (4) Nothing in subsection (2) limits any other duty owed by an occupier to a person entering on the occupier's premises in the circumstances described in that subsection.

127A Authorities not personal property

For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, an authority is declared not to be personal property.

S. 127A
inserted by
No. 74/2010
s. 30.

Part 8—Compensation

128 Consent of, or compensation agreement with, owner etc. needed before operation on private land starts

- (1) A person must not carry out any petroleum operation on private land unless—
- (a) it has obtained the consent of the owners and occupiers of the land to the operation; or
 - (b) it has entered into a compensation agreement with the owners and occupiers of the land in relation to the operation; or
 - (c) the Tribunal has determined the amount of compensation that is payable to the owners and occupiers of the land under this Act in relation to the operation.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

- (2) Subsection (1) does not apply to any land that is owned by the person.

129 What compensation is payable for—private/native title land

- (1) Compensation is payable by an authority holder to the owners and occupiers of private land and native title land for any loss or damage that has been, or will be, sustained in relation to the land as a direct, natural and reasonable consequence of the approval of any petroleum operation or the carrying out of any petroleum operation under the authority including for—
- (a) deprivation of possession of the whole, or any part of the surface, of the land; and
 - (b) damage to the surface of the land; and
 - (c) damage to any improvements on the land; and

- (d) severance of the land from other land of the owner or occupier; and
 - (e) loss of amenity, including recreation and conservation values; and
 - (f) loss of opportunity to make any planned improvement on the land; and
 - (g) any decrease in the market value of the owner or occupier's interest in the land.
- (2) The amount of compensation payable under subsection (1)—
- (a) must, if it is necessary for the owner or occupier of land to obtain replacement land, take account of the reasonable incidental expenses incurred in obtaining and moving to that land; and
 - (b) may be increased by up to 10% by way of solatium to compensate the owner or occupier for intangible and non-pecuniary disadvantages for which compensation is not otherwise payable and that result from the approval or the carrying out of the operation.
- (3) Compensation is not payable in respect of any land which only became private land after a petroleum operation under the authority started on that land.
- (4) Any amount of compensation paid, agreed to be paid or determined under this Part is not affected by any subsequent change in the ownership or occupancy of the land.
- (5) An authority holder is not liable to pay any greater total amount of compensation because of a change in the ownership or occupancy of the land.

(6) If—

(a) a person is entitled to compensation on just terms (within the meaning of the Native Title Act) in respect of any loss or damage in relation to any native title land under subsections (1) and (2); and

(b) the compensation the person receives under this section (apart from this subsection) does not amount to compensation on just terms—

the person is entitled to any additional compensation that is necessary to ensure that compensation is paid on just terms.

(7) In this section, *planned improvement*, in relation to land, means an improvement on the land in respect of which the owner or occupier had, before an application for an authority covering that land was made—

(a) applied for, or been granted, a building permit or a planning permit; or

(b) otherwise demonstrated a genuine intention to proceed.

130 Limit on total amount of compensation

(1) The total amount of compensation payable under section 129(1) in respect of any land must be no greater if the same person is not the owner and occupier of the land than if the same person was both the owner and occupier of the land.

(2) Nothing in subsection (1) limits the amount of solatium payable to the owner or occupier under section 129(2).

131 Compensation not payable for petroleum

Compensation is not payable for the value of any petroleum in or under the surface of any land.

132 What compensation is payable for—Crown land

- (1) This section applies if the Minister is of the opinion that the approval of a petroleum operation, or the carrying out of any petroleum operation under an authority, in relation to any Crown land has, or will, result in loss or damage of the following nature being sustained as a direct, natural and reasonable consequence of the approval, or the carrying out of the operation—
 - (a) deprivation of possession of the whole, or any part of the surface, of the land; or
 - (b) damage to the surface of the land to such an extent that it cannot be rehabilitated and returned to its former, or a comparable, state; or
 - (c) damage to any improvements on the land; or
 - (d) severance of the land from any other Crown land; or
 - (e) loss of opportunity to make any planned improvement on the land.
- (2) The Minister may require the holder of the authority to pay compensation for the loss or damage—
 - (a) to the Crown; or
 - (b) to any person who is authorised to undertake activities on the land under a lease, licence, permit or other authority granted under an Act.
- (3) In determining whether compensation should be paid under subsection (2)(a), the Minister must take into account any benefits that may accrue to the people of Victoria from the petroleum operation.

- (4) In determining the amount of compensation to be paid, the Minister may, if it is necessary for the Crown to obtain replacement land, take account of the reasonable incidental expenses incurred in obtaining that land.
- (5) If the Minister determines that compensation should be paid to a person referred to in subsection (2)(b), the Minister may increase the amount payable by up to 10% by way of solatium to compensate the person for intangible and non-pecuniary disadvantages for which compensation is not otherwise payable and that result from the approval or the carrying out of the operation.
- (6) Compensation is not payable in respect of any land which only became Crown land after a petroleum operation under the authority started on that land.
- (7) Sections 129(4), (5) and (7) also apply to this section.

133 Time limit on compensation claims

A claim for compensation for any loss or damage under section 129 by the owner or occupier of private land or under section 132 which is not the subject of an agreement between the relevant parties may be made at any time until the end of the period of 3 years—

- (a) after the loss or damage occurred; or
- (b) after the authority is surrendered or cancelled or expires—

whichever is the earlier.

134 Determination of disputes—private/native title land

- (1) Subject to section 136, the owner or occupier of land or the holder of an authority may—
 - (a) apply to the Tribunal for the determination of a disputed claim for compensation in relation to private land or native title land (other than a claim for just terms compensation under section 53(1) of the Native Title Act); or
 - (b) refer a disputed claim referred to in paragraph (a) to the Supreme Court for determination—

in accordance with Part 10 of the **Land Acquisition and Compensation Act 1986** as if it were a claim for compensation under that Act and as if the authority holder were the Authority referred to in that Part.

- (2) A person may only make an application to the Tribunal in respect of a claim, or refer a claim to the Supreme Court under subsection (1), after the expiry of any period of time specified for the purposes of this section by the regulations.
- (3) A party who makes an application in respect of, or who refers, a claim under subsection (1) is only entitled to have that claim determined by the Tribunal or the Court (as the case requires) if the Tribunal or the Court is satisfied that the party has attempted to settle the claim by conciliation, but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.
- (4) In its application to a claim that is the subject of an application or reference under subsection (1), Part 10 of the **Land Acquisition and Compensation Act 1986** has effect as if—

- (a) it required the Tribunal or the Court (as the case requires) in determining the compensation payable to have regard to the provisions of this Part; and
 - (b) section 91(1) provided that the holder of the authority must pay its own costs and the costs of the other party unless—
 - (i) the other party is not the owner or occupier of land in the authority area; or
 - (ii) the other party has been frivolous or vexatious or has otherwise acted unreasonably—in which case the Tribunal or the Court (as the case requires) may, subject to that section, award the costs that it thinks are appropriate.
- (5) In determining how much compensation is due to a native title holder in any dispute concerning native title land, the Tribunal or Court must take into account any relevant amount that has been determined or agreed as compensation under the Native Title Act in relation to that land.
- (6) The holder of the authority must lodge a copy of a determination under this section with the Minister.

135 Determination of disputes—Crown land

- (1) The holder of an authority may apply to the Tribunal for a review of any requirement made by the Minister under section 132.
- (2) A person who is authorised to undertake activities on Crown land under a lease, licence, permit or other authority granted under an Act may apply to the Tribunal for a review of any decision made by the Minister under section 132 that affects the person.

- (3) An application for a review under this section 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 applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

136 Native Title Act rights prevail

If—

- (a) the right to negotiate provisions of the Native Title Act have applied; or
- (b) an indigenous land use agreement within the meaning of the Native Title Act applies—

in relation to native title land in respect of the approval, or the carrying out, of any petroleum operation, the provisions of this Act that provide for similar processes do not apply except to the extent that the parties otherwise agree in writing.

Part 9—Consent/notice required before operations allowed on land¹

Division 1—Wilderness Crown land²

137 Petroleum operations on wilderness land barred

- (1) A person must not carry out any petroleum operation on wilderness Crown land.
Penalty: 240 penalty units.
- (2) No authority or other authorisation granted under this Act can authorise any activity prohibited by subsection (1).

Division 2—Operations requiring prior consent

138 Consent of Minister needed to carry out petroleum operations on any land

- (1) The holder of an authority must not carry out any petroleum operation on any land without the written consent of the Minister.
Penalty: 240 penalty units.
Default penalty: 10 penalty units.
- (2) The giving of consent by the Minister—
 - (a) does not relieve the holder of the authority from the requirement to obtain any consents or other authorities required, or comply with any other requirements imposed, by or under this or any other Act; and
 - (b) does not relieve the holder of the authority from liability under this or any other Act for a failure to obtain any necessary consent or other authority or to comply with any applicable requirement.

Note

The giving of consent for a petroleum operation under this section 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.

Note to s. 138 inserted by No. 62/2010 s. 144, amended by No. 29/2011 s. 3(Sch. 1 item 67.1).

139 Petroleum operations on restricted Crown land

A person must not carry out any petroleum operation on any restricted Crown land without the written consent of the Minister responsible for that land.

Penalty: 240 penalty units.

140 Petroleum operations on water authority land

(1) In this section, *water authority* means an Authority within the meaning of the **Water Act 1989** that has a water district or a sewerage district under that Act.

S. 140(1) substituted by No. 17/2012 s. 93.

(2) A person must not carry out any petroleum operation on any land that is owned, vested in or managed or controlled by a water authority without the written consent of the water authority.

Penalty: 240 penalty units.

(3) A person must not carry out any petroleum operation that involves work at a depth of more than 0.75 metres below any land that is within 100 metres of—

(a) a waterway that is owned by, vested in or managed or controlled by a water authority;
or

(b) any main drains, sewers, aqueducts, channels or pipelines of a water authority—

without the written consent of the water authority.

Penalty: 240 penalty units.

141 Petroleum operations on highways, roads etc.

A person must not carry out any petroleum operation on any land on which there is a public highway, road or street without the written consent of the person or body responsible for the land.

Penalty: 240 penalty units.

142 Provisions applying to consents

- (1) If the consent of a person or body is sought for the purposes of this Division, the person or body—
 - (a) must not unreasonably withhold that consent; and
 - (b) may impose any conditions she, he or it considers to be appropriate in giving that consent; and
 - (c) must give or refuse to give that consent within 28 days (or any longer period allowed by the Minister) after the consent is sought.
- (2) A person or body that does not comply with subsection (1)(c) in relation to any land that is not native title land is deemed to have given the consent sought.

143 Right to seek review of refusal to give consent

- (1) A person who sought a consent for the purposes of this Division may apply to the Tribunal for a review of a decision—
 - (a) to refuse to give the consent; or
 - (b) to impose a condition on the consent.
- (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 applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 3—Operations requiring notice

144 Operations on unrestricted Crown land

- (1) A person must not carry out any significant operation on any unrestricted Crown land as part of a petroleum operation unless the person has consulted the Minister responsible for the land.

Penalty: 240 penalty units.

- (2) If a person has complied with subsection (1) and the conditions of the relevant authority, the person may carry out the operation without the need to obtain any other consent or authority, despite anything to the contrary in any Act or subordinate instrument other than the **Environment Protection Act 2017**, the **Flora and Fauna Guarantee Act 1988** and the Fire Protection Regulations 1992.

S. 144(2)
amended by
No. 39/2018
s. 48.

145 Notice to be given before operation carried out on any land

- (1) A person must not carry out any petroleum operation on any land unless it gives the owner, occupier or person or body responsible for the management of the land a written notice outlining the proposed operation at least 21 days before the activity starts.

Penalty: 120 penalty units.

- (2) The owner, occupier or person or body may waive all or part of the 21 day notice period.
- (3) In the case of unrestricted Crown land, the notice required by this section must be given to the Minister responsible for the land.
- (4) In the case of native title land in respect of which there has been no approved determination of the native title within the meaning of the Native Title Act, it is sufficient compliance with this section if the person gives the notice required by this section in accordance with section 24MD(7) of that Act.

Division 4—Other matters

S. 146
amended by
No. 16/2006
s. 198(Sch. 2
item 6).

146 Areas of aboriginal significance

Before carrying out any petroleum operation on any land, the holder of the authority under which the operation is to be carried out must take reasonable steps to ensure that the operation will not contravene the **Aboriginal Heritage Act 2006**.

Penalty: 240 penalty units.

Division 5—Statement of pre-operation requirements

147 Requirements to be complied with before petroleum operation carried out

The Table sets out in column 2 requirements that must be complied with by an authority holder before a petroleum operation of a kind described in column 1 may be carried out—

Petroleum Act 1998
No. 96 of 1998

Part 9—Consent/notice required before operations allowed on land

TABLE

<i>Column 1 Petroleum Operation</i>	<i>Column 2 Requirement</i>
Any petroleum operation on any land	<p>The written consent of the Minister in accordance with section 138.</p> <p>Reasonable steps taken to ensure non-contravention of legislation referred to in section 146.</p> <p>21 days (or any shorter period that is agreed) written notice given to owner, occupier or person or body responsible for management of the land in accordance with section 128.</p> <p>An operation plan accepted by the Minister in accordance with section 161.</p> <p>Insurance obtained and maintained, as directed by the Minister, in accordance with section 171.</p> <p>A rehabilitation bond acceptable to the Minister obtained in accordance with section 173.</p>
Any petroleum operation on private land or native title land, except land owned by that person	<p>Consent of owners and occupiers of land; or compensation agreement entered into with owners and occupiers; or amount of compensation payable to owners and occupiers determined—</p> <p>in accordance with section 128.</p>
Any petroleum operation on land on which there is a public highway, road or street	<p>Written consent of the person or body responsible for the land in accordance with section 141.</p>

Petroleum Act 1998
No. 96 of 1998

Part 9—Consent/notice required before operations allowed on land

<i>Column 1 Petroleum Operation</i>	<i>Column 2 Requirement</i>
Significant operation as part of a petroleum operation on unrestricted Crown land	Consultation with Minister responsible for the land in accordance with section 144.
Any petroleum operation on restricted Crown land	Written consent of the Minister responsible for the land in accordance with section 139.
Any petroleum operation on land owned, vested in or managed or controlled by a water authority	Written consent of the water authority in accordance with section 140.
Petroleum production in licence area	Petroleum production development plan approved by the Minister in accordance with Division 6 of Part 5.
Inject petroleum into reservoir in licence area for purposes of storage	Storage development plan approved by the Minister in accordance with Division 7 of Part 5.

Part 10—Royalties and rent

148 Application of this Part

This Part does not apply in respect of any production licence that provides that a method of revenue collection other than the collection of a royalty applies in respect of any petroleum extracted or recovered under the licence.

149 Liability for, and rate of, royalty

- (1) The holder of a production licence must pay to the Minister a royalty in respect of all petroleum extracted or recovered from any well within the licence area.
- (2) A royalty is only payable once under this Act in respect of any petroleum.

150 Rate of royalty

Royalty is to be paid—

- (a) at the rate of 10% of the value of the petroleum at the well-head; or
- (b) if a different rate is specified in the licence under which the petroleum was extracted or recovered, at that different rate.

151 Meaning of *well-head*

- (1) The well-head, in relation to any petroleum, is the valve station that the holder of the production licence and the Minister agree as being the well-head for the purposes of this Act.
- (2) If agreement cannot be reached within the time specified by the Minister, the well-head is the valve station nominated by the Minister as being the well-head for the purposes of this Act.

152 How value to be determined

The value at the well-head of any petroleum is the amount that the petroleum could reasonably be expected to realise if sold to a genuine purchaser less all expenses incurred, or to be incurred, by the holder of the licence under which the petroleum was extracted or recovered in treating, processing or refining the petroleum before delivering it for sale and in conveying the petroleum to the point of delivery to the purchaser.

153 How quantity to be determined

- (1) In this section *approved measuring device* means a measuring device approved by the Minister and installed at a well-head or at any other place that the Minister approves.
- (2) For the purposes of this Act, the quantity of petroleum extracted or recovered by the holder of a production licence from a well during a period is the quantity measured during that period by an approved measuring device.
- (3) If—
 - (a) there is no approved measuring device in relation to a well; or
 - (b) the Minister is not satisfied that the quantity of petroleum extracted or recovered by the holder of the licence from a well has been properly or accurately measured by the approved measuring device—

the quantity of petroleum extracted or recovered is the quantity determined by the Minister as being the quantity extracted or recovered by the holder of the licence from that well during that period.

154 When royalty must be paid

- (1) Any royalty required by this Part must be paid in the manner specified in the relevant production licence and within the time specified in the licence.
- (2) If a production 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 Part in the manner, and within the time, specified by the regulations.

155 Circumstances in which royalty is not payable

A royalty is not payable in respect of petroleum—

- (a) that the Minister is satisfied was unavoidably lost before its quantity was ascertained; or
- (b) that is used by the holder of a production licence for the purposes of a petroleum operation with the approval of the Minister; or
- (c) that, with the approval of the Minister, is flared or vented in connection with operations for the extraction or recovery of petroleum; or
- (d) that is injected back into the reservoir from which it came with the approval of the Minister; or
- (e) that the Minister identifies as petroleum in respect of which royalty has already been paid; or
- (f) that was extracted or recovered from land outside Victoria and injected into a reservoir in Victoria.

156 Minister may vary royalty

- (1) On the application of the holder of a production licence or a person who has applied for a production 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 any petroleum extracted or recovered 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).

157 Minister may increase royalty rate to 10%

- (1) This section applies if a production licence provides that a royalty of less than 10% of the value of the petroleum at the well-head is to be paid in respect of petroleum extracted or recovered under the licence.
- (2) The Minister may vary the licence to provide that a royalty is to be paid under the licence at a rate of up to 10%.
- (3) The Minister must consult the Treasurer and the holder of the licence before varying the licence.

158 Royalty payable if excess petroleum recovered from reservoir

- (1) This section applies if—
 - (a) petroleum is stored in a reservoir in a production licence area; and
 - (b) a royalty under this Act has been paid in respect of some or all of the petroleum injected into the reservoir, or no royalty is payable under this Act in respect of that petroleum; and

- (c) more petroleum is recovered from the reservoir than was injected into the reservoir.
- (2) The holder of the licence must notify the Minister in writing immediately as soon as it is established that petroleum in respect of which a royalty is payable, but in respect of which a royalty has not been paid, has been, or is being, recovered from the reservoir.
Penalty: 120 penalty units.
- (3) The holder of the licence is liable to pay a royalty on the excess petroleum recovered at—
 - (a) the rate of 10% of the value of the petroleum at the well-head; or
 - (b) if a different rate is specified in the licence under which the petroleum was recovered, at that different rate.

159 Penalty for late payment

- (1) If an amount of royalty payable under this Act is not paid by the date it is due, an additional amount of one-third of 1% of that amount is payable for each day that the amount remains unpaid.
- (2) The additional amount accrues from the day after the due date for the payment of the royalty.

160 Rent payable in relation to Crown land

- (1) This section applies if a petroleum operation being conducted under an authority involves the ongoing occupancy of Crown land.
- (2) The holder of the authority is liable to pay to the Minister rent for the occupancy of that land.

- (3) The amount of rent payable is to be that specified by the Minister in the authority, or if no rent is specified in the authority, the amount required by the regulations.

Part 11—Other obligations on the holders of authorities

Division 1—Conduct of operations etc.

161 Operation plan to be prepared

(1) Before carrying out any petroleum operation, the holder of the authority under which the operation is to be carried out must give the Minister an operation plan—

- (a) that identifies the risks that the operation may pose to the environment, to any member of the public, land or property in the vicinity of the operation and to any petroleum, source of petroleum or reservoir that the operation might affect; and
- (b) that specifies what the holder of the authority will do to eliminate or minimise those risks; and
- (c) that specifies what the holder of the authority will do to rehabilitate the land that will be affected by the operation; and
- (d) that sets out any other matters required by the regulations.

S. 161(1)(a)
amended by
No. 55/2010
s. 61.

Penalty: 240 penalty units.

- (1A) In the course of preparing an operation plan for a petroleum operation, the holder of the authority—
- (a) must give notice of the proposed operation to any relevant person or organisation; and
 - (b) may give notice of the proposed operation to any other person or organisation that the holder of the authority considers appropriate.

S. 161(1A)
inserted by
No. 20/2020
s. 20(1).

S. 161(1B)
inserted by
No. 20/2020
s. 20(1).

- (1B) A notice under subsection (1A) must—
- (a) contain sufficient information to allow the person or organisation to make an informed assessment of any impact that the petroleum operation may have on the activities or interests of that person or organisation; and
 - (b) state that the person or organisation may, within a reasonable period of receiving the notice, make a submission to the holder of the authority about the operation plan; and
 - (c) contain any prescribed information.

S. 161(1C)
inserted by
No. 20/2020
s. 20(1).

- (1C) The Minister must, within a reasonable time after receiving an operation plan under subsection (1)—
- (a) refuse to accept the operation plan; or
 - (b) accept the operation plan subject to any conditions that the Minister considers appropriate.

S. 161(1D)
inserted by
No. 20/2020
s. 20(1).

- (1D) In determining whether to accept or refuse an operation plan, the Minister must take into account any prescribed factor.
- (2) The holder of the authority must not carry out the petroleum operation unless the Minister has accepted the operation plan for the operation in writing.

Penalty: 240 penalty units.

S. 161(3)
substituted by
No. 20/2020
s. 20(2).

- (3) The Minister must not accept an operation plan unless the holder of the authority has provided the Minister with evidence in the prescribed form—
- (a) that the holder of the authority has complied with subsections (1A) and (1B); and
 - (b) if a person or organisation makes a submission on the operation plan within a reasonable period after receiving notice

under subsection (1A), that the holder of the authority has considered the submission when preparing the operation plan.

(4) In this section—

relevant person or organisation, in relation to an operation plan, means—

S. 161(4)
inserted by
No. 20/2020
s. 20(2).

- (a) any person or organisation that may be affected by an activity carried out under the operation plan; and
- (b) any person or organisation that has interests that may be affected by an activity carried out under the operation plan.

162 Plan must be observed in carrying out operation

In carrying out a petroleum operation, the holder of an authority must ensure that the operation is carried out in accordance with the operation plan accepted by the Minister in relation to the operation.

Penalty: 240 penalty units.

163 Minister may permit variation of operation plan

- (1) On the written application of the holder of an authority, the Minister may permit the holder of the authority to vary the operation plan that applies, or is to apply, to the authority.
- (2) The Minister must, within a reasonable time after receiving an application under subsection (1)—
 - (a) refuse to permit the variation of the operation plan; or
 - (b) permit the variation of the operation plan subject to any conditions that the Minister considers appropriate.

S. 163(2)
substituted by
No. 20/2020
s. 21.

S. 163(3)
substituted by
No. 20/2020
s. 21.

(3) In determining whether to permit or refuse the variation of an operation plan, the Minister must take into account any prescribed factor.

S. 163(4)
inserted by
No. 20/2020
s. 21.

(4) In the course of varying an operation plan for a petroleum operation, the holder of the authority—

- (a) must give notice of the proposed variation to any relevant person or organisation; and
- (b) may give notice of the proposed variation to any other person or organisation that the holder of the authority considers appropriate.

S. 163(5)
inserted by
No. 20/2020
s. 21.

(5) A notice under subsection (4) must—

- (a) contain sufficient information to allow the person or organisation to make an informed assessment of any impact that the variation of the operation plan may have on the activities or interests of that person or organisation; and

- (b) state that the person or organisation may, within a reasonable period of receiving the notice, make a submission to the holder of the authority about the variation; and

- (c) contain any prescribed information.

S. 163(6)
inserted by
No. 20/2020
s. 21.

(6) The Minister must not permit the holder of an authority to vary an operation plan unless the holder of the authority has provided the Minister with evidence in the prescribed form—

- (a) that the holder of the authority has complied with subsections (4) and (5); and
- (b) if a person or organisation makes a submission on the variation within a reasonable period after receiving notice under subsection (4), that the holder of the authority has considered the submission when preparing the variation.

(7) In this section—

relevant person or organisation, in relation to an operation plan that is proposed to be varied, means—

S. 163(7)
inserted by
No. 20/2020
s. 21.

- (a) any person or organisation that may be affected by an activity carried out under the operation plan as proposed to be varied; and
- (b) any person or organisation that has interests that may be affected by an activity carried out under the operation plan as proposed to be varied.

163A Minister may require variation of accepted operation plan

S. 163A
inserted by
No. 20/2020
s. 22.

- (1) The Minister may require the holder of an authority to vary the accepted operation plan that applies to the authority.
- (2) Without limiting subsection (1), the Minister may require the holder of the authority to vary the accepted operation plan—
 - (a) if there have been significant changes to a risk posed by the petroleum operation since the operation plan was accepted; or
 - (b) if the petroleum operation poses a new risk to the environment, to any member of the public, land or property in the vicinity of the operation and to any petroleum, source of petroleum or reservoir that the operation might affect that was not identified or did not exist at the time the plan was accepted; or
 - (c) on the request of the Department; or
 - (d) if there is a significant change to the activities being carried out or to be carried out under the authority; or

- (e) in circumstances prescribed in the regulations.
- (3) The Minister may only require the holder of an authority to vary the accepted operation plan after consulting with the holder.
- (4) The holder of the authority must comply with a request under this section.

164 Operation to be conducted in proper manner

The holder of an authority must ensure that any petroleum operation carried out in the authority area is carried out in a proper and workmanlike manner.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

165 Other specific obligations concerning conduct of operations

- (1) The holder of an authority must, unless permitted to do otherwise under this Act—
 - (a) control the flow and prevent the waste or escape in the authority area of petroleum or water; and
 - (b) prevent the escape in the authority area of any mixture of water or drilling fluid with petroleum or any other matter; and
 - (c) prevent petroleum operations in the authority area from damaging petroleum-bearing strata in areas outside the authority area; and
 - (d) keep separate—
 - (i) each petroleum pool discovered in the authority area; and
 - (ii) any sources of water discovered in that area that the Minister directs the holder in writing to keep separate; and

- (e) prevent water or any other matter entering any petroleum pool through wells in the authority area except when required by, and in accordance with, good oil-field practice.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is a defence to the charge for the accused to prove that it took all reasonable steps to comply with that subsection.

166 Maintenance etc. of property

- (1) The holder of an authority must maintain in good condition and repair all structures, equipment and other property in the authority area that is used in connection with the petroleum operations being carried out under the authority.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

- (2) The holder of an authority must remove from the authority area all structures, equipment and other property that are not being used, or that are not to be used, in connection with the petroleum operations being conducted under the authority.

Penalty: 240 penalty units.

- (3) Subsections (1) and (2) do not apply in relation to any structure, equipment or other property that was not brought into the authority area by, or with the authority, of the authority holder.

167 Authority holder must not interfere with other rights

In carrying out petroleum operations, the holder of an authority must ensure that the operations are carried out in a way that does not interfere with the activities of any other person who is using the

land to a greater extent than is necessary for the reasonable exercise of its rights, and the performance of its duties, under the authority.

Penalty: 120 penalty units.

Default penalty: 10 penalty units.

168 Equipment must be removed once authority ceases

- (1) This section applies if an authority ceases to apply to any land.
- (2) The person who held the authority at the time it ceased to apply to the land must remove all equipment brought on to the land under the authority within 60 days after the authority ceases to apply.

Penalty: 120 penalty units.

169 Minister may remove equipment

- (1) If a person fails to comply with section 168 with respect to any equipment, the Minister may cause the equipment to be removed and may dispose of the equipment.
- (2) The Minister may recover any cost involved in doing this from the rehabilitation bond that applies in respect of the relevant authority and from any proceeds that result from the disposal of the equipment.
- (3) If the cost of removing or disposing of any equipment is greater than the amount that can be recovered under subsection (2) in relation to that equipment, the person must pay the difference to the Minister.
- (4) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount payable under subsection (3).

170 Rehabilitation

- (1) The holder of an authority must rehabilitate any land that is used in carrying out any operation under the authority and must, as far as is practicable, complete the rehabilitation of the land before the authority, or any renewed authority, ceases to apply to the land.
- (2) It is sufficient compliance with this section in respect of an operation if the holder of an authority fully complies with the rehabilitation measures in the operation plan concerning that operation.

171 Insurance must be held

The holder of an authority must obtain and maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of operations, or the doing of any other thing, under the authority, including the expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

Division 2—Rehabilitation bond

172 Definition of rehabilitation bond

In this Division *rehabilitation bond* means an instrument acceptable to the Minister securing the payment of a specified amount of money for any rehabilitation work, clean-up work or pollution prevention work that may be necessary as a result of a petroleum operation.

173 Requirement to take out rehabilitation bond

The holder of an authority must not carry out a petroleum operation unless it has obtained a rehabilitation bond that is acceptable to the Minister and is for an amount specified by the Minister.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

174 Minister may require increased rehabilitation bond

- (1) This section applies if the Minister believes that the amount secured by a rehabilitation bond in relation to a petroleum operation is insufficient.
- (2) The Minister may, by written notice, require the holder of the authority to obtain an extension of, or a further, rehabilitation bond for an amount determined by the Minister.
- (3) Before making a requirement, the Minister must consult the holder of the authority.
- (4) The holder of the authority must comply with a notice imposing such a requirement within 30 days after being given the notice.

Penalty: 120 penalty units.

175 Minister may carry out rehabilitation

- (1) The Minister may do anything necessary to rehabilitate land that has been used for a petroleum operation if she or he—
 - (a) is not satisfied that the land has been rehabilitated as required by section 170; or
 - (b) is satisfied that further rehabilitation of the land is necessary; or
 - (c) is asked to do so by the owner of the land.

- (2) The Minister may only do this if she or he has asked the holder or former holder of the authority to rehabilitate the land and it has failed to do so within a reasonable period after the request.
- (3) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount incurred under subsection (1) that cannot be recovered from the rehabilitation bond that applies in respect of the land.
- (4) If the Minister refuses to act on a request under subsection (1)(c), she or he must inform the owner of the land of the reasons for that refusal.

176 Return of bond if rehabilitation satisfactory

- (1) Subject to subsection (2), the Minister must discharge a rehabilitation bond, or return a rehabilitation bond to the holder or former holder of the authority, as soon as possible once the Minister is satisfied—
 - (a) that the relevant land has been rehabilitated as required by section 170; and
 - (b) that the rehabilitation is likely to be successful; and
 - (c) that any other work in respect of which the bond was required has been satisfactorily completed.
- (2) If land used in carrying out a petroleum operation is private land, the Minister must not discharge or return a rehabilitation bond that applies in respect of that land before consulting the owner of the land and the municipal council in whose municipal district the land is situated.

S. 176
amended by
No. 20/2020
s. 23(1)(2) (ILA
s. 39B(1)).

S. 176(2)
inserted by
No. 20/2020
s. 23(2).

S. 176(3)
inserted by
No. 20/2020
s. 23(2).

- (3) The Minister may, as a condition of discharging or returning a rehabilitation bond, require the authority holder or former authority holder to obtain a further rehabilitation bond in respect of the land if the Minister—
- (a) is not satisfied that the land or any part of the land has been rehabilitated as required by section 170; or
 - (b) is satisfied that further rehabilitation of the land or any part of the land is necessary.

Division 3—Information to be given to the Minister

177 Minister must be told if petroleum discovered

If petroleum is discovered in an authority area, the holder of the authority—

- (a) must immediately notify the Minister of the discovery; and
- (b) must within 3 days after the discovery give the Minister written details of the discovery.

Penalty: 120 penalty units.

178 Minister may require certain information if petroleum discovered

- (1) If petroleum is discovered in an authority area, the Minister may direct the holder of the authority—
- (a) to give the Minister some or all of the following details—
 - (i) the chemical composition and the physical properties of the petroleum;
 - (ii) the nature of the subsoil in which the petroleum occurs;

- (iii) the quantity of petroleum in the petroleum pool to which the discovery relates (or if the pool extends outside the authority area, the quantity within that part of the pool that is within the authority area);
 - (iv) any other details relating to the discovery that the Minister specifies; and
- (b) to conduct tests or to do anything else that the Minister specifies to obtain the information listed in paragraph (a).
- (2) A direction must be given in writing and must specify by when it must be complied with.
- (3) A person to whom a direction is given must comply with the direction within the time specified in the direction.

Penalty: 120 penalty units.

179 Authority holder must provide information to Minister

The holder of an authority must—

- (a) collect the information and samples required by the regulations; and
- (b) keep the records required by the regulations in the form required by the regulations; and
- (c) give the Minister any information, samples or records when required to do so by the regulations.

Penalty: 60 penalty units.

180 Minister may require position of wells etc. to be surveyed

- (1) The Minister may require the holder of an exploration permit, a retention lease or a production licence—
 - (a) to carry out a survey of the position of any well, structure or equipment in the permit, lease or licence area; and
 - (b) to report the results of the survey to her or him in writing.
- (2) If the Minister is not satisfied with a report provided under subsection (1)(b), she or he may require the holder of the permit, lease or licence to give her or him further information in writing about the survey.
- (3) A requirement under subsection (1) or (2) must be made in writing.
- (4) The holder of a permit, lease or licence must comply with any requirement made under this section.

Penalty: 120 penalty units.

181 Minister may require person to provide information on petroleum operation

- (1) This section applies if the Minister has reason to believe that a person has information, a document or a thing that relates to a petroleum operation.
- (2) The Minister may require the person—
 - (a) to give the information, document or thing to the Minister within a specified time and in a specified form; or

- (b) to appear before a person specified by the Minister at a time and place specified by the Minister to answer questions relating to the petroleum operation or to produce the document or thing.
 - (3) A requirement under subsection (2) must be made in writing.
 - (4) A person—
 - (a) must comply with any requirement made of her, him or it under subsection (2); and
 - (b) must answer any question asked of her, him or it under subsection (2)(b); and
 - (c) must produce any document or thing that she, he or it is asked to produce under subsection (2)(b).
- Penalty: 120 penalty units.
- (5) A person is not excused from complying with subsection (4) on the ground that complying with that subsection might tend to incriminate her or him.
 - (6) Any information, answer, document or thing given or produced by a person under this section is not admissible in any proceedings other than proceedings in respect of the falsity of the information, answer, document or thing.

182 False information not to be given

A person must not—

- (a) in purported compliance with this Division, give any information or answer that the person knows is false or misleading in a material detail; or

- (b) produce any document that the person knows is false or misleading in a material detail, without informing the person to whom the document is produced of the defect in the document.

Penalty: 120 penalty units.

Part 12—Release of information obtained or given under this Act

183 Meaning of *release and information*

- (1) In this Part a reference to the release of information is a reference to making that information publicly known, or available for inspection by a member of the public, regardless of whether a fee is charged in relation to the release.
- (2) In this Part a reference to information includes a reference to any core, cutting or sample and to a portion of a core, cutting or sample.

184 Meaning of *interpretive information*

- (1) In this Part *interpretive information* means any matter contained in a document that is, in the opinion of the Minister, an opinion or conclusion that is at least partly based on information relating to the sub-soil or the petroleum in part of an authority area or proposed authority area.
- (2) The Minister may publish guidelines concerning the identification of interpretive information.

185 Meaning of *information collection date*

In this Part *information collection date* means—

- (a) in the case of factual information obtained during the making of a well, the date on which the first of these events occurs—
 - (i) the drilling rig used to make the well is taken away from the well;
 - (ii) the holder of the authority ceases to be liable for any charges in relation to the making of the well under the contract for the making of the well;

- (b) in the case of a special study, the date that is 180 days after the date the data analysis defined in the study is completed;
- (c) in the case of information obtained from surveys, the date that is 180 days after the date the survey was completed;
- (d) in the case of a reprocessed survey or a special study relating to a survey, the date that is 180 days after the date the work specified in the submission for the survey or study was completed;
- (e) in any other case, the date on which the information was given to the Minister.

186 Information that is not to be released

The Minister must not release at any time any of the following details provided by an applicant for an authority in applying for the authority—

- (a) the technical qualifications of the applicant or of the employees of the applicant;
- (b) the technical advice available to the applicant;
- (c) the financial resources available to the applicant.

187 Information about applications that may be released

- (1) This section applies to any information contained in, or accompanying, an application for the grant or renewal of an authority, but does not apply to—
 - (a) the information referred to in section 186;
 - (b) interpretive information.
- (2) The Minister may release any information to which this section applies at any time after the grant or renewal of the authority, or the refusal to grant or renew the authority.

188 Release of information about area that is no longer an authority area

- (1) This section applies to any information given to the Minister under this Act by the holder of an authority that relates to an area to which the authority no longer applies.
- (2) The Minister may release information to which this section applies at any time after the expiry of 180 days from the date the authority under which the information was given expires or was surrendered or cancelled in relation to that area.

189 Release of factual information concerning licence areas

- (1) This section applies to any information given to the Minister under this Act by the holder of a production licence that relates to the licence area, but it does not apply to interpretive information.
- (2) The Minister may release any information to which this section applies at any time after the expiry of 1 year from the information collection date.

190 Release of factual information concerning other authority areas

- (1) This section applies to any information given to the Minister under this Act by the holder of an authority other than a production licence that relates to an area to which the authority applies, but it does not apply to interpretive information.
- (2) The Minister may release any information to which this section applies at any time after the expiry of 2 years from the information collection date.

191 Restriction on release of information collected so that it could be sold

- (1) This section applies to information—
 - (a) that was collected under a special access authorisation; and
 - (b) that is available for purchase by any member of the public on reasonable terms.
- (2) The Minister must not release any information to which this section applies before the expiry of 5 years from the date—
 - (a) that the work of collecting the information finished; or
 - (b) that is 180 days after the work of collecting the information started—whichever is the earlier date.
- (3) The Minister may agree to withhold the release of the information for a longer time.

192 Earlier release of information if consent given

The Minister may release—

- (a) information concerning an application for an authority, or the renewal of an authority, before the application is granted or refused if the person who made the application—
 - (i) consents in writing to the release; or
 - (ii) has publicly released the information already; and
- (b) other information relating to an authority area before the relevant date specified in this Division if the holder of the authority—
 - (i) consents in writing to the release; or
 - (ii) has publicly released the information already.

193 Release of interpretive information relating to current authorities

The Minister may release any interpretive information given to the Minister under this Act by the holder of an authority at any time after the expiry of 5 years from the information collection date.

194 Procedure to be followed before interpretive information is released

- (1) Before the Minister releases any interpretive information, the Minister must—
 - (a) publish a notice in the Government Gazette—
 - (i) stating that the Minister proposes to release the information; and
 - (ii) inviting notices of objection to the release to be submitted within a specified time (which must be a day that is at least 45 days after the publication of the notice); and
 - (iii) stating the grounds on which objections can be made; and
 - (iv) stating that, if no notices of objection are received within the specified time, the information will be released; and
 - (b) if it is practicable to do so—give a copy of the notice to the person who submitted the information to the Minister.
- (2) The only grounds on which a person may object to the release of interpretive information are that the release of the information—
 - (a) would disclose a trade secret; or

- (b) would, or could reasonably be expected to, adversely affect the lawful business, commercial or financial affairs of the person.
- (3) If the information which the Minister proposes to release consists of more than one item, a person submitting a notice of objection must make it clear which item or items the objection relates to.
- (4) On receiving a valid notice of objection, the Minister must, within 45 days after receiving the notice—
 - (a) decide whether to release the information (whether wholly or partly) after considering the objection; and
 - (b) give the person objecting written notice of the decision.
- (5) If the Minister decides to release any of the information in respect of which a notice of objection was lodged, the notice under subsection (4)(b) must advise the person of the right the person has to seek a review of the decision under section 195.

195 Right to seek review of disputed release decision

- (1) A person who submitted a notice of objection to the release of interpretive information and who is dissatisfied with the decision on the objection may ask the Minister to review the decision.
- (2) The request must—
 - (a) be made by written notice given to the Minister; and
 - (b) be made not later than 28 days after the person was given notice of the decision; and
 - (c) set out the reasons for making the request.

- (3) On receiving a request, the Minister must, within 45 days after receiving the notice—
 - (a) affirm, vary or revoke the original decision; and
 - (b) give the person objecting written notice of the review decision together with her or his reasons for the decision.
- (4) If an objection is made to the release of any item of interpretive information, the Minister must not release the item—
 - (a) before she or he complies with subsection (3); or
 - (b) if no request for a review is made, until the 45 day period referred to in that subsection expires.

196 Minister may give information etc. to other Ministers

- (1) The Minister may give to another Minister or to a Minister of the Commonwealth or of a State or Territory—
 - (a) any information contained in a document to which this Division applies that has been given to the Minister; and
 - (b) any cores or cuttings from, or samples of, the subsoil in an area, or samples of petroleum recovered in an area, that have been given to the Minister.
- (2) The Minister may only give information, cores, cuttings or samples to another Minister or to a Minister of the Commonwealth or of a State or Territory under subsection (1) in accordance with an arrangement between them that includes a provision restricting the release by that Minister of the information, cores, cuttings or samples to

circumstances in which it might be released by the Minister under this Act.

197 Restriction on obtaining information to meet work program obligation

- (1) The holder of an exploration permit, a retention lease or a production licence must not attempt to meet its obligations under a work program to obtain certain information by buying or otherwise obtaining information obtained by the holder of a special access authorisation.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply if the information bought or obtained from the holder of a special access authorisation is only used to assist in the obtaining of the information that has to be obtained under the work program.

Part 13—Enforcement

Division 1—Inspections

198 Authorisation of inspectors

- (1) The Minister may authorise a person to carry out inspections for the purposes of this Act.
- (2) The Minister must give each authorised person an identity card that identifies the person by name as an inspector under this Act and that contains a photograph of the person.
- (3) If a person's authorisation as an inspector is revoked or expires, she or he must immediately return her or his identity card to the Minister.

Penalty: 5 penalty units.

199 Monitoring compliance with this Act

- (1) An inspector may enter any premises that the inspector believes has been, is being, or is to be, used in connection with a petroleum operation at any reasonable hour in the daytime and at any time that the premises is open for business and may—
 - (a) inspect the premises and any thing on the premises;
 - (b) make copies of, or take extracts from, any document kept on the premises;
 - (c) seize any thing on the premises if the inspector believes on reasonable grounds that it is necessary to seize the thing in order to prevent its concealment, loss or destruction;
 - (d) test any equipment on the premises;
 - (e) take any photographs or make any audio or visual recordings that she or he considers necessary;

- (f) use any assistants the inspector considers necessary to exercise the powers conferred by this section.
- (2) An inspector may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of determining compliance with this Act or in connection with the issue of a prohibition notice under section 217.
- (3) An inspector may not continue to exercise any powers under this section if she or he fails to produce, on request, her or his identity card for inspection by the occupier of the land.
- (4) An inspector may not, under this section, enter a residence for the purpose of determining compliance with this Act unless the occupier of the residence has consented in writing to the entry and the carrying out of a search.

200 Emergencies

- (1) If an inspector reasonably believes that it is necessary to do so because of the existence, on any premises that the inspector believes have been, are being, or are to be, used in connection with a petroleum operation, of an immediate risk—
 - (a) to any member of the public; or
 - (b) that property may be seriously damaged; or
 - (c) that significant damage may occur to the environment; or

S. 200(1)(a)
substituted by
No. 55/2010
s. 62.

(d) that significant damage may occur to any petroleum, source of petroleum or reservoir—

the inspector may at any time enter the premises and exercise any power conferred by section 199(1).

(2) An inspector may not continue to exercise any powers under this section if she or he fails to produce, on request, her or his identity card for inspection by the occupier of the premises.

201 Offence-related searches and seizures

(1) An inspector may only exercise powers under this section if she or he has reasonable grounds for suspecting that there is on any premises a particular thing that may be evidence of the commission of an offence under this Act.

(2) The inspector, with any assistants she or he considers necessary, may with the consent in writing of the occupier of the premises, enter the premises and search for the thing without applying for a search warrant.

(3) If the thing is found during a search under subsection (2), the inspector may—

(a) inspect any thing on the premises;

(b) inspect, and make copies of, or take extracts from, the thing;

(c) seize the thing if the inspector believes on reasonable grounds that it is necessary to seize it in order to prevent its concealment, loss or destruction.

202 Occupier to be given copy of consent

- (1) An occupier who consents in writing to the entry and search of their premises or residence under section 199 or 201 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

203 Search warrant

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to particular premises if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act.
- (2) If a magistrate is satisfied that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act, the magistrate may issue a search warrant authorising an inspector named in the warrant and any assistants the inspector considers necessary—
 - (a) to enter the premises, or the part of premises, named or described in the warrant; and
 - (b) to search for and seize any thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
 - (a) the offence suspected; and
 - (b) the premises to be searched; and

- (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search 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 section.

204 Announcement before entry

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must announce that she or he is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.
- (2) The inspector or a person assisting the inspector need not comply with subsection (1) if she or he believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of any member of the public; or
 - (b) that the effective execution of the search warrant is not frustrated.

S. 204(2)(a)
substituted by
No. 55/2010
s. 63.

205 Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the inspector must—

- (a) identify herself or himself to that person by producing her or his identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

206 Receipt must be given for any thing seized

- (1) An inspector may not seize a thing, apparently in the possession or custody of a person, unless she or he makes out and tenders to the person a receipt for the thing seized that—
 - (a) identifies the thing; and
 - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

207 Copies of certain seized things to be given

- (1) If an inspector seizes—
 - (a) a document; or
 - (b) a thing that can be readily copied; or
 - (c) a storage device the information in which can be readily copied—

the inspector must give a copy of the thing or information to the owner or custodian of the document, thing or device as soon as practicable after the seizure.

- (2) Subsection (1) does not apply—
 - (a) to any document, thing or device moved under section 208(2); or
 - (b) if the inspector is unable to discover the identity of the owner or custodian of any document, thing or device seized.

208 Use of equipment to examine or process things

- (1) An inspector may bring on to a premises any equipment reasonably necessary for the examination or processing of things found at the premises in order to determine whether they are things that may be seized.
- (2) If—
 - (a) it is not practicable to examine or process the things at the premises; or
 - (b) the occupier of the premises consents in writing—

the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized.
- (3) The inspector, or a person assisting the inspector, may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized, if the inspector or person assisting believes on reasonable grounds that—
 - (a) the equipment is suitable for the examination or processing; and
 - (b) the examination or processing can be carried out without damage to the equipment or the thing.

209 Use or seizure of electronic equipment at premises

(1) If—

- (a) a thing found at a premises is, or includes, a disk, tape or other device for the storage of information; and
- (b) equipment at the premises may be used with the disk, tape or other storage device; and
- (c) the inspector believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to determine whether this Act has been contravened—

the inspector or a person assisting the inspector may operate, or may require the occupier or an employee of the occupier to operate, the equipment to access the information.

(2) If the inspector or a person assisting the inspector finds that a disk, tape or other storage device at the premises contains information of the kind referred to in subsection (1)(c), she or he may—

- (a) put the information in documentary form and seize the documents so produced; or
- (b) copy the information to another disk, tape or other storage device and remove that storage device from the premises; or
- (c) if it is not practicable to put the information in documentary form nor to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.

(3) An inspector or a person assisting an inspector must not operate or seize equipment for the purpose mentioned in this section unless the inspector or person assisting believes on reasonable grounds that the operation or seizure of

the equipment can be carried out without damage to the equipment.

210 Compensation for damage

- (1) The Minister must pay compensation for any damage caused by an inspector, or a person assisting an inspector, in exercising (or purporting to exercise) any power conferred by this Act.
- (2) However, the Minister is not liable to pay compensation for any damage caused during any inspection that reveals that there has been a contravention of this Act.
- (3) In determining the amount of compensation payable in relation to any damage caused to electronic equipment, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

211 Return of seized things

- (1) If an inspector seizes a thing under this Act, the inspector must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of the retention period, the inspector must take reasonable steps to return it unless—
 - (a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or
 - (b) a court makes an order under section 212 extending the retention period.

212 Magistrates' Court may extend period

- (1) An inspector may apply to the Magistrates' Court within the retention period or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.

213 Power of inspector to require information or documents

- (1) An inspector who—
 - (a) exercises a power of entry under this Act; and
 - (b) produces her or his identity card for inspection by a person—

may, to the extent that is reasonably necessary to determine whether this Act has been contravened or whether there exists a risk of a kind referred to in section 200(1), require the person to give information to the inspector, to produce documents to the inspector and to give reasonable assistance to the inspector.

- (2) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (1).

Penalty: 240 penalty units.

- (3) A person must not, in response to a request under this Division—
- (a) give information that the person knows to be false or misleading in a material detail; or
 - (b) produce a document that the person knows to be false or misleading in a material detail without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 240 penalty units.

214 Protection against self-incrimination

A natural person may refuse or fail to give any information that she or he is required to give by or under this Act if the giving of the information would tend to incriminate her or him.

215 Offence to obstruct inspector

A person must not—

- (a) obstruct or hinder; or
- (b) refuse admission to any premises to—

an inspector, or any person necessarily assisting an inspector, while the inspector is exercising a power given to the inspector by this Act.

Penalty: 240 penalty units.

Division 2—Improvement and prohibition notices

216 Improvement notice

- (1) This section applies if the Minister is satisfied that the holder of an authority—
- (a) is contravening this Act; or
 - (b) has contravened this Act in circumstances that make it likely that the contravention will occur again; or

- (c) is not complying with a condition of the authority; or
 - (d) has failed to comply with a condition of the authority in circumstances that make it likely that the failure will occur again.
- (2) The Minister may issue to the holder of the authority an improvement notice requiring the holder to take specified action within a specified period to stop the contravention, or failure to comply, from continuing or occurring again.
- (3) The holder of the authority must comply with the notice.

Penalty: 240 penalty units.

Default penalty: 10 penalty units.

217 Prohibition notice

- (1) This section applies if an activity or event is occurring, or is likely to occur, in an authority area that, in the opinion of the Minister, creates an immediate risk—
- (a) to any member of the public; or
 - (b) that property may be seriously damaged; or
 - (c) that significant damage may occur to the environment; or
 - (d) that significant damage may occur to any petroleum, source of petroleum or reservoir.
- (2) The Minister may issue to the holder of the authority a prohibition notice prohibiting the holder—
- (a) from carrying out, or continuing to carry out, any petroleum operation, or any activity relating to a petroleum operation, in the authority area; or

S. 217(1)(a)
substituted by
No. 55/2010
s. 64.

(b) from taking any specified action in the authority area—

until the Minister certifies in writing that any direction included in the prohibition notice has been complied with, or until the expiry of a specified period.

(3) The Minister—

(a) may include in the notice directions as to measures to be taken to remove or reduce the risk to which the notice relates;

(b) must specify in the notice from when the prohibition is to take effect.

(4) The holder of the authority must comply with the notice.

Penalty: 600 penalty units.

(5) If the holder of an authority fails to comply with a notice given to it under this section, it is guilty of an offence for each day the failure to comply in respect of which the notice was given continues after the relevant prohibition takes effect.

Penalty: 20 penalty units for each day the offence continues after the prohibition takes effect.

218 Minister may obtain enforcement order

The Minister may apply to the Supreme Court for an order requiring the holder of an authority to comply with a prohibition notice.

219 Form of notices

In issuing an improvement or prohibition notice, the Minister must ensure that the notice—

(a) specifies the grounds on which it was issued;
and

- (b) sets out the right of the holder of the authority to have the notice reviewed under this Division.

220 Right to review

- (1) A person may apply to the Tribunal for a review of a decision by the Minister to issue an improvement or prohibition notice.
- (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 the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Despite section 216(3), the holder of an authority that applies for a review of the issue of an improvement notice need not comply with the notice until—
 - (a) the Tribunal affirms the notice; or
 - (b) it abandons the application for the review or it receives written notice that the Tribunal has dismissed the application.

221 Defences to charge of failing to comply with a notice

- (1) In a proceeding for an offence of failing to comply with an improvement notice, it is a defence to the charge for the accused to prove that it did not contravene this Act, or fail to comply with a condition of an authority, in the manner set out in the improvement notice.

- (2) In a proceeding for an offence of failing to comply with an improvement or prohibition notice, it is a defence to the charge for the accused to prove that it took all reasonable steps to comply with the notice.

222 Minister may remedy failure to comply with improvement notice

- (1) If the holder of an authority fails to comply with an improvement notice, the Minister may do anything that should have been done by the holder of the authority to comply with the notice.
- (2) The costs and expenses incurred by the Minister in doing anything under subsection (1) are a debt due by the person to the State.

Division 3—Offences concerning corporations etc.

223 Increased maximum fine for corporations

- (1) If a corporation is found guilty of an offence against this Act, the court may impose on the corporation a fine not greater than 5 times the amount of the maximum fine that could be imposed by the court on a natural person found guilty of the same offence committed at the same time.
- (2) A reference in this section to this Act does not include a reference to regulations made under this Act.

224 Corporation deemed to have the knowledge of its officers

For the purposes of this Act, a corporation has the knowledge and intent of any of its officers who is acting, or purporting to act, in the course of her or his duties with the corporation.

225 Certain offences by corporations may also be offences by officers

- (1) This section applies if—
 - (a) an offence is committed against this Act by a corporation; and
 - (b) the offence is proved to have been committed at the instigation of, or with the consent or connivance of, or to have been attributable to any wilful neglect on the part of, an officer of the corporation.
- (2) The officer is also guilty of the offence and is liable to the penalty for that offence.

226 Offences by partners

- (1) This section applies if a person holds an authority in partnership with one or more other people.
- (2) The person is also guilty of any offence against this Act that its partner or partners are found guilty of in acting, or purporting to act, on behalf of the partnership, and is liable to the penalty for that offence.

227 Offences by joint venturers

- (1) This section applies if a person holds an authority as part of a joint venture with one or more other people.
- (2) The person is also guilty of any offence against this Act that the other person is, or that the other people are, found guilty of in acting, or purporting to act, on behalf of the joint venture, and is liable to the penalty for that offence.

228 Offences by employees and agents

- (1) This section applies if a person who commits an offence under this Act committed the offence while acting—
 - (a) for or on behalf of another person; and
 - (b) within the scope of the actual or apparent authority given to her, him or it by the other person.
- (2) The other person is also guilty of the offence and is liable to the penalty for that offence.

229 Default penalties

- (1) If a person is convicted of an offence against this Act in respect of which a default penalty is provided, the person is guilty of a further offence for each day the offence continues after the conviction and is liable to be fined up to the amount specified as the default penalty.
- (2) This section does not apply if, owing to a circumstance such as the loss of a document needed to comply with this Act, it is not possible for a person to comply with the provision in respect of which the offence was committed.

Part 14—Administrative matters

Division 1—Petroleum register

230 Establishment of register

The Minister must cause a petroleum register to be established and maintained.

231 Need for registration

The following items have no effect until a document that is in a form specified, or approved, by the Minister and that contains evidence of the item is registered in the petroleum register—

- (a) authorities;
- (b) variations, cancellations, suspensions, extensions, or the surrender of all or part of an authority or the conditions of an authority;
- (c) any part of an agreement that purports to create, transfer, assign, devolve or affect any interest in, or conferred by, an authority;
- (d) unit development agreements;
- (e) any other document that is required to be registered under section 232.

232 Other documents to be registered

The Minister, by notice published in the Government Gazette, may require that a document of a specified kind relating to an authority be registered.

233 Entries in register on devolution of title

- (1) The devolution by operation of law of any rights under an authority, or any interest in, or conferred by, an authority, has no effect until a document in a form approved by the Minister that provides evidence of the devolution is registered in the petroleum register.

- (2) Subsection (1) applies despite anything to the contrary in any Act or rule of law.
- (3) Nothing in this section limits any discretion conferred on the Minister by Division 3 of Part 7.

234 Registration

- (1) To register a document, the Minister must—
 - (a) either—
 - (i) enter details of the document in the petroleum register; or
 - (ii) lodge a copy of the document in the register; and
 - (b) enter in the register the date the details were entered or the document was lodged; and
 - (c) give the person who sought registration of the document a copy of the document endorsed with a notation that the document has been registered and details of the date and time entered in the register under paragraph (b).
- (2) The Minister may—
 - (a) determine what details of a document are to be lodged in the register;
 - (b) require that documents of a particular type be in a specified form before accepting them for registration;
 - (c) require that documents of a particular type contain specified information before accepting them for registration.

235 Effect of registration

The registration of a document does not give any right, interest or dealing that is evidenced by that document any force or effect that the right, interest or dealing would not have had if this Part had not been enacted.

236 Inspection of register and documents

- (1) On the payment of any fee required by the regulations, a person may inspect the petroleum register and any documents that form part of the register at any time that the office in which the register is kept is open for business.
- (2) On the payment of any fee required by the regulations, a person may obtain a copy of any entry or document in the petroleum register.

237 Minister's certificates

- (1) A certificate certifying as to any matter relating to the contents of the petroleum register and purporting to be signed by the Minister is admissible in evidence in any proceeding as evidence of the matter certified.
- (2) The Minister may supply such a certificate to any person who applies for the certificate and pays any fee required by the regulations for the purposes of this section.

238 Minister may make corrections to register

- (1) The Minister may alter the petroleum register to correct a clerical error or an obvious defect in the register.
- (2) The Minister may, on application being made in writing to the Minister by a person or on her or his own initiative, make any entries in the register that the Minister considers appropriate for the purposes of ensuring that the register accurately

records the interests and rights existing in relation to an authority.

- (3) The Minister must give the holder of the authority to which an alteration relates written details of the alteration.

239 Right to review of register entries

- (1) A person may apply to the Tribunal for a review of the Minister's decision to make or vary an entry in the petroleum register under section 238.
- (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 the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

240 Offences relating to the register

A person must not wilfully—

- (a) make, cause to be made, or concur in making, a false entry in the petroleum register; or
- (b) produce or tender in evidence a document falsely purporting to be a copy of, or extract from, an entry in the register or of or from a document lodged with the Minister under this Part.

Penalty: 120 penalty units.

Division 2—Other administrative matters

241 Minister may require further information

The Minister may require an applicant under this Act to provide her or him with more information concerning an application and may require the applicant to provide the information within the time specified in the request.

242 Form of documents

- (1) Each document that a person submits to the Minister under this Act must be in the form, if any, required by the Minister.
- (2) Each authority or other document that the Minister issues under this Act is to be in the form determined by the Minister.

243 Pecuniary interest statement

A person who is employed in the administration of this Act must comply with any of the requirements of the regulations with respect to the disclosure of her or his pecuniary interests.

Penalty: 60 penalty units.

244 Department surveys

- (1) The Minister may authorise a person employed in, or acting on behalf of, the Department to enter any land to carry out petroleum exploration.
- (2) Part 8 (other than section 128) applies to any petroleum exploration operation under subsection (1)—
 - (a) as if a reference in that Part to an authority holder or holder of an authority were a reference to the Department; and

S. 244(2)
substituted by
No. 64/2012
s. 61.

(b) as if a reference in that Part to the carrying out of a petroleum operation were a reference to the carrying out of petroleum exploration.

* * * * *

S. 244(3)
repealed by
No. 64/2012
s. 61.

245 Delegation

- (1) The Minister may, in writing, delegate to any person employed in the Department any power of the Minister under this Act, other than this power of delegation.
- (2) The Head of the Department may, in writing, delegate to any person employed in the Department any power of the Head under this Act, other than this power of delegation.

246 Applications not to be processed unless fee paid

If the regulations require the payment of a fee for an application under this Act, the application must not be considered until the fee is paid.

Part 15—Miscellaneous matters

247 Officials must not disclose information

- (1) A person must not disclose any information that is obtained by her or him while exercising a power conferred by this Act.

Penalty: 240 penalty units.

- (2) A person must not use any such information to obtain directly or indirectly any pecuniary advantage for himself or herself or for any other person.

Penalty: 240 penalty units.

- (3) However, a person may disclose or use such information if—

- (a) the disclosure or use is made in the performance of a duty under, or in connection with, this Act; or
- (b) the person has the consent of the person to whom the information belongs; or
- (c) the disclosure or use is made in legal proceedings at the direction of a court; or
- (d) the information is in the public domain at the time it is disclosed or used.

- (4) Subsection (3) is not intended to interfere with any rights another person may have with regard to the disclosure or use of the information.

248 Fees and penalties debts due to the State

A fee, royalty or other amount payable under this Act is a debt due to the State by the person by whom the amount is payable and is recoverable in any court of competent jurisdiction.

249 Minister may vary geodetic system

- (1) The Minister may from time to time, by notice published in the Government Gazette, specify the method that is to be used to identify and define authority areas.
- (2) The Minister may amend or substitute a notice given under this section at any time by publishing notice of the amendment or substitution in the Government Gazette.
- (3) An amendment or substitution takes effect on the date specified in the notice setting out the amendment or substitution.

250 Codes of practice

- (1) For the purpose of providing practical guidance to the holders of authorities in carrying out petroleum operations, the Minister may approve a code of practice.
- (2) A code of practice may—
 - (a) consist of any code, standard, rule, specification or provision relating to petroleum operations; and
 - (b) apply, incorporate or refer to any document formulated or published by any person or body as in force at the time the code of practice is approved or as amended, formulated or published from time to time.
- (3) The Minister may approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.
- (4) The Minister must cause to be published in the Government Gazette notices of—
 - (a) the approval of a code of practice;
 - (b) the approval of a revision of the whole or any part of a code of practice;

- (c) the revocation of approval of a code of practice.
- (5) The Minister must cause a copy—
- (a) of every approved code of practice;
 - (b) if an approved code of practice has been revised and that revision has been approved, of every approved code of practice as so revised;
 - (c) if an approved code of practice applies, incorporates or refers to any other document, of every such document—
- to be made available for inspection by members of the public without charge at the principal office of the Department during normal office hours.
- (6) An approved code of practice comes into effect—
- (a) on the day on which notice of the approval of the code of practice is published in the Government Gazette or on any later day that may be specified in the notice; and
 - (b) if the code of practice has been revised in whole or in part, to the extent of that revision on the day on which notice of the approval of that revision is published in the Government Gazette or on any later day that may be specified in the notice.
- (7) An approved code of practice ceases to be of effect at the end of the day on which notice of the revocation of the approval of the code of practice is published in the Government Gazette.
- (8) A person is not liable to any civil or criminal proceedings only because the person has failed to observe any provision of an approved code of practice.

251 Use of codes of practice in proceedings

If in any proceeding under this Act it is alleged that a person contravened a provision of this Act in relation to which an approved code of practice was in effect at the time of the alleged contravention—

- (a) the approved code of practice is admissible in evidence in that proceeding; and
- (b) if the court is satisfied in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention that—
 - (i) a provision of the approved code of practice is relevant to that matter; and
 - (ii) the person failed at any material time to observe that provision—

that matter must be taken as proved unless the court is satisfied that in respect of that matter the person complied with the provision of this Act otherwise than by way of observance of that provision of the approved code of practice.

251A State liability

- (1) Despite any Act (other than the Charter of Human Rights and Responsibilities) or law to the contrary, the State is not liable in any way for any loss, damage or injury of any kind resulting directly or indirectly from or arising out of—
 - (a) the amendments made to this Act by the **Resources Legislation Amendment (Fracking Ban) Act 2017** or the **Petroleum Legislation Amendment Act 2020**; or
 - (b) the refusal to grant a relevant authority; or

S. 251A
inserted by
No. 8/2017
s. 11.

S. 251A(1)(a)
amended by
No. 20/2020
s. 24(1).

- (c) the refusal to approve a petroleum production development plan; or
- (d) the suspension or variation of a condition on a relevant authority; or
- (e) the extension of the term of a relevant authority when a condition of the authority is suspended; or
- (f) the refusal to give consent to the carrying out of a petroleum operation; or
- (g) the refusal to accept the operation plan for a petroleum operation; or
- (ga) the refusal to accept the variation of an operation plan; or
- (gb) a request from the Minister to vary an operation plan; or
- (h) a decision under this Act not being made in relation to an application for—
 - (i) a relevant authority; or
 - (ii) the suspension or variation of a condition on a relevant authority; or
 - (iii) the acceptance of consent for the carrying out of a petroleum operation; or
 - (iv) the acceptance of an operation plan for a petroleum operation; or
 - (v) the variation of an operation plan; or
- (i) any consent that is deemed to have been given under this Act on or after 24 August 2012 in relation to a relevant authority.

S. 251A(1)(ga)
inserted by
No. 20/2020
s. 24(2).

S. 251A(1)(gb)
inserted by
No. 20/2020
s. 24(2).

S. 251A
(1)(h)(v)
inserted by
No. 20/2020
s. 24(3).

- (2) Subsection (1)(b), (c), (d), (e), (f) and (g) apply to a refusal, suspension, variation or extension made on or after 24 August 2012 and whether any loss, damage or injury resulting from or arising out of that refusal, suspension, variation or extension is incurred before, on or after the commencement of this section.
- (3) Subsection (1)(h) and (i) apply whether any loss, damage or injury resulting from or arising out of the fact that a decision is not made, or resulting from or arising out of a deemed consent, is incurred before, on or after the commencement of this section.
- (4) In this section—
relevant authority means an exploration permit, a retention lease or a production licence.

251B Minister may pay for surrender of authority

- (1) The Minister may pay an amount, determined by an Order made under subsection (2), for the surrender within 6 months after the commencement of the **Resources Legislation Amendment (Fracking Ban) Act 2017** of a relevant authority if the authority is in force immediately before that commencement.
- (2) The Minister may determine, by Order published in the Government Gazette, the amount for the purposes of subsection (1).
- (3) In this section—
relevant authority means an exploration permit, a retention lease or a production licence.

S. 251B
inserted by
No. 8/2017
s. 11.

Part 16—Regulations

252 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) determining the dimensions, boundaries, form, position and extent of an authority area; and
 - (b) determining the requirements to be complied with by people who wish to acquire authorities; and
 - (c) prescribing conditions that are to apply to a particular type of authority or to authorities generally; and
 - (d) prescribing the fees payable for authorities and gathering lines, and the fees for applications, the processing of applications, renewals, authority variations and extensions, authority condition variations and suspensions, surveys, inspections by inspectors, technical and other assessments undertaken by the Department or its agents, exemptions, registrations in the petroleum register, inspection of the petroleum register and access to released information; and
 - (e) prescribing annual fees payable by the holders of authorities; and
 - (f) prescribing the rent that is payable by the holders of authorities for occupying Crown land; and
 - (g) requiring the holders of authorities to submit specified information to the Minister and to keep specified information, records and samples; and

- (h) the information to be contained in work programs, development plans, unit developments, operation plans, and other plans, manuals and reports required of authority holders; and
- (i) requirements for pecuniary interests statements; and
- (j) the petroleum register and the documents to be registered; and
- (k) regulating inquiries and investigations conducted into matters under this Act; and
- (l) requirements for gathering lines; and
- (m) the prevention of nuisances in or about authority land and for cleaning and keeping clean authority land, and without limiting this head of power, the prevention of the pollution of the seashore or the sea or inland waters from petroleum operations; and
- (n) prescribing precautions and measures for the treatment of water underground or at the surface and for the prevention of waste of petroleum; and
- (o) regulating the separation, storage, transportation and utilisation of anything produced under an authority; and
- (p) regulating the production and treatment of petroleum under an authority; and
- (q) ensuring that precautions will be taken against flooding, and prescribing the methods to be adopted if wells are abandoned; and

S. 252(1)(n)
amended by
No. 55/2010
s. 65(1).

S. 252(1)(r)
amended by
No. 55/2010
s. 65(2).

- (r) ensuring that well making, geophysical surveys, geochemical surveys and other petroleum operations are carried out with due diligence and by satisfactory methods;
- (s) regulating the production testing of wells, including flaring; and
- (t) prescribing the equipment, materials and casings that are to be used in petroleum operations under this Act; and
- (u) regulating unit agreements; and
- (v) regulating the underground storage of petroleum including prescribing petroleum products that may be stored; and

S. 252(1)(w)
amended by
No. 20/2020
s. 25(1).

- (w) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act; and

S. 252(1)(wa)
inserted by
No. 20/2020
s. 25(2).

- (wa) provisions of a savings or transitional nature consequent on the enactment of the **Petroleum Legislation Amendment Act 2020**, including but not limited to provisions relating to new work programs and applications pending under this Act immediately before the commencement of that Act.

(2) The regulations—

- (a) may be of general or of specially limited application; and
- (b) may differ according to differences in time, place or circumstance; and
- (c) may require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or

- (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
 - (iii) as specified in both subparagraphs (i) and (ii); and
- (d) may apply, adopt or incorporate any matter contained in any document whether—
- (i) wholly or partially or as amended by the regulations; or
 - (ii) as in force at a particular time or as in force from time to time; and
- (e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
- (f) may provide in a specified case or class of case for the exemption of people or things from any of the provisions of this Act or the regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and
- (g) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations; and
- (h) may be expressed as requiring the achievement of a specified object in relation to any particular subject matter.

S. 252(2)(f)
amended by
No. 55/2010
s. 65(3).

Part 17—Consequential, savings and transitional provisions

Pt 17 Div. 1
(Heading)
inserted by
No. 20/2020
s. 26.

Division 1—Transitional provisions—Repeal of Petroleum Act 1958

253 Repeal of former Act

No. 6334.
Reprint No. 4
as at 1 May
1996. Further
amended by
No. 35/1998.

The **Petroleum Act 1958** is repealed.

254 Effect of repeal on existing permits

- (1) In this section *petroleum exploration permit* means any petroleum exploration permit that was in force under the **Petroleum Act 1958** immediately before this section came into operation.
- (2) Every petroleum exploration permit is deemed to be an exploration permit—
 - (a) that is subject to all the conditions and restrictions that applied to the permit immediately before this section came into operation (including the restrictions imposed directly by the **Petroleum Act 1958** that were current at that time); and
 - (b) that is to expire on the date it would have expired if the **Petroleum Act 1958** had not been repealed (unless it is surrendered or cancelled before that date under this Act).
- (3) Any right to extend a petroleum exploration permit is extinguished. However, a deemed exploration permit may be renewed in accordance with this Act.

- (4) If an application to extend a petroleum exploration permit was made to the Minister in accordance with section 68 of the **Petroleum Act 1958** and had not been determined at the time this section came into operation, then the application is to be treated as if it was an application for the renewal of an exploration permit under this Act.
- (5) The conditions and restrictions that apply to a deemed exploration permit may be varied in accordance with this Act.
- (6) For the purposes of subsection (5), a restriction is to be treated as if it was a condition.
- (7) On the application of the holder of a deemed exploration permit, the Minister may grant a renewed exploration permit without reducing the permit area, or without reducing it by at least 50%, even if none of the requirements listed in section 32(4) have been satisfied.

255 Effect of repeal on existing leases

- (1) In this section *petroleum lease* means any petroleum lease that was in force under the **Petroleum Act 1958** immediately before this section came into operation.
- (2) Every petroleum lease is deemed to be a production licence—
 - (a) that is subject to all the conditions and restrictions that applied to the petroleum lease immediately before this section came into operation (including the restrictions imposed directly by the **Petroleum Act 1958** that were current at that time); and
 - (b) that continues in force until it is surrendered or cancelled under this Act, irrespective of the date on which it would have expired if the **Petroleum Act 1958** had not been repealed.

- (3) Any right to renew a petroleum lease is extinguished.
- (4) The conditions and restrictions that apply to a deemed production licence may be varied or suspended in accordance with this Act.
- (5) For the purposes of subsection (4), a restriction is to be treated as if it was a condition.
- (6) Despite anything to the contrary in this Act, the holder of a deemed production licence is only required to comply with the following provisions on and from the second anniversary of the commencement of this section or such other time as may be agreed between the holder and the Minister—
 - (a) Division 6 of Part 5;
 - (b) Division 7 of Part 5;
 - (c) sections 161 to 163.

256 Release of information provided under the Petroleum Act 1958

- (1) In this section, *interpretive information* means any matter contained in a document that is, in the opinion of the Minister, an opinion or conclusion that is at least partly based on information relating to the sub-soil or the petroleum in part of an area to which a petroleum exploration permit or a petroleum lease applied.
- (2) The Minister may release any interpretive information given to the Minister under the **Petroleum Act 1958**, before it was repealed, by the holder of a petroleum exploration permit or a petroleum lease at any time after the expiry of 5 years from the date section 253 came into operation.
- (3) Sections 194 and 195 apply to the release of information under this section.

- (4) If the Minister publishes guidelines under section 184 concerning the identification of interpretive information, those guidelines also apply for the purposes of this section.

* * * * *

S. 257
repealed by
No. 29/2011
s. 3(Sch. 1
item 67.2).

Division 2—Transitional provisions—Petroleum Legislation Amendment Act 2020

Pt 17 Div. 2
(Heading and
ss 257–259)
inserted by
No. 20/2020
s. 27.

257 Definitions

New s. 257
inserted by
No. 20/2020
s. 27.

In this Division—

accepted operation plan means, in relation to an authority, an operation plan that applies to the authority that was accepted by the Minister in accordance with section 161 before the commencement of the **Resources Legislation Amendment (Fracking Ban) Act 2017**;

moratorium commencement means the day on which the **Resources Legislation Amendment (Fracking Ban) Act 2017** came into operation;

moratorium period has the same meaning as in section 17A;

relevant authority means an exploration permit, a retention lease or a production licence—

- (a) that is in force immediately before the moratorium commencement; and
- (b) to which an accepted operation plan applied immediately before the moratorium commencement; and

(c) that is not a production licence specified in section 17A(3).

S. 258
inserted by
No. 20/2020
s. 27.

258 Suspension of conditions

- (1) Despite anything to the contrary in section 105, if a condition of a relevant authority was suspended immediately before section 6 of the **Petroleum Legislation Amendment Act 2020** comes into operation, the condition is taken to be suspended until 1 July 2021.
- (2) The suspension of a condition referred to in subsection (1) is taken to be subject to the same conditions imposed in relation to the suspension that were in place immediately before section 6 of the **Petroleum Legislation Amendment Act 2020** comes into operation.

S. 259
inserted by
No. 20/2020
s. 27.

259 Term of authority may be extended if condition suspended

Despite anything to the contrary in section 106, the term of a relevant authority is taken to be extended until 1 July 2021 if—

- (a) the term of the authority was extended under section 106; and
- (b) section 6 of the **Petroleum Legislation Amendment Act 2020** came into operation during the period of that extension.

S. 260
inserted by
No. 20/2020
s. 28.

260 New work programs

- (1) Despite anything to the contrary in this Act, the holder of an exploration permit or a retention lease in force immediately before the moratorium commencement must, before 1 January 2021, submit to the Minister a work program in relation to the permit or lease.

- (2) In the case of a holder of a retention lease who does not intend to carry out any petroleum operations under the lease, it is sufficient compliance with subsection (1) if the holder submits a document declaring that intention.
- (3) On receiving a work program under subsection (1), the Minister must approve or refuse to approve the work program.
- (4) Despite anything to the contrary in this Act, if the Minister approves a work program (the *new work program*) under subsection (3)—
 - (a) the new work program is taken to be the work program submitted in relation to the exploration permit or retention lease under section 96; and
 - (b) in the case of a work program submitted in relation to an exploration permit, the Minister must declare in writing that certain specified elements of the new work program are the key objects of the new work program.

261 Exploration permits

- (1) Despite anything to the contrary in this Act, if an exploration permit is in force immediately before the moratorium commencement—
 - (a) if the exploration permit was renewed before the moratorium commencement, the date on which the permit is taken to expire is 5 years from the day after the day on which the moratorium period ends, unless the permit is cancelled or surrendered earlier; and
 - (b) in any other case, for the purposes of section 26, the day on which the permit is taken to have been registered in the petroleum register is the day after the day on which the moratorium period ends.

S. 261
inserted by
No. 20/2020
s. 29.

- (2) Despite anything to the contrary in section 102, if an exploration permit is in force immediately before the moratorium commencement, the Minister may vary any condition imposed on the permit that is in force immediately before the commencement of section 29 of the **Petroleum Legislation Amendment Act 2020**.

S. 262
inserted by
No. 20/2020
s. 29.

262 Retention leases

- (1) Despite anything to the contrary in this Act, if a retention lease is in force immediately before the moratorium commencement—
- (a) for the purposes of section 42, the day on which the lease is taken to have been registered in the petroleum register is the day after the day on which the moratorium period ends; and
 - (b) the date on which the lease is taken to expire is 5 years from the day after the day on which the moratorium period ends.
- (2) Despite anything to the contrary in section 102, if a retention lease is in force immediately before the moratorium commencement, the Minister may vary any condition imposed on the lease that is in force immediately before the commencement of section 29 of the **Petroleum Legislation Amendment Act 2020**.

S. 263
inserted by
No. 20/2020
s. 29.

263 Work programs—hydraulic fracturing

- (1) This section applies if a work program in force immediately before the moratorium commencement provides that the work under the relevant authority to which the work program relates includes any hydraulic fracturing.

- (2) Despite anything to the contrary in this or any other Act—
- (a) that provision is taken to no longer form part of the work program; and
 - (b) the holder of the authority is not required to comply with the provision; and
 - (c) the holder is not taken to have failed to comply with the work program or this Act or any other Act merely because the holder has not complied with the provision.

264 Requirement for new or varied operation plans

S. 264
inserted by
No. 20/2020
s. 29.

- (1) Despite anything in Division 1 of Part 11, before carrying out a petroleum operation under a relevant authority on or after 1 July 2021, the holder of the relevant authority must—
- (a) give the Minister a new operation plan in accordance with section 161(1) that replaces the accepted operation plan in relation to the petroleum operation; or
 - (b) apply to vary the accepted operation plan under section 163.
- (2) If the holder of the relevant authority applies to vary the accepted operation plan, the proposed variation must include any of the following that were not identified, specified or set out in the accepted operation plan—
- (a) risks that the petroleum operation may pose to the environment, to any member of the public, land or property in the vicinity of the operation and to any petroleum, source of petroleum or reservoir that the operation might affect;
 - (b) measures that the holder of the relevant authority will take to eliminate or minimise those risks;

- (c) measures that the holder of the authority will take to rehabilitate the land that will be affected by the operation;
 - (d) other matters required by the regulations.
- (3) The holder of the relevant authority must not carry out the petroleum operation unless—
- (a) if the holder gives the Minister a new operation plan, the Minister has accepted the new operation plan in writing; or
 - (b) if the holder has applied to vary the accepted operation plan, the Minister permits the holder to vary the accepted operation plan.
-
-

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: 3 September 1998

Legislative Council: 21 October 1998

The long title for the Bill for this Act was "A Bill to repeal and re-enact, with amendments, the **Petroleum Act 1958** and for other purposes."

The **Petroleum Act 1998** was assented to on 24 November 1998 and came into operation as follows:

Part 1 (sections 1–10) on 24 November 1998: section 2(1); rest of Act on 1 December 1999: section 2(3).

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 **Petroleum Act 1998** by Acts and subordinate instruments.

Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.03
Commencement Date: S. 11(Sch. item 14) on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Occupational Health and Safety Act 2004, No. 107/2004

Assent Date: 21.12.04
Commencement Date: S. 183 on 1.7.05: s. 3(1)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Pipelines Act 2005, No. 61/2005

Assent Date: 20.9.05
Commencement Date: S. 220 on 1.4.07: Government Gazette 29.3.07 p. 532
Current State: This information relates only to the provisions amending the **Petroleum Act 1998**

Aboriginal Heritage Act 2006, No. 16/2006

Assent Date: 9.5.06
Commencement Date: S. 198(Sch. 2 item 6) on 28.5.07: Government Gazette 24.5.07 p. 921
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 27) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Energy and Resources Legislation Amendment Act 2008, No. 25/2008

Assent Date: 3.6.08
Commencement Date: S. 21 on 4.6.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Energy and Resources Legislation Amendment Act 2009, No. 57/2009

Assent Date: 21.10.09
Commencement Date: Ss 35–41 on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Petroleum Act 1998
No. 96 of 1998
Endnotes

Offshore Petroleum and Greenhouse Gas Storage Act 2010, No. 10/2010

Assent Date: 23.3.10
Commencement Date: S. 800(Sch. 6 item 11) on 1.1.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date: 14.9.10
Commencement Date: Ss 57–65 on 14.10.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date: 21.9.10
Commencement Date: S. 144 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 **Petroleum Act 1998**

Personal Property Securities (Statute Law Revision and Implementation) Act 2010, No. 74/2010

Assent Date: 19.10.10
Commencement Date: S. 30 on 30.1.12: Special Gazette (No. 423) 21.12.11 p. 3
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 67) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Water Amendment (Governance and Other Reforms) Act 2012, No. 17/2012

Assent Date: 3.4.12
Commencement Date: S. 93 on 1.7.12: Special Gazette (No. 172) 29.5.12 p. 1
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Resources Legislation Amendment (General) Act 2012, No. 64/2012

Assent Date: 30.10.12
Commencement Date: Ss 46–61 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 **Petroleum Act 1998**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 34) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Petroleum Act 1998**

Petroleum Act 1998
No. 96 of 1998
Endnotes

**Resources Legislation Amendment (BTEX Prohibition and Other Matters)
Act 2014, No. 68/2014**

Assent Date: 23.9.14
Commencement Date: Ss 70, 71 on 1.9.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Petroleum Act 1998**

Resources Legislation Amendment (Fracking Ban) Act 2017, No. 8/2017

Assent Date: 15.3.17
Commencement Date: Ss 8–11 on 16.3.17: s. 2
Current State: This information relates only to the provision/s
amending the **Petroleum Act 1998**

Environment Protection Amendment Act 2018, No. 39/2018 (as amended by
No. 11/2020)

Assent Date: 28.8.18
Commencement Date: S. 48 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 **Petroleum Act 1998**

Petroleum Legislation Amendment Act 2020, No. 20/2020

Assent Date: 23.6.20
Commencement Date: Ss 5, 6, 24, 26, 27 on 24.6.20: s. 2(2); s. 28 on 6.10.20:
Special Gazette (No. 504) 6.10.20. p. 1; ss 4, 7–23, 25,
29 on 1.7.21: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Petroleum Act 1998**

3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

¹ Pt 9: Section 128 also effectively requires the consent of the owner or occupier of private land before any petroleum operation can start on that land.

² Pt 9 Div. 1: Section 40(2) of the **National Parks Act 1975** forbids petroleum operations on any land that is a national, State or other park under the **National Parks Act 1975** without the consent of the Minister responsible for that Act.