

NORTHERN TERRITORY OF AUSTRALIA

GEOHERMAL ENERGY ACT

As in force at 7 November 2011

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ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 7 November 2011

GEOHERMAL ENERGY ACT

An Act about the rights to conduct activities for the exploration of geothermal energy resources and the production of geothermal energy, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Geothermal Energy Act*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Object of Act

The object of this Act is to promote exploration for geothermal energy resources and production of geothermal energy in the Territory by implementing a scheme:

- (a) to give suitably qualified persons the right to occupy areas of land to conduct activities necessary for the exploration and production; and
- (b) to provide for protection of the environment during the exploration and production.

4 Definitions

In this Act:

Aboriginal land, see section 3(1) of the ALRA.

application area means the area of land to which a geothermal authority application relates.

approved form means a form approved under section 117.

approved operations plan means a geothermal operations plan approved under section 68.

area of land, in relation to an application area or geothermal authority area, includes the area above, on or under the surface of the land.

block, see section 5(3).

conditions, of a geothermal authority, means conditions:

- (a) included in the authority by the Minister; and
- (b) applicable to the authority as specified under Part 5, Division 3.

contractor means a person who, under a contract, performs work or supplies a service in connection with geothermal activities in a geothermal authority area.

critical incident means an occurrence, in a geothermal authority area, that has the potential to cause a significant adverse effect on the environment.

environmental harm, see section 82(1).

environmental nuisance, see section 83(1).

environmental obligation means an obligation under Part 8, Division 2.

environmental offence means an offence specified in Part 8, Division 3.

environmental protection strategy, for a geothermal authority area, means the strategy mentioned in section 67(2)(b) that is included in a geothermal operations plan for the area.

exploration, for geothermal energy resources, includes the following activities:

- (a) all methods of:
 - (i) searching for the resources and taking samples for analysis; and
 - (ii) extracting and testing the resources for geothermal energy to determine the commercial viability of producing energy;

- (b) the work and operations necessary to conduct the activities mentioned in paragraph (a).

extraction, of geothermal energy resources or geothermal energy, includes activities incidental to the extraction, including drilling and the construction and operation of pumps and pipes.

future act, see section 233 of the NTA.

GDA 94 means the national datum known as Geocentric Datum of Australia 1994 used for surveying, mapping and spatial referencing of geographical data.

geothermal activities means activities relating to exploration for, or extraction or production of, geothermal energy resources or geothermal energy.

geothermal authority means 1 of the following:

- (a) a geothermal exploration permit;
- (b) a geothermal retention licence;
- (c) a geothermal production lease.

geothermal authority application means an application for:

- (a) the grant, renewal, variation or surrender of a geothermal authority; or
- (b) the surrender of part of a geothermal authority area.

geothermal authority area means a permit area, licence area or lease area.

geothermal authority holder means a permit holder, licence holder or lease holder.

geothermal authority interest means a legal or equitable interest in or affecting, or a right under:

- (a) a geothermal authority; or
- (b) a geothermal authority application.

geothermal energy means heat energy that results from natural geological processes and is contained in geothermal energy resources.

geothermal energy officer means a geothermal energy officer appointed under section 119.

geothermal energy resources means any of the following occurring naturally within the Earth:

- (a) geothermal water;
- (b) rock or any other material containing heat energy.

geothermal exploration permit, see section 11(1).

geothermal operations plan, see section 67(2).

geothermal production lease, see section 30(1).

geothermal retention licence, see section 21(1).

geothermal water means:

- (a) water, water vapour or steam heated naturally within the Earth to 70°C or more; or
- (b) a mixture of such water, water vapour or steam.

information includes documents.

land of the Territory, see section 7(2).

lease means a geothermal production lease.

lease area means the area of land comprising the blocks to which a lease relates.

lease holder means the holder of a geothermal production lease.

licence means a geothermal retention licence.

licence area means the area of land comprising the blocks to which a licence relates.

licence holder means the holder of a geothermal retention licence.

management system, for a geothermal authority area, means the system mentioned in section 67(2)(a) that is included in the geothermal operations plan for the area.

material environmental harm, see section 83(2).

mineral, see section 9 of the *Mineral Titles Act*.

mineral title means one of the following:

- (a) a mineral title mentioned in section 11(1) of the *Mineral Titles Act*;
- (b) a non-compliant existing interest as defined in section 204(1) of the *Mineral Titles Act*.

native title holder, see section 224 of the NTA.

native title rights and interests, see section 223 of the NTA.

necessary criteria, for a geothermal authority application, means the criteria specified in section 37.

occupier, of land, includes:

- (a) a person who has control or management of the land; and
- (b) if a person holds a mineral title or petroleum interest for the land – the person.

officer means a geothermal energy officer.

operator, for a geothermal authority area, means:

- (a) the person appointed in writing by the geothermal authority holder to control and manage the geothermal activities being, or to be, conducted in the area; or
- (b) if the geothermal authority holder has not appointed a person to be the operator for the area – the geothermal authority holder.

owner, of land, includes the following:

- (a) a person registered under the *Land Titles Act* as the owner of the land;
- (b) a person who has a legal or equitable interest in the land;
- (c) in relation to Aboriginal land – the Aboriginal Land Trust for the land;
- (d) a native title holder or registered native title claimant in relation to the land.

permit means a geothermal exploration permit.

permit area means the area of land comprising the blocks to which a geothermal exploration permit relates.

permit holder means the holder of a geothermal exploration permit.

petroleum, see section 5(1) of the *Petroleum Act*.

petroleum interest, see section 5(1) of the *Petroleum Act*.

prescribed tribunal, in relation to a decision or hearing, means the Tribunal or court that the regulations specify under section 123(1) may conduct a review of the decision or the hearing.

reasonably believes means believes on reasonable grounds.

register means the Geothermal Authorities Register mentioned in section 70.

registered native title claimant, see section 253 of the NTA.

registration means the entry of information in the register.

reserved block means a block reserved under section 6(1).

security means security required under Part 5, Division 7.

serious accident means an occurrence, in a geothermal authority area, that causes material environmental harm.

serious environmental harm, see section 83(3).

technical work program, see section 65.

term, of a geothermal authority, means the period when the authority is in force.

the ALRA means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

the NTA means the *Native Title Act 1993* (Cth).

workforce means the people and entities working or providing services in connection with geothermal activities in a geothermal authority area.

5 Block

- (1) For this Act, the land of the Territory is taken to be divided into graticular sections by the following lines:
 - (a) the meridian of longitude 129 degrees east and each meridian of longitude east of it, with a distance of 1 minute between each of the meridians;

- (b) the parallel of latitude 26 degrees south and each parallel of latitude north of it, with a distance of 1 minute between each of the parallels.
- (2) The geographical coordinates of the graticular sections are determined on the basis of GDA 94.
- (3) A **block** is so much of a graticular section that is within the land of the Territory.
- (4) A reference in this Act to a block includes a reference to part of the block.

6 Reserved block

- (1) The Minister may, by *Gazette* notice, reserve a specified block (a **reserved block**) from exploration for, or the extraction or production of, geothermal energy resources or geothermal energy.
- (2) A person is not entitled to apply for a geothermal authority for a reserved block unless a notice inviting applications has been published under section 12.

7 Land to which Act applies

- (1) This Act applies to all the land of the Territory.
- (2) The **land of the Territory** includes the coastal waters of the Territory as defined in section 3(1) of the *Coastal Waters (Northern Territory Powers) Act 1980* (Cth).

8 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

9 Ownership of geothermal energy

- (1) The Territory owns geothermal energy contained in geothermal energy resources before the resources are extracted in accordance with a geothermal production lease.
- (2) A person who holds a geothermal production lease becomes the owner of geothermal energy resources and geothermal energy extracted in accordance with the lease.

10 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Exploration for geothermal energy resources

Division 1 Geothermal exploration permits

11 Geothermal exploration permit

- (1) A ***geothermal exploration permit*** is an instrument that:
 - (a) gives the permit holder:
 - (i) the right to occupy the permit area; and
 - (ii) the exclusive right to conduct exploration for geothermal energy resources in the permit area; and
 - (b) is in force and entered in the register.
- (2) The rights of the permit holder may be exercised only in accordance with the conditions of the permit.
- (3) The permit remains in force:
 - (a) for 5 years after the date it is granted or renewed; or
 - (b) if it is surrendered or cancelled before that time – until the surrender or cancellation takes effect.

Division 2 Applications for grants of permits

12 Invitation to apply for permit for reserved blocks

- (1) The Minister may, by *Gazette* notice:
 - (a) state that specified reserved blocks may be released for the grant of geothermal exploration permits; and
 - (b) invite applications for the grant of permits for any of the blocks.

- (2) The notice must include the following information:
- (a) a description of the blocks that may be released, expressed in geographical coordinates determined on the basis of GDA 94;
 - (b) if applicable – the persons entitled to apply to the Minister for the grant;
 - (c) the period allowed for making an application;
 - (d) the conditions on which an application may be made;
 - (e) a statement that a permit may be granted only to an applicant who complies with those conditions;
 - (f) the information required from an applicant.

13 General entitlement to apply for permit

- (1) A person may apply to the Minister for the grant of 1 or more geothermal exploration permits.
- (2) The application area for each application for the grant of a permit may comprise:
- (a) not more than 2 000 adjoining blocks; or
 - (b) if the Minister has given written approval – more than 2 000 adjoining blocks.
- (3) However, an application area must not comprise any of the following blocks:
- (a) reserved blocks;
 - (b) blocks within a geothermal authority area;
 - (c) blocks that are within the application area for another application for the grant of a permit received by the Agency on an earlier day.

14 Consideration of applications received on same day

- (1) This section applies if:
- (a) the Agency receives, on the same business day, 2 or more applications for the grant of a geothermal exploration permit; and
 - (b) the Minister is satisfied each application area is substantially the same; and

- (c) each applicant has met the requirements for the application specified in section 35.
- (2) The Minister must decide which application has the greatest merit to be given consideration for the grant of a permit.
- (3) An application for the grant of a permit received by the Agency after 4 pm on a business day is taken to have been received on the next business day.

Note

Section 112(2) has the effect that the Minister need not consider an application under this section if a fee prescribed for making the application has not been paid.

15 Public notice of application

- (1) This section applies if, after considering an application for the grant of a geothermal exploration permit, the Minister is satisfied the applicant:
 - (a) has met the necessary criteria for the application; and
 - (b) has paid the advertising costs of giving public notice of the application, as required by the Minister.
- (2) The Minister must publish, in a newspaper circulating throughout the Territory, a notice stating that the application for a permit has been made.
- (3) The notice must include the following information:
 - (a) the name of the applicant;
 - (b) a description or map of the application area clearly indicating its location and boundaries;
 - (c) a statement that an owner or occupier of land within or adjoining the application area may, in writing and within a specified period, object to the grant of a permit;
 - (d) a statement that any other person may, in writing and within a specified period, make written submissions about the application;
 - (e) details of the address where objections and submissions may be given to the Minister;
 - (f) other details about the application that the Minister considers will allow a person to make proper objections or submissions.

- (4) The period stated under subsection (3)(c) or (d) must be at least 30 days after the date the notice is published.
- (5) The Minister may require the applicant to give a copy of the notice to a particular owner (except a native title holder or registered native title claimant) or occupier of land within or adjoining the application area.

Note for subsection (5)

Under the NTA, the Minister is responsible for giving notice of the application to native title holders or registered native title claimants.

- (6) If the Minister is satisfied granting the permit will be a future act in relation to any of the application area, the Minister must ensure the relevant procedures under the NTA for giving notice of the application, and allowing comments or objections, are followed.

16 Objections, submissions and responses

- (1) As soon as practicable after the end of the period stated under section 15(4), the Minister must give the applicant:
 - (a) a copy of each objection and submission given to the Minister under section 15; and
 - (b) a notice stating the applicant's right to respond to any of the objections or submissions within 21 days after the date of the notice.
- (2) If the applicant wishes to respond to an objection or submission, the applicant must give the Minister, and the person who made the objection or submission, a written response within the period stated under subsection (1)(b).

17 Deciding application

- (1) The Minister may make a decision under this section only after the Minister has considered all of the following:
 - (a) the application for the grant of a geothermal exploration permit;
 - (b) all objections and submissions given to the Minister within the period stated under section 15(3)(c) or (d);
 - (c) all responses to objections and submissions received from the applicant within the period stated under section 16(1)(b);
 - (d) any other matter the Minister considers relevant to the application.

- (2) The Minister may decide to:
 - (a) grant a permit over all the blocks comprising the application area; or
 - (b) grant a permit over some of the blocks comprising the application area; or
 - (c) refuse to grant a permit.

Division 3 Applications for renewals of permits

18 Application for renewal

- (1) A permit holder may apply to the Minister for the renewal of the permit no earlier than 6 months, and no later than 3 months, before the end of its term.
- (2) However, the application may only relate to the following number of blocks in the permit area:
 - (a) if the permit area comprises an even number of blocks – no more than half that number;
 - (b) if the permit area comprises an uneven number of blocks – no more than half that number plus 1.
- (3) The blocks specified in the application must comprise:
 - (a) a single area of land; or
 - (b) a number of discrete areas of land comprising 4 or more adjoining blocks.

Note

See section 40 for information about the continuation of the current permit during the application process.

19 Deciding application

- (1) The Minister may decide to:
 - (a) renew the geothermal exploration permit over all the blocks comprising the application area; or
 - (b) renew the permit over some of the blocks comprising the application area; or
 - (c) refuse to renew the permit.

- (2) The Minister may renew the permit under subsection (1)(a) or (b) only if the applicant has met the necessary criteria for the application.

20 Limit on renewals

The Minister must not renew a geothermal exploration permit more than twice.

Part 3 Evaluation of geothermal energy resources

Division 1 Geothermal retention licences

21 Geothermal retention licence

- (1) A ***geothermal retention licence*** is an instrument that:
- (a) gives the licence holder:
 - (i) the right to occupy the licence area; and
 - (ii) the exclusive right to conduct activities in the licence area that are necessary to evaluate the development potential of the geothermal energy resources discovered in the area; and
 - (b) is in force and entered in the register.
- (2) Activities for evaluating the development potential include any of the following:
- (a) exploration;
 - (b) appraisal drilling;
 - (c) activities relating to environmental studies, commercial viability assessments and the design of infrastructure necessary for the generation of power.
- (3) The licence does not give the licence holder the right to produce geothermal energy commercially.
- (4) The rights of the licence holder may be exercised only in accordance with the conditions of the licence.
- (5) The licence remains in force:
- (a) for a period, specified in the licence, of not more than 5 years;
or

- (b) if it is surrendered or cancelled before that time – until the surrender or cancellation takes effect.

Division 2 Applications for grants of licences

22 Application for grant of licence

- (1) The holder of a geothermal exploration permit may, at any time during the term of the permit, apply to the Minister for the grant of 1 or more geothermal retention licences if the permit holder:
 - (a) has given notice of the discovery of geothermal energy resources in the permit area as required by section 48; and
 - (b) believes the resources are potentially commercially viable.
- (2) A proposed licence area may comprise all or part of the permit area.

23 Decision to grant licence

The Minister may decide to grant a geothermal retention licence to an applicant only if satisfied:

- (a) the geothermal energy resources discovered by the applicant are potentially commercially viable; and
- (b) the applicant has met the necessary criteria for the application.

24 Effect on geothermal exploration permit and permit area

- (1) The term of a geothermal exploration permit and the permit area are not affected by:
 - (a) an application for the grant of a geothermal retention licence over or within the permit area; or
 - (b) the refusal by the Minister to grant a licence.
- (2) However, the grant of a geothermal retention licence within the permit area excises the licence area from the permit area.
- (3) The permit continues in force for the permit area that remains after the licence area is excised.

Division 3 Applications for renewals of licences

25 When application for renewal of licence to be made

A licence holder may apply to the Minister for a renewal of the licence no later than 3 months before the end of its term.

Note

See section 40 for information about the continuation of the current licence during the application process.

26 Deciding application

The Minister may decide to renew a geothermal retention licence if 1 of the following circumstances applies:

- (a) the Minister is satisfied the licence holder has met the necessary criteria for the application;
- (b) the licence holder has not met the necessary criteria, but the Minister is satisfied there are circumstances to justify the renewal.

27 Limit on renewals

The Minister must not renew a geothermal retention licence more than twice.

Division 4 Requirements for licence holders

28 Requirement for commercial viability report

- (1) If required by the Minister, a licence holder must give the Minister a report about the commercial viability of the geothermal energy resources within the licence area.
- (2) The report must be given to the Minister within:
 - (a) 90 days after the date of the requirement; or
 - (b) the further period allowed by the Minister on the written request of the licence holder for an extension of time.

29 Requirement to apply for geothermal production lease

- (1) If the Minister is satisfied commercial production of geothermal energy should begin in a licence area, the Minister may require the licence holder for the area to give written reasons why the licence holder should not apply for a geothermal production lease.

- (2) The requirement must specify the period, of not less than 6 months, within which the licence holder must give the reasons.
- (3) If the Minister is not satisfied by the reasons given by the licence holder, or if the licence holder does not give reasons within the period allowed under this section, the Minister may:
 - (a) require the licence holder to apply for a lease within a specified period of not less than 3 months after the date of the notice; or
 - (b) cancel the licence.

Part 4 Production of geothermal energy

Division 1 Geothermal production leases

30 Geothermal production lease

- (1) A ***geothermal production lease*** is an instrument that:
 - (a) gives the lease holder:
 - (i) the right to occupy the lease area; and
 - (ii) the exclusive right to conduct activities in the lease area related to the production of geothermal energy and the generation of power; and
 - (b) is in force and entered in the register.
- (2) Activities related to the production of geothermal energy include:
 - (a) continuing exploration for geothermal energy resources; and
 - (b) extraction of geothermal energy resources or geothermal energy.
- (3) Activities related to the generation of power include the construction and maintenance of buildings and infrastructure in connection with the power generation.
- (4) The rights of the lease holder may be exercised only in accordance with the conditions of the lease.
- (5) The lease remains in force until the date on which a surrender or cancellation of the lease takes effect.

Division 2 Applications for grants of leases

31 Entitlement to apply for lease

- (1) The holder of a geothermal exploration permit or geothermal retention licence may, at any time during the term of the permit or licence, apply to the Minister for the grant of 1 or more geothermal production leases within the permit area or licence area.

Note for subsection (1)

Notice of the discovery of geothermal energy resources must have been given under section 48.

- (2) A person who does not hold a permit or licence for a particular area of land may apply for the grant of a lease for the land only if:
- (a) the land is not within a reserved block or geothermal authority area; and
 - (b) the person satisfies the Minister:
 - (i) of the existence of geothermal energy resources within the land; or
 - (ii) that the person requires the lease to support geothermal energy production in an existing lease area.
- (3) An applicant for the grant of a geothermal production lease must apply for a lease area sufficient to:
- (a) cover the maximum extent of the geothermal energy resources within the lease area; and
 - (b) enable future development, production and storage capacity.

32 Grant of lease

- (1) The Minister must grant a geothermal production lease to an applicant for the grant if the applicant has met the necessary criteria for the application.
- (2) Also, the Minister may grant a lease to an applicant for the grant if:
- (a) the applicant has substantially met the necessary criteria for the application; and
 - (b) the Minister is satisfied there are circumstances to justify the grant.

33 Effect of grant of lease

- (1) The term and geothermal authority area of a geothermal exploration permit or geothermal retention licence (the ***original authority***) are not affected by:
 - (a) an application for the grant of a geothermal production lease within the original authority area; or
 - (b) the refusal by the Minister to grant a lease.
- (2) However, the grant of a lease within the original authority area excises the lease area from the original authority area.
- (3) The original authority continues in force for the original authority area that remains after the lease area is excised.

Division 3 Payment of royalties

34 Liability to pay royalty under lease

- (1) The Minister may include a condition in each geothermal production lease that the lease holder must pay to the Minister a royalty in relation to all geothermal energy extracted under the lease.
- (2) The regulations may prescribe any of the following:
 - (a) the rate at which a royalty is payable by each lease holder;
 - (b) the method of calculating the rate of payment of a royalty;
 - (c) the frequency and manner of payment of royalties;
 - (d) matters incidental to the payment of royalties.

Part 5 General provisions for geothermal authorities

Division 1 Geothermal authority applications generally

35 Making geothermal authority application

- (1) A geothermal authority application is made when it is received by the Agency.
- (2) A geothermal authority application must be substantially in accordance with the relevant approved form and must:
 - (a) include the information required by the relevant approved form; and

- (b) include any further information prescribed by regulation for the particular application; and
 - (c) be accompanied by each document that this Act states must accompany the application.
- (3) A geothermal authority application must be accompanied by a technical work program for the application area if the application is for any of the following:
 - (a) the grant or renewal of a geothermal exploration permit;
 - (b) the grant or renewal of a geothermal retention licence;
 - (c) the grant of a geothermal production lease.

Note

Section 112(2) has the effect that the Minister need not consider a geothermal authority application if a prescribed fee for the application has not been paid.

36 Applications relating to Aboriginal land or future act

- (1) If an application area is within Aboriginal land, the Minister must not decide the geothermal authority application unless satisfied the applicant has obtained the permit, consent or agreement required under the ALRA for the applicant to conduct the geothermal activities to which the application relates.
- (2) If a geothermal authority application is for the grant or renewal of a geothermal authority, and the Minister is satisfied the grant or renewal will be a future act in relation to any of the application area, the Minister must not decide the application unless satisfied all procedures under the NTA relevant to the future act have been followed.

37 Necessary criteria for geothermal authority application

The necessary criteria to be met for a geothermal authority application are as follows:

- (a) the applicant has given the Minister all the information required to make a proper decision;
- (b) the applicant has complied with any requirements of the Minister;
- (c) if the applicant currently holds 1 or more geothermal authorities – the applicant has complied with each authority;

- (d) if required by this Act – the Minister has approved the technical work program for the application area;
- (e) any other necessary criteria specified by regulation.

38 Procedure for making and notifying decisions

- (1) When the Minister is deciding a geothermal authority application, the Minister must follow the procedures prescribed by regulation in relation to the following matters:
 - (a) the matters to be taken into consideration in making the decision;
 - (b) giving notice about the decision or the intention to make the decision;
 - (c) the period within which the applicant may make submissions to the Minister about the decision or intention;
 - (d) giving notice about the applicant's entitlement to a review of the decision.
- (2) The Minister may, if it is necessary to ensure procedural fairness, extend a period prescribed for subsection (1).

39 Reasons for refusing geothermal authority application

The Minister may refuse to grant, renew or vary a geothermal authority, or to accept the surrender of a geothermal authority or part of a geothermal authority area, if any of the following apply:

- (a) the relevant geothermal authority application is deficient or defective;
- (b) the applicant has not met the necessary criteria for the application;
- (c) the grant, renewal or variation, or acceptance of the surrender, would not be in the best interests of the Territory;
- (d) the Minister is satisfied there are other circumstances to justify the refusal.

40 Continuation of geothermal authority until related decision made

- (1) A geothermal authority (the **existing authority**) remains in force after the end of its term if, before that time, the holder of the existing authority has applied for:
 - (a) a renewal of the existing authority; or
 - (b) the grant of another geothermal authority, the entitlement to which is dependent on the existing authority.
- (2) The existing authority ceases to be in force on the day when the following relevant decision of the Minister takes effect:
 - (a) the refusal to renew the existing authority;
 - (b) the grant or refusal to grant the other authority.

Division 2 Rights under geothermal authorities

41 Rights in connection with occupation of authority area

- (1) The right of a geothermal authority holder to occupy the geothermal authority area includes the right to:
 - (a) enter and occupy the area at any time with the vehicles, machinery and equipment necessary for, or incidental to, conducting the technical work program for the area; and
 - (b) with the Minister's written approval – fence all or part of the area to restrict access to the area or part; and
 - (c) use the water resources of the area for the workforce in the area or in connection with the technical work program for the area.
- (2) In considering an application to fence all or part of a geothermal authority area, the Minister must consider:
 - (a) the interests of the owners and occupiers of land within or adjacent to the area or part; and
 - (b) whether it is reasonable to fence the area or part.
- (3) The Minister's approval to fence may:
 - (a) require the holder to give public notice of the fencing in a specified way; and

- (b) include other requirements.

42 Right to construct road for access to authority area

- (1) A geothermal authority holder has the right to enter land and construct a road, and do other work, to gain access to the geothermal authority area by the shortest practicable route from:
 - (a) a road as defined in section 5(1) of the *Control of Roads Act*; or
 - (b) a railway line; or
 - (c) the sea or a waterway.
- (2) The geothermal authority holder may use the machinery, equipment and persons necessary to mark out and construct the road and do the other work.

Division 3 Conditions of geothermal authorities

43 General conditions

- (1) Obligations and restrictions specified under this Division are conditions of a geothermal authority that apply in addition to conditions included in the authority by the Minister.
- (2) The Minister may include the conditions in a geothermal authority that the Minister considers appropriate, including conditions requiring the geothermal authority holder to obtain the Minister's approval before taking a particular action.
- (3) The conditions the Minister includes in a renewed geothermal authority may be different to the conditions included in the authority before renewal.

44 Certain conditions extend to operator

- (1) This section applies if:
 - (a) conditions included in a geothermal authority, or specified under this Division, impose an obligation or restriction on the geothermal authority holder in relation to the geothermal activities conducted under the authority; and
 - (b) the holder has appointed an operator for the geothermal authority area.
- (2) The obligation or restriction imposed on the geothermal authority holder extends to the operator.

45 Compensation for future act

If the grant or renewal of a geothermal authority is a future act to which section 24GE of the NTA applies, the geothermal authority holder must reimburse the Territory for any amount of compensation paid by the Territory under the NTA to the native title holders whose native title rights and interests are affected by the future act.

Note

The Minister may also require a security under section 61.

46 Compliance with approved operations plan and Minister's requirements

A geothermal authority holder must comply with:

- (a) the approved operations plan for the geothermal authority area; and
- (b) requirements given by the Minister to the holder under this Act.

47 Compliance with other laws

A geothermal authority holder must:

- (a) in conducting geothermal activities in a geothermal authority area, comply with any requirement under a law in force in the Territory in relation to the use of land or natural resources; and
- (b) ensure the workforce in the geothermal authority area complies with any such requirement.

48 Actions following discovery of particular resources

- (1) A geothermal authority holder must notify the Minister if any of the following are discovered while geothermal activities are being conducted:
 - (a) geothermal energy resources;
 - (b) petroleum;
 - (c) a mineral;
 - (d) a significant underground water resource.

(2) As soon as practicable after the discovery, the geothermal authority holder must:

- (a) give the Minister written notice of it; and
- (b) take all reasonable actions to prevent the following:
 - (i) contamination between aquifers and hydrocarbon bearing formations;
 - (ii) leakage from, or pollution of, aquifers or hydrocarbon bearing formations.

49 Consent required from owners of certain land

(1) A geothermal authority holder must, before conducting geothermal activities on the following land, obtain the written consent of the appropriate person to conduct the activities:

- (a) land lawfully used as a residence, yard, garden, orchard or cultivated field or within 50 metres of such land;
- (b) land within 200 metres of any artificial accumulation of water or outlet from which water may be obtained;
- (c) land used as a cemetery as defined in section 4 of the *Cemeteries Act* or within 200 metres of such land.

(2) In this section:

appropriate person means the following:

- (a) for subsection (1)(a) – the owner of the land used as a residence, yard, garden, orchard or cultivated field;
- (b) for subsection (1)(b) – the owner of the land on which the water or water outlet is situated;
- (c) for subsection (1)(c) – the Board of Trustees of the cemetery.

50 Consultation with holders of mineral title and petroleum interests

Before conducting geothermal activities on land in relation to which a person holds a mineral title or petroleum interest, the geothermal authority holder must consult with the holder of the title or interest about the geothermal activities to be conducted.

51 Payment of fees

- (1) A geothermal authority holder must pay fees in relation to a geothermal authority as prescribed by regulation.
- (2) The regulations may prescribe any matter relevant to the payment of fees, including the following:
 - (a) an amount (of a fixed sum or as calculated) payable for a particular matter;
 - (b) if an amount is to be calculated – the method of calculation;
 - (c) the way in which payment may be made.
- (3) In this section:
fees includes rental payments.

52 Annual report

- (1) A geothermal authority holder must give the Minister an annual report about the geothermal activities conducted under the geothermal authority.
- (2) The regulations may prescribe any matter relevant to the annual report, including the following:
 - (a) the form and content of the report;
 - (b) the time, in relation to the calendar year or term of the geothermal authority, when the report must be given.

53 Drill cores, cuttings and other samples

- (1) As soon as practicable after a geothermal authority holder recovers a drill core, cutting or other sample (each of which is a **sample**) from the geothermal authority area, the holder must give the Minister written notice of the recovery.
- (2) The notice must include a description of the place where the sample was recovered.
- (3) As soon as practicable after a geothermal authority holder ceases to conduct geothermal activities under the geothermal authority, the holder must give the Minister each sample recovered that has not been disposed of under subsection (4).
- (4) A geothermal authority holder may dispose of a sample before ceasing geothermal activities under the geothermal authority only in accordance with the written authority of the Minister.

- (5) The regulations may prescribe any matter relevant to the following:
- (a) the giving of notice of the recovery of a sample;
 - (b) the giving of a sample;
 - (c) the keeping or disposal of a sample;
 - (d) the examination of a sample.

Division 4 Variation of conditions of geothermal authorities

54 Application to vary conditions of geothermal authority

- (1) This section applies only to conditions included in a geothermal authority by the Minister.
- (2) The geothermal authority holder may apply to the Minister to vary the conditions by taking 1 or more of the following actions:
- (a) amending a condition;
 - (b) suspending a condition;
 - (c) waiving a condition.
- (3) If the variation relates to the technical work program for the geothermal authority area:
- (a) the application must be accompanied by a revised technical work program and a varied geothermal operations plan; and
 - (b) the Minister may appoint a person to evaluate the proposed variation if:
 - (i) the Minister has consulted the applicant about the appointment; and
 - (ii) the applicant has paid the costs of the evaluation.
- (4) The Minister may decide to:
- (a) vary the conditions by taking the action requested in the application; or
 - (b) vary the conditions by taking another action; or
 - (c) refuse to vary the conditions.

55 Extension of term of permit after suspension of condition

If the Minister suspends a condition of a geothermal authority under section 54, the Minister may also extend the term of the authority by a period not exceeding the period of suspension.

Division 5 Surrender of geothermal authorities or parts of geothermal authorities areas

56 Application for acceptance of surrender

- (1) A geothermal authority holder may apply to the Minister to accept the surrender of:
 - (a) the geothermal authority; or
 - (b) part of the geothermal authority area.
- (2) The application must be accompanied by a report about the restoration and rehabilitation that has been, or is currently being, carried out in the relevant application area.

57 When Minister may accept surrender

- (1) The Minister may, by written notice, accept the surrender of a geothermal authority, or part of a geothermal authority area, only if satisfied the applicant has complied with the conditions of the geothermal authority for all of the geothermal authority area.
- (2) The Minister may require the applicant to take the actions the Minister considers appropriate to ensure compliance with this section and may refuse to accept the surrender if the applicant does not comply with the requirement.

Division 6 Cancellation of geothermal authorities or parts of geothermal authorities areas

58 Decision to cancel

- (1) The Minister may cancel:
 - (a) a geothermal authority; or
 - (b) a geothermal authority for part (the ***relevant part***) of the geothermal authority area.

- (2) Before making a decision to take action under subsection (1), the Minister must be satisfied the geothermal authority holder:
- (a) has contravened:
 - (i) a condition of the geothermal authority; or
 - (ii) a provision of this Act; or
 - (b) became liable to pay an amount to the Territory under this Act and did not pay the amount within 3 months after becoming liable; or
 - (c) has not used good work practices in carrying out the technical work program in the geothermal authority area or relevant part; or
 - (d) no longer has the financial resources to carry out the technical work program for the whole of the area or relevant part; or
 - (e) has not conducted geothermal activities in the area, or relevant part, for a continuous period of 2 years.
- (3) This section does not prevent the Minister from also commencing proceedings against the geothermal authority holder for:
- (a) an offence against a provision of this Act; or
 - (b) the recovery of an amount payable to the Territory under this Act.

59 Effect of cancellation of geothermal authority

- (1) If the Minister cancels a geothermal authority, or cancels a geothermal authority for part of the geothermal authority area, the geothermal authority holder must not apply for any geothermal authority for the blocks subject to the cancellation within 2 years after the date of cancellation.
- (2) Subsection (1) does not prevent any other person from applying for a geothermal authority for the blocks the subject of the cancellation within the period specified in subsection (1) or at any later time.

Division 7 Security and compensation

60 Security against environmental harm

- (1) This section applies:
- (a) before the Minister approves a geothermal operations plan for a geothermal authority area; or
 - (b) before the Minister registers the transfer of a geothermal authority interest; or
 - (c) at any time during the term of a geothermal authority; or
 - (d) in other circumstances prescribed by regulation.
- (2) The Minister may require the relevant person to give a security for the payment of costs and expenses that may be incurred by the Minister in relation to:
- (a) preventing, minimising or rectifying environmental harm apparently resulting from geothermal activities conducted in the geothermal authority area; or
 - (b) rehabilitating the geothermal authority area.
- (3) In this section:
- the relevant person*** includes the following:
- (a) the applicant for a geothermal authority;
 - (b) the person to whom a geothermal authority interest is to be transferred;
 - (c) the geothermal authority holder.

61 Security for compensation payable under the NTA

- (1) This section applies if the Minister has made a decision to grant or renew a geothermal authority and is satisfied the grant or renewal will be a future act to which section 24GE of the NTA applies.
- (2) The Minister may, before granting or renewing the geothermal authority, require the applicant to give a security for compensation for the future act that may be payable by the Territory under the NTA to the native title holders whose native title rights and interests are affected by the future act.

62 Form and amount of security

The Minister may require a security to be given in the form, and for the amount, the Minister considers necessary.

63 Compensation for damage to land

- (1) This section applies in relation to:
 - (a) an area of land within a geothermal authority area that is damaged as a result of the geothermal activities conducted on the land; or
 - (b) land over which a geothermal authority holder has exercised a right under section 42 resulting in damage to the land.
- (2) The owner or occupier of the land is entitled to compensation from the geothermal authority holder for the loss or damage in relation to the person's interest in the land.

64 Compensation payable under the NTA

- (1) This section applies if the grant or renewal of a geothermal authority is a future act to which Part 2, Division 3, Subdivision M of the NTA applies.
- (2) The geothermal authority holder is liable to pay compensation under the NTA to the native title holders whose native title rights and interests are affected by the future act.

Part 6 Technical work programs and geothermal operations plans

Division 1 Technical work programs

65 Technical work program

- (1) A ***technical work program*** is a document, in relation to a relevant area, that includes the following information:
 - (a) a summary of the technical work to be done in connection with the geothermal activities conducted, or proposed to be conducted, in the relevant area;
 - (b) if the geothermal authority holder, or applicant for a geothermal authority application, has appointed an operator for the relevant area:
 - (i) the name and contact details of the operator; and

- (ii) a copy of the written document appointing the operator;
 - (c) evidence of the financial and technical capacity of the operator to do the technical work summarised in the program;
 - (d) any other information prescribed by regulation.
- (2) In this section:

relevant area means:

- (a) a geothermal authority area; or
- (b) an application area.

66 Approval of technical work program

The Minister may, in writing, approve a technical work program for an application area if the Minister is satisfied:

- (a) the program is appropriate for the geothermal activities proposed to be conducted in the area; and
- (b) the operator has the financial and technical capacity to carry out the work summarised in the program.

Division 2 Geothermal operations plans

67 Geothermal operations plan

- (1) Before beginning to conduct geothermal activities after the grant or renewal of a geothermal authority, the geothermal authority holder must give the Minister, for approval, a geothermal operations plan for the geothermal authority area.
- (2) A **geothermal operations plan**, for a geothermal authority area, is a document that includes the following information:
 - (a) the system for implementing and managing the technical work to be done in the area;
 - (b) the strategy that will operate in the area for the protection of the environment;
 - (c) any other information prescribed by regulation.
- (3) The management system may include the following details:
 - (a) the management structure of the workforce;

- (b) the duties of particular members of the workforce who are working or providing services for the technical work program;
 - (c) the competencies required for particular members of the workforce.
- (4) The environmental protection strategy may include the following details:
 - (a) the duties of particular members of the workforce under the strategy;
 - (b) instructions and procedures for particular members of the workforce under the strategy.

68 Approval of geothermal operations plan

- (1) The approval of a geothermal operations plan must be in writing.
- (2) The approval may be subject to conditions relating to the following matters:
 - (a) an environmental assessment, under the *Environmental Assessment Act*, of proposed geothermal activities;
 - (b) the giving of a security;
 - (c) the periods, in addition to those prescribed by regulation, when the geothermal operations plan must be reviewed and given to the Minister for approval;
 - (d) any other matter the Minister considers appropriate.
- (3) If any part of a geothermal authority area is within a protected area, the Minister must take into account the opinions of the responsible Minister and any responsible person.
- (4) The Minister must not approve a geothermal operations plan for a geothermal authority area that is within a protected area if:
 - (a) the geothermal operations plan is inconsistent with any plan of management (however described) in force for the protected area; and
 - (b) the responsible Minister or a responsible person objects to the approval.

(5) In this section:

protected area means the following:

- (a) a park or reserve as defined in section 9(1) of the *Territory Parks and Wildlife Conservation Act* or in section 3(1) of the *National Parks and Wildlife Conservation Act 1975* (Cth);
- (b) a wilderness zone as defined in section 9(1) of the *Territory Parks and Wildlife Conservation Act*;
- (c) a sanctuary as defined in section 3 of the *Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act*.

responsible Minister, for a protected area, means the Minister responsible for the Act establishing the protected area.

responsible person, for a protected area, means a person or body responsible for the management or control of the protected area.

69 Variation of geothermal operations plan

- (1) A geothermal authority holder may apply to the Minister for the approval of a variation of the geothermal operations plan for the geothermal authority area.
- (2) The Minister may, by written notice to a geothermal authority holder, require the holder to vary the geothermal operations plan for the geothermal authority area.

Part 7 Geothermal Authorities Register

Division 1 Registration of information relating to geothermal authorities

70 Register

- (1) The Minister must keep a Geothermal Authorities Register.
- (2) The register is a record of information relating to the following:
 - (a) geothermal authority applications;
 - (b) geothermal authorities;
 - (c) geothermal authority interests;
 - (d) dealings with geothermal authority applications and geothermal authorities.

- (3) The Minister may:
 - (a) keep information in the register in any form or combination of forms the Minister considers appropriate; and
 - (b) publish on the Agency's website information from the register that the Minister considers suitable for public inspection.
- (4) However, the Minister may withhold certain information if the Minister considers it is necessary to do so to preserve confidentiality.
- (5) A person may inspect the register during the normal business hours of the Agency and, on request, may be given a copy or summary of information in the register.
- (6) The regulations may prescribe the following:
 - (a) information to be entered in the register;
 - (b) a fee payable by a person for inspecting the register and for a copy or summary of information given to the person.

71 Evidence and validity of geothermal authority interest

- (1) A geothermal authority interest is not capable of being created, transferred, assigned, devolved or dealt with in any way except by written instrument.
- (2) Registration under this Division of an instrument mentioned in subsection (1) does not give the geothermal authority interest evidenced by the instrument any validity or effect that it would not have had if this Division had not been enacted.

72 Registration of transfer of geothermal authority interest

- (1) A person who has a geothermal authority interest may apply to the Minister for registration of the transfer of the interest, or part of the interest, to another person.
- (2) The application must be accompanied by:
 - (a) the instrument of transfer, signed by all the parties to the transfer; and
 - (b) if the transferee intends to change the technical work program or geothermal operations plan for the geothermal authority area – a revised work program and varied operations plan.

- (3) The Minister may register the transfer if satisfied it is appropriate to do so.
- (4) The instrument of transfer has no effect until it is registered.

73 Registration of devolution of interest

- (1) A person on whom a geothermal authority interest has devolved by operation of law may apply to the Minister for registration of the devolution.
- (2) The person must give the Minister documentary evidence of the devolution.
- (3) If the Minister is satisfied a geothermal authority interest has devolved on the person, the Minister must enter information relating to the devolution in the register.
- (4) For this Act, the devolution of the geothermal authority interest has no effect until the relevant information is entered in the register.

74 Notice of registration

- (1) After the Minister has registered the transfer of a geothermal authority interest under section 72, the Minister must give written notice of the registration to each party to the transfer.
- (2) After the Minister has registered the devolution of a geothermal authority interest under section 73, the Minister must give written notice of the registration to the person who applied for the registration.
- (3) If the Minister considers it appropriate, the Minister may give written notice of the registration of information relating to a geothermal authority or geothermal authority application to a person who has an interest in the geothermal authority or application.

75 Correction of register

- (1) The Minister may, on the Minister's own initiative or on application under this section, correct an error in the register.
- (2) The Minister must correct an error if satisfied the correction is necessary to ensure accurate information relating to a geothermal authority, or geothermal authority application, is entered in the register.

- (3) A person may, in writing, apply to the Minister to correct the register in relation to any of the following matters:
 - (a) the omission of a dealing or information;
 - (b) the erroneous inclusion of a dealing or information;
 - (c) an error or defect in information recorded.

76 Minister's certificates

- (1) A certificate, purporting to be signed by the Minister, certifying a matter relating to information recorded in the register is admissible in a proceeding as evidence of the matter certified.
- (2) The Minister may supply a person with a certificate mentioned in subsection (1) if the person:
 - (a) applies in writing for the certificate; and
 - (b) pays the fee prescribed by regulation for the application.

77 Application of *Law of Property Act*

- (1) Subject to this section, the *Law of Property Act* applies in relation to an interest in land acquired under a geothermal authority.
- (2) Part 7 of the *Law of Property Act* applies in relation to a mortgage of a geothermal authority as if a reference in that Part to the Registrar-General were a reference to the Minister.
- (3) If there is an inconsistency between this Act and the *Law of Property Act*, this Act prevails.

Division 2 Caveats

78 Lodgment, acceptance and registration of caveat

- (1) A person claiming a geothermal authority interest in a geothermal authority or geothermal authority application (an ***affected authority***) may lodge with the Minister a caveat forbidding the registration, except in accordance with section 81, of any dealing with the affected authority that is received by the Minister after the Minister has accepted the caveat.
- (2) The caveat must be:
 - (a) in the approved form; and

- (b) state the name of the caveator and the address at which the caveator may be given notices; and
 - (c) state the interest claimed in the affected authority; and
 - (d) be signed by the caveator or the caveator's representative.
- (3) The Minister may accept the caveat and, as soon as practicable after doing so, must enter it in the register.

Note for subsection (3)

Section 112(1) and (2) has the effect that the Minister need not accept the caveat if it does not include the information required by this section or if a fee prescribed for lodging the caveat has not been paid.

- (4) The caveat comes into force when the Minister accepts the caveat.

79 When caveat ceases to be in force

- (1) The caveat ceases to be in force if:
- (a) it is withdrawn under subsection (2); or
 - (b) the prescribed tribunal orders under section 80(3) that it be removed from the register or cancelled; or
 - (c) section 81(1)(a) applies and no notice of continuance is accepted under section 81(3).
- (2) The caveator may withdraw the caveat by giving the Minister a written notice of the withdrawal.
- (3) If the caveat ceases to be in force (the **cancelled caveat**), the caveator must not lodge another caveat claiming the same geothermal interest as specified in the cancelled caveat unless the prescribed tribunal orders otherwise.

80 Notice of caveat and application for cancellation or removal

- (1) The Minister must give notice of the acceptance of a caveat to the holder of, or applicant for, the geothermal authority to which the caveat relates.
- (2) The holder or applicant may apply to the prescribed tribunal for a summons ordering the caveator to appear before the tribunal to give reasons why the caveat should not be removed from the register or cancelled.

- (3) The prescribed tribunal may make the orders it considers appropriate, including an order that:
 - (a) the caveat be removed from the register; or
 - (b) if the caveat has not yet been entered in the register – the caveat be cancelled.

81 Effect of caveat on registration of particular dealing

- (1) If, after accepting the caveat, the Minister receives an instrument purporting to deal with the geothermal authority or geothermal authority application to which the caveat relates (***the dealing***), the Minister:
 - (a) must give the caveator written notice of the receipt of the dealing; and
 - (b) may enter the dealing in the register only after the caveat ceases to have effect in relation to the dealing.
- (2) The caveat ceases to have effect in relation to the dealing:
 - (a) at the end of 30 days after notice is given to the caveator under subsection (1)(a); or
 - (b) if a notice of continuance of the caveat is accepted under subsection (3)(b) – on acceptance of the notice.
- (3) After the caveator receives a notice under subsection (1)(a):
 - (a) the caveator may lodge with the Minister a written notice of the continuation of the caveat; and
 - (b) the Minister must accept the notice of continuance if the caveator:
 - (i) lodges the notice before the end of the period mentioned in subsection (2)(a); and
 - (ii) pays any fee prescribed for the lodgment.

Part 8 Environmental protection

Division 1 Preliminary matters

82 Environmental harm

- (1) For this Act, ***environmental harm*** is:
- (a) harm to or an adverse effect on the environment of any level mentioned in section 83 and any duration; or
 - (b) potential harm to or potential adverse effect on the environment of any level mentioned in section 83 and any duration.
- (2) A reference in subsection (1)(b) to potential harm or potential adverse effect includes:
- (a) the risk of harm or an adverse effect; and
 - (b) future harm or an adverse effect.

83 Levels of environmental harm

- (1) ***Environmental nuisance*** is environmental harm that has, or may have:
- (a) an adverse effect on the amenity of land caused by noise, smoke, dust, fumes or odour; or
 - (b) an unsightly or offensive condition on the land.
- (2) ***Material environmental harm*** is environmental harm that:
- (a) is not trivial or negligible in nature; or
 - (b) consists of environmental nuisance of a high impact or on a wide scale; or
 - (c) results, or is likely to result, in not more than the prescribed amount being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or
 - (d) results in actual or potential loss or damage to the value of not more than the prescribed amount.

(3) **Serious environmental harm** is environmental harm that is more serious than material environmental harm and includes environmental harm that:

- (a) is irreversible or otherwise of a high impact or on a wide scale; or
- (b) damages an aspect of the environment that is of a high conservation value, high cultural value or high community value or is of special significance; or
- (c) results, or is likely to result, in more than the prescribed amount being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or
- (d) results in actual or potential loss or damage to the value of more than the prescribed amount.

(4) In this section:

prescribed amount means:

- (a) \$50 000; or
- (b) if the regulations prescribe a greater amount – that amount.

Division 2 Environmental obligations

84 General obligation to take care of environment

Each person in a geothermal authority area has an obligation to take care of the environment.

85 Obligations generally

- (1) A person in a geothermal authority area must comply with instructions and procedures applying to the person that are included in the environmental protection strategy for the area.
- (2) A person in a geothermal authority area must follow all reasonable directions about preventing environmental harm that are given by:
 - (a) the operator for the area; or
 - (b) another member of the workforce having the duty to give the person directions under the environmental protection strategy for the area.

(3) A person must not:

- (a) cause environmental harm in a geothermal authority area; or
- (b) interfere with or misuse anything provided in a geothermal authority area for environmental protection.

86 Obligations of owner who has appointed operator

A geothermal authority holder who has appointed an operator for the geothermal authority area must:

- (a) give the operator all relevant information available to the holder that may assist the operator to operate the environmental protection strategy; and
- (b) ensure the operator:
 - (i) is competent; and
 - (ii) provides adequate resources to operate the environmental protection strategy.

87 Obligations of operator

- (1) The operator for a geothermal authority area must ensure the environmental impact of the work done under the technical work program is limited to the impact necessary for the geothermal activities being conducted in the area.
- (2) To implement the geothermal operations plan, the operator must:
 - (a) establish and maintain an appropriate management structure of competent persons; and
 - (b) as far as practicable, ensure the workforce is competent to perform duties under the technical work program; and
 - (c) provide adequate resources for the operation of the environmental protection strategy; and
 - (d) ensure, by regular assessment, the environmental protection strategy is effective.

88 Obligations of workforce

- (1) Each person in the workforce in a geothermal authority area must keep informed about, and comply with, instructions and procedures applying to the person that are included in the environmental protection strategy for the area.

- (2) A contractor who employs members of the workforce in the area must, as far as practicable, ensure that each employee complies with subsection (1).
- (3) An employee of the operator for the area, or of a contractor working or providing services in the area, must, as soon as practicable, report to the employer:
 - (a) the occurrence of a serious accident or critical incident; or
 - (b) a situation the employee has reason to believe may present a risk to the environment.
- (4) A contractor working or providing services in the area must, as soon as practicable, report to the operator for the area:
 - (a) the occurrence of a serious accident or critical incident; or
 - (b) a situation the contractor has reason to believe may present a risk to the environment.

89 Consequence of contravention of environmental obligation

- (1) A person who contravenes an obligation imposed by this Division may be found guilty of an offence under Division 3 but the contravention does not of itself constitute an environmental offence.
- (2) The fact that environmental harm has occurred in a geothermal authority area is not of itself evidence of an environmental offence.

Division 3 Environmental offences

90 Serious environmental harm – recklessness

- (1) A person commits an offence if the person:
 - (a) engages in conduct in a geothermal authority area; and
 - (b) the conduct contravenes an environmental obligation; and
 - (c) the conduct results in serious environmental harm.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
- (b) is reckless about whether the conduct will result in serious environmental harm.

- (2) An offence against subsection (1) is an environmental offence level 1.
- (3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 91(1), 92(1), 93(1), 94(1) or 95(1).

91 Serious environmental harm – negligence

- (1) A person commits an offence if:
 - (a) the person engages in conduct in a geothermal authority area;
and
 - (b) the conduct contravenes an environmental obligation; and
 - (c) the conduct results in serious environmental harm.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
 - (b) is negligent about whether the conduct will result in serious environmental harm.
- (2) An offence against subsection (1) is an environmental offence level 2.
- (3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 92(1), 93(1), 94(1) or 95(1).

92 Material environmental harm – recklessness

- (1) A person commits an offence if:
 - (a) the person engages in conduct in a geothermal authority area;
and
 - (b) the conduct contravenes an environmental obligation; and
 - (c) the conduct results in material environmental harm.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and

- (b) is reckless about whether the conduct will result in material environmental harm.
- (2) An offence against subsection (1) is an environmental offence level 2.
- (3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 93(1), 94(1) or 95(1).

93 Material environmental harm – negligence

- (1) A person commits an offence if:
 - (a) the person engages in conduct in a geothermal authority area;
and
 - (b) the conduct contravenes an environmental obligation; and
 - (c) the conduct results in material environmental harm.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
 - (b) is negligent about whether the conduct will result in material environmental harm.
- (2) An offence against subsection (1) is an environmental offence level 3.
- (3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 94(1) or 95(1).

94 Environmental nuisance – recklessness

- (1) A person commits an offence if:
 - (a) the person engages in conduct in a geothermal authority area;
and
 - (b) the conduct contravenes an environmental obligation; and

- (c) the conduct results in environmental nuisance.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
 - (b) is reckless about whether the conduct will result in environmental nuisance.
- (2) An offence against subsection (1) is an environmental offence level 3.
 - (3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 95(1).

95 Environmental nuisance – negligence

- (1) A person commits an offence if:
 - (a) the person engages in conduct in a geothermal authority area; and
 - (b) the conduct contravenes an environmental obligation; and
 - (c) the conduct results in environmental nuisance.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
 - (b) is negligent about whether the conduct will result in environmental nuisance.
- (2) An offence against subsection (1) is an environmental offence level 4.

Division 4 Serious accidents and critical incidents

96 Operator must report serious accident or critical incident

- (1) As soon as practicable after the operator for a geothermal authority area becomes aware of the occurrence of a serious accident or critical incident in the area, the operator must notify the Minister of the occurrence.

Fault element: Strict liability offence.

Maximum penalty: 200 penalty units.

- (2) If the operator gives oral notification under subsection (1), the operator must also give the Minister written confirmation of the occurrence as soon as practicable after the oral notification.

Fault element: Strict liability offence.

Maximum penalty: 200 penalty units.

97 Operator must investigate serious accident

- (1) If a serious accident occurs in a geothermal authority area, the operator for the area must:

- (a) carry out an investigation to assess, if possible, the cause of the serious accident; and
- (b) give the Minister a written report about the serious accident within the prescribed period.

Fault element: Strict liability offence.

Maximum penalty: 200 penalty units.

- (2) For subsection (1)(b):

- (a) the prescribed period is 14 days after the occurrence of the serious accident or the period agreed between the operator and Minister; and
- (b) the report must include:
 - (i) details of the serious accident and an assessment of the cause of the accident; and
 - (ii) information about remedial actions taken, or to be taken, in relation to the serious accident; and

- (iii) recommendations for the prevention of the occurrence of further similar accidents.

98 No interference with place of serious accident

- (1) A person commits an offence if:
 - (a) a serious accident has occurred in a geothermal authority area; and
 - (b) the person interferes with the place where the serious accident occurred.

Fault elements:

The person:

- (a) knows a serious accident has occurred at the place; and
- (b) intentionally interferes with the place.

Maximum penalty: 200 penalty units.

- (2) Subsection (1) does not apply if the person engages in conduct at the place where the serious accident occurred to prevent further environmental harm.

Part 9 Legal proceedings, forfeiture or claim for delivery of seized thing and miscellaneous offences

Division 1 Legal proceedings

99 Commencing proceedings

- (1) Proceedings for an offence against a provision of this Act must not be commenced more than 3 years after the occurrence of the alleged offence.
- (2) Proceedings for an offence against this Act may be commenced only with the written consent of the Minister.
- (3) Subsection (2) does not apply to proceedings commenced by the Attorney-General or Director of Public Prosecutions.

100 Continuing offences

- (1) This section applies if a court has found a person guilty of an offence against a provision of this Act.
- (2) The court may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day on which the offence is committed.

101 Liability of executive officers of body corporate

- (1) If a body corporate commits an offence against this Act (the **principal offence**):
 - (a) each executive officer of the body corporate commits an offence (the **secondary offence**); and
 - (b) the officer is liable to the penalty applicable to an individual who commits the principal offence.
- (2) However, it is a defence for an executive officer to establish:
 - (a) the officer did not know, and could not reasonably have been expected to know, the principal offence was to be or was being committed; or
 - (b) the officer exercised due diligence to prevent the commission of the principal offence.
- (3) The executive officer may be found guilty of the secondary offence even though the body corporate has not been charged with, or found guilty of, the principal offence.
- (4) This section does not affect the liability of the body corporate for the principal offence.
- (5) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

Division 2 Forfeiture of and notice to claim seized thing

102 Definitions

In this Division:

relevant offence means an offence in connection with which a thing was seized under section 122(1)(h).

seized thing means a thing seized under section 122(1)(h) and delivered under section 122(3)(b).

103 Court may order forfeiture

- (1) This section applies in relation to a seized thing if a prosecution for a relevant offence commences within 12 months after the delivery of the seized thing.
- (2) If a court finds a person guilty of the relevant offence, the court may order the seized thing be forfeited to the Territory.
- (3) The forfeiture is in addition to the penalty imposed for the offence.
- (4) If a person is found guilty of the relevant offence, the person is liable to pay to the Territory the reasonable costs of handling, maintaining and storing the seized thing from the time it was seized, regardless of whether the court makes an order under subsection (2).

104 Minister may give notice to claim delivery

- (1) This section applies in relation to a seized thing if a prosecution for a relevant offence:
 - (a) is not commenced within 12 months after the delivery of the seized thing; or
 - (b) is commenced within 12 months after the delivery of the seized thing and the court does not make an order under section 103(2).
- (2) The Minister must give a notice to 1 of the following persons, requiring the person to claim delivery of the seized thing within 21 days after the date on which the person receives the notice:
 - (a) the person from whom the thing was seized;
 - (b) a person the Minister reasonably believes is the owner of the thing or has a legal interest in it.

- (3) If the person claims delivery of the seized thing as required, the Minister must refer the claim to the Court of Summary Jurisdiction for it to be dealt with as if it were a claim made by a claimant of property under section 130B of the *Justices Act*.
- (4) If the person does not claim delivery of the seized thing as required, the seized thing is forfeited to the Territory.

Division 3 Miscellaneous offences

105 Compliance with conditions of authority

The operator for a geothermal authority area commits an offence if the operator:

- (a) engages in conduct; and
- (b) the conduct results in a contravention of a condition of the geothermal authority for the area.

Fault elements:

The operator:

- (a) intentionally engages in the conduct; and
- (b) is reckless about whether the conduct will result in the contravention.

Maximum penalty: 500 penalty units.

106 No activities without authority and approved operations plan

An operator for a geothermal authority area commits an offence if the operator:

- (a) conducts geothermal activities in the area; and
- (b) there is no current:
 - (i) geothermal authority for the activities; or
 - (ii) approved operations plan for the geothermal authority area.

Fault elements:

The operator:

- (a) intentionally conducts the activities; and

(b) is reckless about whether there is a current:

- (i) geothermal authority for the activities; or
- (ii) approved operations plan for the area.

Maximum penalty: 500 penalty units.

107 No interference with geothermal energy activities or other work

A person must not interfere with:

- (a) geothermal activities being conducted under a geothermal authority; or
- (b) the construction of a road, or other work being done, under section 42.

Fault element: The person intentionally interferes with the activities, construction or other work.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

108 Misleading information and document

- (1) A person must not give misleading information to another person who is exercising powers or performing functions under this Act.

Fault elements:

The person:

- (a) knows the other person is acting in an official capacity; and
- (b) knows the information is misleading.

Maximum penalty: 200 penalty units or imprisonment for 1 year.

- (2) A person must not give a document containing misleading information to another person who is exercising powers or performing functions under this Act.

Fault elements:

The person:

- (a) knows the other person is acting in an official capacity; and

(b) knows the document contains misleading information.

Maximum penalty: 200 penalty units or imprisonment for 1 year.

(3) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the other person's attention; and

(b) to the extent to which the person can reasonably do so – gives the other person the information necessary to correct the document.

(4) In this section:

misleading information means information that is misleading in a material particular because it:

(a) does not include relevant information; or

(b) includes misinformation.

109 Impersonation

A person must not falsely represent, by words or conduct, that the person, or someone else, is:

(a) an officer or a person lawfully assisting an officer; or

(b) an authorised person mentioned in section 115(2) or a person giving assistance mentioned in section 115(3)(b).

Fault element: Intention to deceive.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

110 Obstruction and abusive language

(1) A person must not obstruct an officer, or person assisting an officer, who is exercising powers or performing functions under this Act.

Fault elements:

The person:

(a) intentionally obstructs the officer or person; and

- (b) knows that the person who is obstructed is acting in an official capacity.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) A person must not use abusive, threatening or insulting language to an officer, or person assisting an officer, who is exercising powers or performing functions under this Act.

Fault elements:

The person:

- (a) intentionally uses abusive, threatening or insulting language; and
- (b) knows that the person to whom the language is used is acting in an official capacity.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

Part 10 Administration

Division 1 Minister's powers

111 Delegation

The Minister may, in writing, delegate to a person any of the Minister's powers and functions under this Act.

112 Minister may require further information and prescribed fee

- (1) Before making a decision relating to any application under this Act, the Minister may require the applicant to give the Minister additional information relevant to the application.
- (2) If a fee is prescribed for making an application, giving a notice or lodging a document under this Act, the Minister may refuse to make a decision or do any act in relation to the application, notice or document until the fee is paid.
- (3) At any time during the term of a geothermal authority, the Minister may require the geothermal authority holder to give the Minister information relevant to the authority.

113 Requirements to be in writing

If the Minister requires a person to give information or take an action under this Act, the requirement must be by notice in writing.

114 Minister may extend time

- (1) If this Act, or a notice under this Act, specifies a time for a person to take an action, the Minister may extend the time if satisfied there are circumstances to justify the extension.
- (2) The Minister may extend the time on the Minister's own initiative or on the written request of the person required to take the action.

115 Minister may take action if condition or requirement contravened

- (1) This section applies if:
 - (a) a condition of a geothermal authority requires the geothermal authority holder or former geothermal authority holder (a **relevant authority holder**) to take an action in relation to the geothermal authority area; or
 - (b) the Minister requires a relevant authority holder to take an action in relation to the geothermal authority area.
- (2) If the relevant authority holder does not comply with the requirement, the Minister or a person authorised by the Minister (an **authorised person**) may enter the geothermal authority area and take the action the Minister or authorised person considers necessary.
- (3) The Minister or authorised person may take the action:
 - (a) regardless of whether the geothermal authority is still in force; and
 - (b) with the assistance that is necessary.
- (4) The costs incurred by the Minister or authorised person in taking the action are payable to the Territory by the relevant authority holder.

116 Guidelines

- (1) The Minister may publish guidelines relating to geothermal authorities and geothermal activities.

- (2) The guidelines may be published on the Agency's website or in any other way the Minister considers appropriate.
- (3) The guidelines may apply, adopt or incorporate a standard, code or other document:
 - (a) as in force or existing at a particular time; or
 - (b) as in force from time to time.

117 Approval of forms

The Minister may approve forms to be used for this Act.

118 Release and protection of information

- (1) The Minister may release or publish information about a geothermal authority:
 - (a) if the term of the authority expires – at any time after the date of expiry; or
 - (b) if the authority is surrendered or cancelled – at any time after the date on which the surrender or cancellation takes effect; or
 - (c) if the information is all or part of an annual report given to the Minister under section 52 – no earlier than 5 years after the expiry of the time prescribed for the giving of the report; or
 - (d) in any other circumstance – no earlier than 5 years after the date on which the Minister received the information.
- (2) However, the Minister must not release or publish the following information about a geothermal production lease during the term of the lease:
 - (a) the production data relating to the sale of geothermal energy;
 - (b) the geothermal operations plan for the geothermal activities conducted under the lease;
 - (c) information prescribed by regulation.
- (3) The Minister must not, during the consideration of a geothermal authority application, release or publish any of the following information given by the applicant:
 - (a) the technical qualifications of the operator for the application area;
 - (b) the financial resources available to the operator;

- (c) interpretive information about the application area;
- (d) information prescribed by regulation.

(4) In this section:

interpretive information, in relation to a geothermal authority or geothermal authority application, means information the Minister considers to be an opinion or conclusion relating to the sub-soil, a geothermal energy resource or geothermal energy in the geothermal authority area or application area.

release, of information, includes making the information available for inspection in the register.

Division 2 Geothermal energy officers

119 Appointment of officers

- (1) The Minister may, in writing, appoint a public sector employee to be a geothermal energy officer.
- (2) The Minister may do so only if the Minister is satisfied the person has appropriate qualifications or experience for the appointment.

120 Identity card

- (1) In exercising a power or performing a function under this Act, a geothermal energy officer must carry an identity card provided by the Minister that:
 - (a) states the officer's name and office; and
 - (b) includes:
 - (i) the signature of the officer; and
 - (ii) a photograph of the officer; and
 - (iii) the verification of the signature and photograph by the Minister.
- (2) A person who ceases to be an officer must return the identity card to the Minister within 14 days after the cessation.

Fault element: Strict liability offence.

Maximum penalty: 10 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.
- (4) If an officer purports to exercise a power under this Act without producing the officer's identity card when requested to do so:
 - (a) the officer is not authorised to exercise the power; and
 - (b) a person is not required to comply with a requirement made by the officer.

121 Functions of officer

A geothermal energy officer has the following functions:

- (a) to enforce this Act;
- (b) to monitor environmental protection strategies in geothermal authority areas;
- (c) to inspect and audit geothermal authority areas and geothermal activities to assess:
 - (i) levels of environmental risk; and
 - (ii) whether the applicable technical work programs and geothermal operations plans are being complied with;
- (d) to ensure that timely corrective or remedial action is taken to prevent environmental harm or the risk of environmental harm;
- (e) to investigate serious accidents and critical incidents and make reports about them to the Minister;
- (f) to receive and investigate complaints in relation to geothermal authority areas or geothermal activities;
- (g) to give advice and information to the Minister, persons involved in geothermal activities and the public;
- (h) to collect and collate statistics about geothermal activities and the geothermal energy industry, as required by the Minister.

122 Powers of officer

- (1) Subject to this Act, a geothermal energy officer may, in relation to a geothermal authority area do any of the following:
 - (a) enter and inspect the area at any time, with the assistants the officer considers necessary;

- (b) require the assistance of the geothermal authority holder, the operator, a contractor or another member of the workforce to obtain access to parts of the area or information necessary to enable the officer to perform the officer's functions;
 - (c) require a person to give the officer information that is reasonably necessary:
 - (i) to assist the officer to perform a function under this Act; or
 - (ii) for the administration or enforcement of this Act;
 - (d) require the geothermal holder, the operator, a contractor or another member of the workforce to attend and answer questions in connection with an investigation into:
 - (i) a serious accident or critical incident; or
 - (ii) a complaint received by the officer; or
 - (iii) other matters relevant to this Act;
 - (e) issue written instructions to the operator;
 - (f) direct the operator to take action to ensure compliance with the geothermal operations plan for the area or other obligations under this Act;
 - (g) close all or part of the area if the officer has assessed there is an immediate risk of a serious accident;
 - (h) if the officer reasonably believes that an offence against this Act has been, is being or is about to be committed – seize or secure any thing the officer reasonably believes has been, is being or is about to be used in connection with the commission of the offence;
 - (i) take any other action that may be reasonably necessary to:
 - (i) protect the environment; or
 - (ii) ensure compliance with this Act or the operations plan for the area; or
 - (iii) prevent the commission of an offence against this Act.
- (2) A geothermal officer exercising a power under subsection (1)(h) may do so without a warrant and with the assistance the officer considers necessary.

- (3) As soon as practicable after an officer seizes a thing under subsection (1)(h), the officer must:
 - (a) give the Minister a written report about the seizure; and
 - (b) deliver the thing to the Minister or a person authorised in writing by the Minister to accept delivery of it.
- (4) A person must not contravene a requirement given to the person under this section.

Fault element: Strict liability offence.

Maximum penalty: 100 penalty units.
- (5) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

Division 3 Review of decisions and hearing of other matters

123 Regulations may provide for reviews and hearings

- (1) The regulations may specify that a review of a decision mentioned in subsection (2), or a hearing mentioned in subsection (3), may be conducted by:
 - (a) the Lands, Planning and Mining Tribunal established by section 4 of the *Lands, Planning and Mining Tribunal Act*; or
 - (b) a court of competent jurisdiction.
- (2) The regulations may provide for matters relevant to the review of the following decisions of the Minister:
 - (a) a decision relating to a geothermal authority application;
 - (b) a decision relating to the entry of information in the register;
 - (c) a decision relating to the approval of a matter specified by this Act;
 - (d) any other decision made under this Act that is specified by regulation to be a reviewable decision.
- (3) The regulations may also provide for any matter relevant to an application to a prescribed tribunal permitted under this Act.

Part 11 Miscellaneous matters

124 Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

125 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) a geothermal energy officer;
 - (b) a person assisting an officer under this Act;
 - (c) an authorised person mentioned in section 115(2);
 - (d) a person mentioned in section 115(3)(b) who is assisting the Minister or authorised person.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

126 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The regulations may deal with the following matters:
 - (a) procedures relating to geothermal authority applications and other applications, including procedures for giving public notice, making decisions, notifying an applicant of a decision and the applicant's entitlement to make further submissions or apply for a review of the decision;

- (b) applications for, and decisions about, entries of information in the register and inspections of the register;
- (c) information to be provided to the Minister in relation to geothermal authority applications, geothermal authorities and geothermal activities;
- (d) information to be included in a management system or environmental protection strategy;
- (e) the prescription of fees for applications made under this Act or for other matters;
- (f) the imposition of a fine, not exceeding 200 penalty units, for an offence against the regulations;
- (g) the designation of an offence against the regulations to be an environmental offence level 3 or level 4;
- (h) the provision of an offence against this Act to be an offence of strict or absolute liability;
- (i) the enforcement of a code of practice, including by providing that a contravention of the code is an offence against the regulations;
- (j) the application, adoption or incorporation (with or without changes) of the whole or part of a document as in force or existing at a particular time or from time to time;
- (k) the way in which an action required or permitted to be done under this Act may be done;
- (l) discretions that may be exercised by the Minister.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Geothermal Energy Act 2009 (Act No. 10, 2009)

Assent date	26 May 2009
Commenced	1 December 2009 (<i>Gaz</i> S65, 25 November 2009)

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date	1 September 2009
Commenced	16 September 2009 (<i>Gaz</i> G37, 16 September 2009, p 3)

Mineral Titles (Consequential Amendments) Act 2010 (Act No. 37, 2010)

Assent date	18 November 2010
Commenced	7 November 2011 (<i>Gaz</i> G41, 12 October 2011, p 5)

3 LIST OF AMENDMENTS

s 4	amd No. 37, 2010, s 5
s 50	amd No. 37, 2010, s 5
s 55	amd No. 25, 2009, s 10