

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM (SUBMERGED LANDS) ACT

As in force at 13 October 2010

**Table of provisions**

<b>Part I</b>	<b>Preliminary</b>	
<b>Division 1</b>	<b>Interpretation, application and construction of Act</b>	
1	Short title .....	2
4	Interpretation .....	2
5	Construction of Act .....	11
6	Application of Act.....	11
6A	Disapplication of Territory occupational health and safety laws.....	11
7	Petroleum pool extending into 2 licence areas .....	12
<b>Division 2</b>	<b>Administration of Principal Northern Territory PSL Area</b>	
10	Definitions.....	14
11	Minister as member of Joint Authority .....	15
12	Minister to perform function as member of Joint Authority.....	15
13	Minister as Designated Authority .....	15
14	Delegations under Commonwealth Act .....	16
15	Public servants performing functions under Commonwealth Act .....	16
<b>Division 3</b>	<b>Acts affecting Native Title</b>	
15A	Application .....	16
15B	Procedural rights .....	16
15C	Compensation .....	16
<b>Part II</b>	<b>Mining for petroleum</b>	
<b>Division 1</b>	<b>Preliminary</b>	
16	Delegation .....	17
17	Graticulation of Earth's surface.....	17
18	Reservation of blocks .....	18
18A	Environmental consideration relating to certain parks and reserves.....	19

---

## **Division 2            Exploration permits for petroleum**

19	Exploration for petroleum.....	19
20	Advertisement of blocks .....	20
21	Application for permits .....	20
22	Grant or refusal of permit.....	21
23	Application for permit in respect of surrendered blocks, &c.....	22
24	Application fee, &c.....	23
25	Consideration of applications.....	23
26	Request by applicant for grant of permit in respect of advertised blocks.....	24
27	Grant of permit on request.....	25
28	Rights conferred by permit.....	25
29	Term of permit .....	25
30	Application for renewal of permit .....	25
31	Application for renewal of permit to be in respect of reduced area .....	26
32	Grant or refusal of renewal of permit .....	27
33	Conditions of permit.....	29
34	Discovery of petroleum to be notified .....	30
35	Directions by designated authority on discovery of petroleum.....	30
36	Nomination of blocks as location .....	31
37	Declaration of location .....	32
38	Immediately adjoining blocks.....	33

## **Division 2A          Retention leases for petroleum**

38A	Application by permittee for lease.....	33
38B	Grant or refusal of lease in relation to application.....	34
38BA	Application of sections 38A and 38B where permit transferred .....	35
38C	Rights conferred by lease.....	36
38D	Term of lease.....	36
38E	Notice of intention to cancel lease .....	36
38F	Application for renewal of lease.....	37
38G	Grant or refusal of renewal of lease.....	38
38H	Conditions of lease .....	41
38J	Discovery of petroleum to be notified .....	42
38K	Directions by designated authority on discovery of petroleum.....	42

## **Division 3            Production licences for petroleum**

39	Recovery of petroleum in adjacent area .....	43
40	Application by permittee for licence .....	43
40A	Application for licence by holder of lease .....	45
41	Application for licence.....	45
42	Determination of rate of royalty.....	46
43	Notification as to grant of licence.....	46
44	Grant of licence .....	47
44A	Application of sections 41 to 44 where permit, &c., transferred.....	47

45	Variation of licence area .....	48
46	Determination of permit or lease as to block not taken up.....	48
47	Application for licence in respect of surrendered blocks, &c.....	50
48	Application fee, &c.....	51
49	Request by applicant for grant of licence.....	52
50	Grant of licence on request.....	54
51	Grant of licences in respect of individual blocks .....	54
52	Rights conferred by licence .....	55
53	Term of licence .....	55
54	Application for renewal of licence .....	55
55	Grant or refusal of licence.....	56
56	Conditions of licence .....	58
58	Directions as to recovery of petroleum .....	59
59	Unit development.....	59

#### **Division 4 Pipeline licences**

60	Construction etc. of pipelines etc.....	62
61	Acts done in emergency, &c.....	63
62	Removal of pipeline, &c., constructed in contravention of Act .....	64
63	Terminal station .....	65
64	Application for pipeline licence .....	65
65	Grant or refusal of grant of pipeline licence .....	67
66	Rights conferred by pipeline licence .....	70
67	Term of pipeline licence.....	70
70	Conditions of pipeline licence .....	70
71	Variation of pipeline licence on application by pipeline licensee....	70
72	Variation of pipeline licence by designated authority .....	71
73	Common carrier .....	72
74	Ceasing to operate pipeline .....	72
74AA	Termination of pipeline licence if no operations for 5 years.....	73

#### **Division 5 Registration of instruments**

74A	Interpretation .....	73
75	Register of certain instruments to be kept .....	74
75A	Application of <i>Law of Property Act</i> .....	74
76	Particulars to be entered in register .....	74
77	Memorials to be entered of permits, &c., determined, &c. ....	75
78	Approval and registration of transfers.....	75
79	Entries in register on devolution of title, &c.....	77
81	Approval of dealings relating to existing titles .....	78
81A	Approval of dealings in future interests, &c.....	81
82	True consideration to be shown.....	82
83	Minister not concerned with certain matters .....	83
84	Power of Minister to acquire information as to dealings .....	83
85	Production and inspection of documents.....	84
86	Inspection of register and documents.....	84
87	Evidentiary provisions.....	84

87A	Minister may make corrections to register .....	85
88	Appeals.....	86
89	Minister not liable to certain actions.....	86
90	Offences .....	86
91	Assessment of fee .....	87
92	Imposition of registration fees.....	87
93	Exemption from stamp duty.....	90

## **Division 6          General**

94	Notice of grants of permits etc. to be published.....	90
95	Date of effect of permits, &c. ....	91
96	Commencement of works .....	91
97	Work practices.....	92
97A	Conditions relating to insurance .....	93
98	Maintenance, &c., of property.....	94
99	Sections 97 and 98 to have effect subject to this Act, &c. ....	95
100	Drilling near boundaries.....	95
101	Directions.....	95
102	Compliance with directions .....	98
103	Exemption.....	98
104	Surrender of permits, &c.....	100
105	Cancellation of permits, &c.....	101
106	Cancellation of permit, &c., not affected by other provisions .....	103
107	Removal of property etc. by permittee etc. ....	103
108	Removal of property etc. by Minister .....	105
109	Payment by instalments .....	106
110	Penalty for late payments of instalments, &c. ....	106
111	Special prospecting authorities.....	106
112	Access authorities .....	109
113	Sale of property .....	113
115	Minister, &c., may require information to be furnished, &c. ....	114
116	Power to examine on oath.....	115
117	Failing to furnish information, &c. ....	115
118	Release of information.....	116
120	Discovery of water .....	122
121	Survey of wells etc.....	122
122	Records etc. to be kept.....	123
123	Scientific investigations .....	123
124	Interference with other rights .....	124
125	Inspectors.....	124
126	Powers of inspectors .....	125
127	Property in petroleum .....	125
128	Suspension of rights conferred by permit .....	126
129	Certain payments to be made by Territory to Commonwealth.....	126
130	Determination to be disregarded in certain cases.....	127
131	Continuing offences.....	127
133	Orders for forfeiture in respect of certain offences.....	127
134	Disposal of forfeited goods .....	128

---

135	Time for bringing proceedings for offences .....	128
136	Judicial notice .....	128
137	Service.....	128
137AA	Service of documents on 2 or more permittees, &c. ....	129
137AB	Liability for approval given under this Act, &c. ....	130

## **Division 6A      Safety zones**

137A	Interpretation .....	131
137B	Safety zones.....	132
137C	Powers of authorized persons .....	133
137D	Search warrants .....	134
137E	Exercise of powers in serious circumstances .....	135

## **Division 7      Fees and royalties**

138	Fees .....	135
141	Time of payment of fees .....	136
142	Royalty.....	136
143	Reduction of royalty in certain cases .....	137
144	Royalty not payable in certain cases .....	138
145	Ascertainment of well-head .....	138
146	Ascertainment of value .....	138
147	Ascertainment of quantity of petroleum recovered .....	139
148	Payment of royalty.....	139
149	Penalty for late payment.....	139
149A	Provisional payment of royalty.....	139
149B	Adjustment of payment.....	140
150	Fees and penalties debts due to the Territory .....	141

## **Part IIA      Datums**

150A	Object of Part.....	141
150B	Definitions.....	141
150C	Australian Geodetic Datum.....	142
150D	Current datum and previous datum .....	142
150E	Use of current datum .....	142
150F	Use of previous datum.....	143
150G	Variation of titles etc. ....	144
150H	Variation of applications for titles .....	145
150I	No change to actual position of point, line or area.....	145

## **Part III      Occupational health and safety**

### **Division 1      Introduction**

151	Definitions.....	145
152	Occupational health and safety .....	145
153	Listed OHS laws .....	145

---

154	Regulations relating to occupational health and safety.....	146
-----	-------------------------------------------------------------	-----

**Division 2      Functions and powers of Safety Authority**

155	Safety Authority's functions .....	146
156	Safety Authority's ordinary powers .....	147
157	Judicial notice of seal .....	148

**Division 3      Safety Authority Board**

158	Functions.....	148
159	Powers.....	149
160	Validity of decisions .....	149

**Division 4      Chief Executive Officer and staff of Safety Authority**

161	CEO acts for Safety Authority.....	149
162	Working with Board .....	149
163	Delegation .....	149
164	Secondments to Safety Authority .....	150

**Division 5      Other Safety Authority provisions**

165	Minister may require Safety Authority to prepare reports or give information .....	150
166	Directions to Safety Authority .....	151
167	Reviews of operations of Safety Authority .....	151
168	Protection from liability .....	152

**Part IV          Miscellaneous provisions**

169	Regulations.....	152
170	Transitional regulations for occupational health and safety .....	154

**Schedule 3      Area that includes the adjacent area**

**Schedule 4      Occupational health and safety**

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

---

This reprint shows the Act as in force at 13 October 2010. Any amendments that commence after that date are not included.

---

## PETROLEUM (SUBMERGED LANDS) ACT

**An Act to make provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coasts of the Northern Territory and for other purposes**

### PREAMBLE

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

\* \* \* \*

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

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

AND WHEREAS it has been agreed between the Commonwealth, the States and the Northern Territory that, in place of the scheme provided for by an Agreement between the Commonwealth and the States dated 16 October 1967:

- (a) legislation of the Parliament of the Commonwealth in respect of the exploration for and the exploitation of the petroleum resources of submerged lands should be limited to the resources of lands beneath waters that are beyond the outer limits of the territorial sea adjacent to the States and the

Northern Territory (being outer limits based, unless and until otherwise agreed, on the breadth of that sea being 3 nautical miles), and that the States and the Northern Territory should share in the administration of that legislation;

- (b) legislation of the Parliament of each State should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the State as is on the landward side of the waters referred to in paragraph (a);
- (c) legislation of the Legislative Assembly of the Northern Territory should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the Northern Territory as is on the landward side of the waters referred to in paragraph (a); and
- (d) the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands referred to above that are on the seaward side of the inner limits of the territorial sea of Australia.

## Part I Preliminary

### Division 1 Interpretation, application and construction of Act

#### 1 Short title

- (1) This Act may be cited as the *Petroleum (Submerged Lands) Act*.
- (2) This Act shall come into operation on the first day on which the following Acts of the Commonwealth, with or without amendments, are in operation, namely, the *Seas and Submerged Lands Amendment Act 1980*, the *Coastal Waters (State Powers) Act 1980*, the *Coastal Waters (State Title) Act 1980* and the *Petroleum (Submerged Lands) Amendment Act 1980*.

#### 4 Interpretation

- (1) In this Act:

***access authority*** means an access authority under Part II.



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

- (a) is within the area the boundary of which is described in Schedule 3;
- (b) is seaward of the coastline of the Territory at mean low water and landward of the inner limit of the territorial sea of Australia; and
- (c) was, immediately before the commencement of this Act, the subject of an exploration permit for petroleum subsisting under the Commonwealth Act.

***application for a primary licence*** means an application under section 40(1) or (2) or 40A(2) or (3).

***application for a secondary licence*** means an application under section 40(3) or 40A(3).

***approved*** means approved by the Minister.

***block*** means a block constituted as provided by section 17.

***Commonwealth Act*** means:

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

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

***construct*** includes ***place*** and ***construction*** has a corresponding meaning.

***continental shelf*** means the continental shelf, within the meaning of the *Seas and Submerged Lands Act 1973* of the Commonwealth, adjacent to the coast of Australia (including the coast of any island forming part of a State or Territory) or of a Territory to which the Commonwealth Act applies or extends.

***corresponding law*** means an Act of another State or a law in force in a Territory of the Commonwealth giving effect to the agreement between the Governments of the Commonwealth, the States and the Northern Territory referred to in the preamble to this Act.

***datum*** means a reference frame for defining geographic co-ordinates.

*Note:*

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

***document*** includes any map, book, record or writing.

***geographic co-ordinate*** includes:

- (a) a meridian of longitude by itself; and
- (b) a parallel of latitude by itself.

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

***graticular section*** means a section referred to in section 17.

***inspector*** means a person appointed as an inspector under section 125.

***interstate Minister*** means the Minister of the Crown in right of a State administering the corresponding law of that State.

***Joint Authority*** means the Commonwealth-Northern Territory Offshore Petroleum Joint Authority (also known as the Commonwealth-Northern Territory Off-shore Petroleum Joint Authority) established by the Commonwealth Act.

***lease*** means a retention lease under Division 2A of Part II.

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

***lessee*** means the registered holder of a lease.

***licence*** means a production licence for petroleum granted under Part II.

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

***licensee*** means the registered holder of a licence.

***listed OHS laws*** has the meaning in section 153.

***location*** means a block or blocks in respect of which a declaration under section 37 is in force.

***native title*** and ***native title rights and interests*** have the meaning given in section 223 of the Native Title Act.

***Native Title Act*** means the *Native Title Act 1993* of the Commonwealth.

***native title holder*** has the meaning given in section 224 of the Native Title Act.

***natural resources*** has the same meaning as in paragraph 4 of Article 77 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

***offshore place*** has the meaning given in section 253 of the Native Title Act.

***OHS inspector*** means an OHS inspector appointed under the Commonwealth Act.

***partly cancelled*** means:

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

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

***permit*** means an exploration permit for petroleum granted under Part II.

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

***permittee*** means the registered holder of a permit.

***petroleum*** means:

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following: namely, hydrogen sulphide, nitrogen, helium and carbon dioxide,

and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir in an adjacent area.

***petroleum pool*** means a naturally occurring discrete accumulation of petroleum.

***pipeline*** means a pipe or system of pipes in an adjacent area for conveying petroleum but does not include a pipe or system of pipes:

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

***pipeline licence*** means a licence granted under Part II to construct and operate a pipeline.

***pipeline licensee*** means the registered holder of a pipeline licence.

***primary entitlement*** means:

- (a) in relation to a permittee – the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under section 40(1); and

- (b) in relation to a lessee – the number of blocks in the lease area in respect of which that lessee may make an application under section 40A(2).

**primary licence** means a licence granted on an application made under section 40(1) or (2).

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

**register** means the register kept in pursuance of Division 5 of Part II.

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

**registered native title claimant** has the meaning given in section 253 of the Native Title Act or, if the claimant is replaced under section 66B of that Act, means the person who replaced the claimant.

**registered native title rights and interests** means:

- (a) in relation to a registered native title claimant – the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims established and maintained in accordance with Part 7 of the Native Title Act; and
- (b) in relation to a registered native title body corporate – the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under Part 8 of the Native Title Act.

**relinquished area** means:

- (a) in relation to a permit, lease or licence that has expired – the area constituted by the blocks in respect of which the permit, lease or licence was in force but has not been renewed;
- (b) in relation to a permit or lease that has been wholly determined or partly determined – the area constituted by the blocks as to which the permit or lease was so determined;

- (c) in relation to a permit or licence that has been wholly cancelled or partly cancelled – the area constituted by the blocks as to which the permit or licence was so cancelled;
- (ca) in relation to a lease that has been wholly cancelled – the area constituted by the blocks in respect of which the lease was in force;
- (d) in relation to a pipeline licence that is no longer in force – the part of the adjacent area in which the pipeline was constructed;
- (e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled – the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and
- (f) in relation to a special prospecting authority or access authority that has been surrendered, cancelled or has expired – the area constituted by the blocks in respect of which that authority was in force.

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

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

***Safety Authority*** means the National Offshore Petroleum Safety Authority established under the Commonwealth Act.

***secondary licence*** means a licence granted on an application made under section 40(3).

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

***special prospecting authority*** means a special prospecting authority granted under Part II.

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

***terminal station*** means a pumping station, a tank station or a valve station declared to be a terminal station under section 63 or under the Commonwealth Act or a corresponding law.

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

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

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

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

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

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

- (2) If, at any time, the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, the definition of adjacent area in subsection (1) continues to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.
- (3) Where an exploration permit for petroleum subsisting under the Commonwealth Act immediately before the commencement of this Act, or a permit granted by way of the first or any subsequent renewal of such a permit, is cancelled or determined, or expires and is not renewed, as to an area described in paragraphs (a), (b) and (c) of the definition of adjacent area, that area ceases to be part of an adjacent area.
- (4) In this Act, a reference to the term of a permit, lease, licence, special prospecting authority or access authority is a reference to the period during which the permit, lease, licence, special prospecting authority or access authority remains in force and a reference to the date of expiration of a permit, lease, licence, special prospecting authority or access authority is a reference to the day on which the permit, lease, licence, special prospecting authority or access authority ceases to be in force.
- (4A) In this Act, a reference to the term of a pipeline licence is a reference to the period during which the pipeline licence is in force.

- (5) In this Act, a reference to a year of the term of a permit, lease, licence or pipeline licence is a reference to a period of one year commencing on the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force or on any anniversary of that day.
- (6) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first-mentioned permit to commence on the day after the date of expiration of the first-mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first-mentioned permit.
- (6A) In this Act, a reference to the renewal, or the grant of a renewal, of a lease is a reference to the grant of a lease in respect of the blocks in respect of which the first-mentioned lease was in force to commence on the day after the date of expiration of the first-mentioned lease or on the day after the date of expiration of the lease granted upon a previous renewal of the first-mentioned lease.
- (7) In this Act, a reference to the renewal, or the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first-mentioned licence or on the day after the date of expiration of the licence granted upon a previous renewal of the first-mentioned licence.
- (9) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.
- (10) In this Act, a reference to a permit, lease, licence, pipeline licence or access authority is a reference to the permit, lease, licence, pipeline licence or access authority as varied for the time being under this Act.
- (11) The power conferred by this Act to make, grant or issue any instrument shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to repeal, rescind, revoke, amend or vary any such instrument.
- (12) For the purposes of this Act and the Regulations:
- (a) the space above or below the adjacent area shall be deemed to be in that area; and
  - (b) the space above or below an area that is part of the adjacent area shall be deemed to be in that part.



## **5 Construction of Act**

- (1) This Act shall be read and construed as intended to operate, and as operating, to the full extent of the legislative powers of the Territory (any presumption to the contrary notwithstanding) but subject to, and so as not to exceed, the limits of those powers to the intent that where any provision of this Act would, but for this subsection, be construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.
- (2) No other provision of this Act shall be read or construed so as to limit, or as limiting, the operation of subsection (1).

## **6 Application of Act**

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

## **6A Disapplication of Territory occupational health and safety laws**

- (1) The prescribed occupational health and safety laws do not apply in relation to:
  - (a) a facility;
  - (b) a person at a facility;
  - (c) a person near a facility, to the extent to which the person is affected by:
    - (i) a facility; or
    - (ii) activities that take place at a facility; or
  - (d) activities that take place at a facility.
- (2) For subsection (1), a reference to the prescribed occupational health and safety laws is a reference to the provisions of those laws that, if subsection (1) did not apply, would apply in the adjacent area because of the *Off-Shore Waters (Application of Territory Laws) Act* or the cooperative scheme within the meaning of the *Crimes at Sea Act*.
- (3) This section applies despite the *Off-Shore Waters (Application of Territory Laws) Act* or *Crimes at Sea Act*.

- (4) In this section:

*facility* has the meaning in Schedule 4.

*prescribed occupational health and safety laws* means any laws of the Territory relating to occupational health and safety (whether or not they also relate to other matters) prescribed by the Regulations.

## 7 Petroleum pool extending into 2 licence areas

- (1) The provisions of this section have effect for the purposes of this Act and of licences (whether granted before or after the commencement of this Act).
- (2) Where a well-head is situated in a licence area and the well from that well-head is inclined so as to enter a petroleum pool, being a pool that does not extend to that licence area, at a place within an adjoining licence area of the same licensee, any petroleum recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.
- (3) Where a petroleum pool is partly in one licence area and partly in an adjoining licence area of the same licensee and petroleum is recovered from that pool through a well or wells in one or both of the licence areas, there shall be deemed to have been recovered in each of the licence areas, under the licence in respect of that area, such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and the respective proportions shall be determined in accordance with subsection (4).
- (4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee or the Minister.
- (5) Where a petroleum pool is partly in a licence area and partly in an area (in this subsection referred to as *the Commonwealth licence area*) in which the licensee has authority under the Commonwealth Act to explore for, or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the Commonwealth licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (6).

- (6) The proportion to be determined for the purposes of subsection (5) may be determined by agreement between the licensee, the Joint Authority and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee, the Joint Authority or the Minister.
- (7) Where a petroleum pool is partly in a licence area and partly in an area (in this section called *the other State licence area*) in which the licensee has authority, under a corresponding law, to explore for or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the other State licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (8).
- (8) The proportion to be determined for the purposes of subsection (7) may be determined by agreement between the licensee, the Minister and the Minister of the other State administering the corresponding law or, in the absence of agreement, may be determined by the Supreme Court on the application of any of those persons.
- (9) Where:
- (a) a petroleum pool is partly in a licence area and partly in another area, being an area which is outside the adjacent area and in which the licensee has, under the Commonwealth Act or a corresponding law, authority to explore for, or recover, petroleum;
  - (b) petroleum is recovered from that pool; and
  - (c) the Supreme Court of another State has made a determination, under the Commonwealth Act or a corresponding law, of the proportion of the petroleum recovered from that pool that is, for the purposes of the Commonwealth Act or the corresponding law, to be deemed to have been recovered from the other area,

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

(10) Where:

- (a) a petroleum pool is partly in a licence area and partly in another area, whether in the adjacent area or not, in respect of which another person has authority, whether under this Act, the Commonwealth Act or a corresponding law, to explore for or recover petroleum;
- (b) a unit development agreement in accordance with section 59 is in force between the licensee and that other person; and
- (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both,

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

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

## **Division 2 Administration of Principal Northern Territory PSL Area**

### **10 Definitions**

In this Division, unless the contrary intention appears:

***Commonwealth Act*** means, as the context requires:

- (a) the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, as amended from time to time;
- (b) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is repealed and re-enacted (with or without modification) – the Act of the Commonwealth that re-enacts it, as amended from time to time;
- (c) the *Petroleum (Submerged Lands) Registration Fees Act 1967* of the Commonwealth, as amended from time to time;
- (d) if the *Petroleum (Submerged Lands) Registration Fees Act 1967* of the Commonwealth is repealed and re-enacted (with or without modification) – the Act of the Commonwealth that re-enacts it, as amended from time to time;
- (e) the *Petroleum (Submerged Lands) Fees Act 1994* of the Commonwealth, as amended from time to time; or

- (f) if the *Petroleum (Submerged Lands) Fees Act 1994* of the Commonwealth is repealed and re-enacted (with or without modification) – the Act of the Commonwealth that re-enacts it, as amended from time to time.

***Commonwealth adjacent area*** means:

- (a) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is in force – the adjacent area in respect of the Territory determined in accordance with section 5A of that Act; or
- (b) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is repealed and re-enacted (with or without modification) – the area that, under the Act of the Commonwealth that re-enacts the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, corresponds to the area which, immediately before the repeal of the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, was the adjacent area in respect of the Territory determined in accordance with section 5A of that Act.

***Eastern Greater Sunrise area*** means the part of the Commonwealth adjacent area that is described in Schedule 8 to the Commonwealth Act under the heading that refers to the Eastern Greater Sunrise area.

***Principal Northern Territory PSL area*** means the part of the Commonwealth adjacent area that is comprised of all of that adjacent area apart from the Eastern Greater Sunrise area.

#### **11 Minister as member of Joint Authority**

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

#### **12 Minister to perform function as member of Joint Authority**

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

#### **13 Minister as Designated Authority**

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

**14 Delegations under Commonwealth Act**

Where, in the exercise of a power which the Commonwealth Act is expressed to confer upon the Designated Authority in respect of the Principal Northern Territory PSL area, the Minister delegates a power to a person who is an employee of the Public Service or who holds any office in the service of the Territory, the person may exercise the power so delegated in an instrument of delegation.

**15 Public servants performing functions under Commonwealth Act**

An employee of the Public Service shall perform any function which the Minister, as the Designated Authority in respect of the Principal Northern Territory PSL area, or as a member of the Joint Authority, requires him to perform in relation to the Commonwealth Act.

**Division 3 Acts affecting Native Title**

**15A Application**

This Division applies in relation to acts done under this Act that are future acts to which Subdivision N of Division 3 of Part 2 of the Native Title Act applies.

**15B Procedural rights**

Where an act to which this Division applies affects native title rights and interests:

- (a) the native title holders; and
- (b) the registered native title claimants (if any) in relation to land or waters in the area concerned,

have the same procedural rights as they would have in relation to the act on the assumption that they instead held any corresponding rights and interests in relation to the offshore place that are not native title rights and interests.

**15C Compensation**

Compensation for the effect on native title of an act to which this Division applies:

- (a) is payable by the holder of the permit, lease, licence, pipeline licence, consent under section 60 or 123, special prospecting authority or access authority to which the act relates (in this section called *the petroleum interest*);

- (b) includes compensation for the effect on native title of activities done under the petroleum interest as a result of the act; and
- (c) is to be determined in accordance with Division 5 of Part 2 of the Native Title Act.

## **Part II Mining for petroleum**

### **Division 1 Preliminary**

#### **16 Delegation**

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

#### **17 Graticulation of Earth's surface**

- (1) For the purposes of this Act, the surface of the Earth shall be deemed to be divided:
  - (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and

- (b) by the Equator and by parallels of latitude that are at a distance from the Equator of 5 minutes, or a multiple of 5 minutes, of latitude,

into sections, each of which is bounded:

- (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude; and
- (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.

(2) For the purposes of this Act:

- (a) a graticular section that is wholly within an adjacent area constitutes a block; and
- (b) if a part only of a graticular section is, or parts only of a graticular section are, within an adjacent area, the area of that part, or of those parts, constitutes a block.

(3) In this Act:

- (a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section; and
- (b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes, or parts only of which constitute, the block.

## **18 Reservation of blocks**

- (1) The Minister may, by instrument published in the *Gazette*, declare that a block specified in the instrument (not being a block in respect of which a permit, lease or licence is in force or over or in which there is a pipeline) shall not be the subject of a permit, lease, licence, special prospecting authority or access authority and that a pipeline licence shall not be granted in respect of a pipeline over or in that block.
- (2) While a declaration under subsection (1) remains in force in respect of a block, a permit, lease, licence, special prospecting authority or access authority shall not be granted in respect of that block and a pipeline licence shall not be granted in respect of a pipeline over or in that block.



**18A Environmental consideration relating to certain parks and reserves**

(1) In this section:

*land, sea-bed* and *subsoil* have the same meaning as in the *Territory Parks and Wildlife Conservation Act*.

*park or reserve* means a park or reserve within the meaning of the *Territory Parks and Wildlife Conservation Act* or land declared under section 9(4) of that Act to be a park or reserve for the purposes of this section.

(2) In respect of land comprising the whole or a part of a park or reserve, the Minister shall not grant:

(a) subject to subsection (3), an access authority, special prospecting authority, permit or lease, unless the Minister has considered the opinions of the minister administering the *Territory Parks and Wildlife Conservation Act* in relation to the proposed grant; or

(b) a licence, except in accordance with the conditions, if any, specified by the minister administering the *Territory Parks and Wildlife Conservation Act*.

(3) The holder of an access authority or special prospecting authority or a permittee or lessee shall not carry out exploration, or any other activity, which may cause substantial disturbance to the land, sea-bed or subsoil comprising the whole or a part of a park or reserve unless he has advised the Minister, in writing, of his intention to carry out the exploration or activity and he carries it out in accordance with such directions, if any, as the Minister thinks fit, or which are required under subsection (4) to be given, to protect the environment in or in the vicinity of the park or reserve.

(4) The minister administering the *Territory Parks and Wildlife Conservation Act* may require the Minister to give as directions under subsection (3) such directions in relation to the protection of the environment in the park or reserve as the minister thinks fit, and the Minister shall give those directions accordingly.

**Division 2 Exploration permits for petroleum**

**19 Exploration for petroleum**

(1) A person shall not explore for petroleum in an adjacent area except:

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

(b) as otherwise permitted by this Part.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

(2) For the purposes of subsection (1), a person who does anything preparatory to, or knowingly connected with, exploration for petroleum is taken to explore for petroleum.

## 20 Advertisement of blocks

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

(a) invite applications for the grant of a permit in respect of the block or blocks specified in the instrument; and

(b) specify a period within which applications may be made.

(2) The Minister may, in a notice published under subsection (1), direct that section 21(2) or (3) does not apply, or that both of those subsections do not apply, to or in relation to the applications.

## 21 Application for permits

(1) An application made under section 20:

(a) shall be in accordance with the approved form;

(b) shall be made in the approved manner;

(c) shall be in respect of not more than 400 blocks;

(d) shall be accompanied by particulars of:

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

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

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

(iv) the financial resources available to the applicant;

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

(f) shall be accompanied by the prescribed fee.

- (2) The number of blocks specified in an application:
  - (a) if 16 blocks or more are available – shall be not less than 16; or
  - (b) if less than 16 blocks are available – shall be the number available.
- (3) The blocks specified in an application shall be blocks that are constituted by graticular sections that:
  - (a) constitute a single area; and
  - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by notice in writing served on an applicant, require him to furnish, within the time specified in the notice, further information in writing in connection with his application.

## **22 Grant or refusal of permit**

- (1) Where an application has been made under section 20, the Minister may:
  - (a) by notice in writing served on the applicant, inform the applicant that he is prepared to grant to the applicant a permit in respect of the block or blocks specified in the notice; or
  - (b) refuse to grant a permit.
- (2) A notice under subsection (1) shall contain:
  - (a) a summary of the conditions subject to which the permit is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the permit.
- (3) An applicant who has been served with a notice under subsection (1) may, within a period of one month after the date of service of the notice on him, or within such further period, not exceeding one month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by notice in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned notice.

- (4) Where an applicant who has been served with a notice under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to him a permit in respect of the block or blocks specified in the notice.
- (5) Where an applicant who has been served with a notice under subsection (1) has not made a request under subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period.

### **23 Application for permit in respect of surrendered blocks, &c.**

- (1) Where:
  - (a) a lease is surrendered, cancelled or determined as to a block or blocks;
  - (aa) a licence is surrendered or cancelled as to a block or blocks;  
or
  - (b) a permit is surrendered, cancelled or determined as to a block or blocks and, at the time of the surrender, cancellation or determination, the block was, or the blocks were, included in, a location,

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

- (4) An application under this section:
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by the particulars referred to in section 21(1)(d);
  - (d) shall specify an amount that the applicant is prepared to pay to the Minister, in addition to the fee referred to in section 24(1)(a), in respect of the grant of a permit to him on the application; and
  - (e) may set out any other matters that the applicant wishes the Minister to consider.

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

#### **24 Application fee, &c.**

- (1) An application made under section 23 shall be accompanied by:
- (a) the prescribed fee; and
  - (b) a deposit of 10% of the amount specified in the application under section 23(4)(d).
- (2) Where a permit is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.
- (3) Where an applicant who has been served with a notice under section 25 does not request the Minister in accordance with section 26 to grant to him the permit referred to in the notice, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

#### **25 Consideration of applications**

- (1) Where, at the expiration of the period specified in a notice under section 23(1), only one application has been made under that subsection in respect of the block or blocks specified in the notice, the Minister may reject or grant the application.
- (2) Where, at the expiration of the period specified in a notice under section 23(1), 2 or more applications have been made under that subsection in respect of the block or blocks specified in the notice, the Minister may reject any or all of the applications and, if he does not reject all of the applications, may:
- (a) if only one application remains unrejected – by notice in writing served on the applicant; or
  - (b) if 2 or more applications remain unrejected – by notice in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified as the amount that he is prepared to pay in respect of the grant of a permit to him an amount that is not less than the amount specified by any other applicant whose application has not been rejected,

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

- (3) Where an application is made under section 23(2), the Minister may reject or grant the application.
- (5) A notice under this section shall contain:
  - (a) a summary of the conditions subject to which the permit is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not:
    - (i) make a request under section 26(1); and
    - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an agreement under section 109 in respect of that balance.

**26 Request by applicant for grant of permit in respect of advertised blocks**

- (1) An applicant who has been served with a notice under section 25 may, within a period of 3 months after the date of service of the notice on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows:
  - (a) by notice in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned notice; and
  - (b) pay the balance of the amount to be paid in respect of the grant of the permit to him or enter into an agreement under section 109 in respect of that balance.
- (2) Where an applicant who has been served with a notice under section 25:
  - (a) has not made a request under subsection (1); and
  - (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to him or entered into an agreement under section 109 in respect of that balance,within the period applicable under subsection (1), the application lapses upon the expiration of that period.

- (3) Where the application lapses, as provided by subsection (1), of an applicant who has been served with a notice under section 25(2), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

## **27 Grant of permit on request**

Where a person who has been served with a notice under section 25:

- (a) has made a request under section 26(1); and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to him or has entered into an agreement under section 109 in respect of that balance,

within the period applicable under section 25(1), the Minister shall grant to that person a permit in respect of the block or blocks specified in the notice.

## **28 Rights conferred by permit**

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

## **29 Term of permit**

Subject to this Part, a permit remains in force:

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

## **30 Application for renewal of permit**

- (1) Subject to section 31, a permittee may, from time to time, make an application to the Minister for the renewal of the permit in respect of such of the blocks the subject of the permit as are specified in the application.

- (2) An application for the renewal of a permit:
- (a) shall be in accordance with an approved form;
  - (b) subject to subsection (3), shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and
  - (c) shall be accompanied by the prescribed fee.
- (3) The Minister may receive an application for the renewal of a permit less than 3 months before, but not in any case after, the date of expiration of the permit.

**31 Application for renewal of permit to be in respect of reduced area**

- (1) Subject to subsection (3), the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows:
- (a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder – one-half of that number; or
  - (b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder – one-half of that last-mentioned number.
- (2) A block that is, or is included in, a location and in respect of which a permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1).
- (3) An application for the renewal of a permit may include, in addition to the blocks referred to in subsection (1), a block that is, or is included in, a location and in respect of which the permit is in force, or 2 or more such blocks.
- (4) The blocks specified in an application for the renewal of a permit shall be blocks that are constituted by or are within graticular sections that:
- (a) constitute a single area or a number of discrete areas; and
  - (b) are such that each graticular section in the area, or in each area, has a side in common with at least one other graticular section in that area.



- (5) Where the number of blocks in respect of which an application for the renewal of a permit may be made is 16 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 16 blocks.
- (6) Where the maximum number of blocks in respect of which an application for the renewal of a permit may be made in accordance with the preceding provisions of this section is less than 16, the Minister may, by notice in writing served on the permittee:
- (a) inform the permittee that the number of blocks in respect of which the application may be made is such number, not exceeding 16, as is specified in the notice; and
  - (b) give such directions as he thinks fit concerning the blocks in respect of which the application may be made.
- (7) The Minister may:
- (a) direct that subsections (4) and (5) do not apply to or in relation to a proposed application for the renewal of a permit; and
  - (b) give such directions concerning the blocks in respect of which that application may be made.

### **32 Grant or refusal of renewal of permit**

- (1) Where an application has been made under section 30 for the renewal of a permit, the Minister:
- (a) shall, if the conditions to which the permit is, or has from time to time been, subject and the provisions of this Part and the Regulations have been complied with; or
  - (b) may, if:
    - (i) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and the Regulations have not been complied with; and
    - (ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the permit,

by notice in writing served on the person who is then the permittee, inform the person that he is prepared to grant to the person the renewal of the permit.

- (2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to subsection (3), by notice in writing served on the person who is then the permittee, refuse to grant the renewal of the permit.
- (3) The Minister shall not refuse to grant the renewal of a permit unless:
- (a) he has, by notice in writing served on the permittee, given not less than one month's notice of his intention to refuse to grant the renewal of the permit;
  - (b) he has served a copy of the notice on such other persons, if any, as he thinks fit;
  - (c) he has, in the notice:
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the permittee or a person on whom a copy of the notice is served may, by notice in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
  - (d) he has taken into account any matters so submitted to him on or before the specified date by the permittee or by a person on whom a copy of the first-mentioned notice has been served.
- (4) A notice referred to in subsection (1) shall contain:
- (a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5).
- (5) A permittee who has been served with a notice under subsection (1) may, within a period of one month after the date of service of the notice on him, by notice in writing served on the Minister, request the Minister to grant to the permittee the renewal of the permit.
- (6) Where a permittee who has been served with a notice under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Minister shall grant to him the renewal of the permit.

- (7) Where a permittee who has been served with a notice under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that date.
- (8) Where:
- (a) an application for the renewal of a permit has been made; and
  - (b) the permit expires:
    - (i) before the Minister grants, or refuses to grant, the renewal of the permit; or
    - (ii) before the application lapses as provided by subsection (7),

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

- (c) until the Minister grants, or refuses to grant, the renewal of the permit; or
  - (d) until the application so lapses,
- whichever first occurs.

### **33 Conditions of permit**

- (1) A permit may be granted subject to such conditions as the Minister thinks fit and specifies in the permit.
- (2) The conditions referred to in subsection (1) may include conditions with respect to:
- (a) work to be carried out by the permittee in or in relation to the permit area during the term of the permit; and
  - (b) amounts to be expended by the permittee in carrying out such work,

and the conditions may require the permittee to comply with directions given in accordance with the permit concerning the matters referred to in paragraphs (a) and (b).

- (3) A permit shall be deemed to contain a condition that the permittee will comply with the provisions of this Act relating to the payment of royalty as in force from time to time.

### **34 Discovery of petroleum to be notified**

- (1) Where petroleum is discovered in a permit area, the permittee:
  - (a) shall forthwith inform the Minister of the discovery; and
  - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (2) Where petroleum is discovered in a permit area, the Minister may, from time to time, by notice in writing served on the permittee, direct the permittee to furnish to him, within the period specified in the notice, particulars in writing of any one or more of the following:
  - (a) the chemical composition and physical properties of the petroleum;
  - (b) the nature of the subsoil in which the petroleum occurs; and
  - (c) any other matters relating to the discovery that are specified by the Minister in the notice.
- (3) A person on whom a notice is served under subsection (2) shall comply with the notice.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

### **35 Directions by designated authority on discovery of petroleum**

- (1) Where petroleum is discovered in a permit area, the Minister may, by notice in writing served on the permittee, direct the permittee to do, within the period specified in the notice, such things as the Minister thinks necessary and specifies in the notice to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the permit area, in such part of that petroleum pool as is within the permit area.
- (2) A person on whom a notice is served under subsection (1) shall comply with the notice.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

### **36 Nomination of blocks as location**

- (1) Where a petroleum pool is identified in a permit area, the permittee may nominate the block in which the pool is situated, or the blocks (being blocks within the permit area) to which the pool extends, for declaration as a location.
- (2) Where 2 or more petroleum pools are identified in a permit area, the permittee may, instead of making a nomination under subsection (1) in relation to each pool, nominate all of the blocks to which the pools extend, or to which any 2 or more of the pools extend, for declaration as a single location.
- (3) A nomination may not be made under subsection (2) unless, in the case of each of the pools to which the nomination relates, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.
- (4) A nomination by a permittee shall be in writing and served on the Minister.
- (5) A nomination may not be made by a permittee unless the permittee or another person has, whether within or outside the permit area, recovered petroleum from the petroleum pool to which the nomination relates or, if the nomination relates to more than one pool, from each of those pools.
- (6) Where:
  - (a) the Minister is of the opinion that a permittee is entitled to nominate a block or blocks under subsection (1) or (2); and
  - (b) the permittee has not done so,the Minister may require the permittee to exercise the permittee's right to nominate the block or blocks within 3 months after the date of the making of the requirement.
- (7) A requirement by the Minister under subsection (6) shall be by written notice served on the permittee.
- (8) On written request by a permittee within the period fixed by subsection (6), the Minister may extend the time for compliance with a requirement under that subsection by not more than 3 months.
- (9) If a permittee fails to comply with a requirement under subsection (6), the Minister may, by written notice served on the permittee, nominate the block or blocks for declaration as a location.

### 37 Declaration of location

- (1) Where:
  - (a) a permittee has made a nomination under section 36; and
  - (b) the Minister is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination,

the Minister shall, by notice in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.
- (2) Where the Minister has made a nomination under subsection 36(9), the Minister shall, by notice in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.
- (3) The Minister may, at the request of the permittee, revoke a declaration.
- (4) The Minister may vary a declaration:
  - (a) by adding to the location a block in the permit area to which, in the opinion of the Minister, a petroleum pool within the location extends; or
  - (b) deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.
- (5) The Minister may not vary a declaration unless:
  - (a) the Minister has caused to be served on the permittee notice in writing of the proposed variation, identifying the block to be added to, or deleted from, the location;
  - (b) the period of 30 days after the date of service of the notice has expired; and
  - (c) the Minister has considered any matters submitted to the Minister by the permittee in relation to the proposed variation.
- (6) Subsection (5) does not apply where a variation is made at the request of the permittee.

### **38 Immediately adjoining blocks**

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

- (a) have a side in common; or
- (b) are joined together at one point only.

## **Division 2A Retention leases for petroleum**

### **38A Application by permittee for lease**

- (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (2) An application under subsection (1):
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by particulars of:
    - (i) the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and
    - (ii) the commercial viability of the recovery of petroleum from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area;
  - (d) may set out any other matters that the applicant wishes to be considered; and
  - (e) shall be accompanied by the prescribed fee.
- (3) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the application.

- (4) The application period in respect of an application under this section by a permittee is:
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
  - (b) such other period, being not less than 2 years or more than 4 years after that date, as the Minister, on application in writing by the permittee, served on the Minister before the end of the first-mentioned period of 2 years, allows.

### **38B Grant or refusal of lease in relation to application**

- (1) Where:
- (a) an application has been made under section 38A;
  - (b) the applicant has furnished any further information as and when required by the Minister under section 38A(3); and
  - (c) the Minister is satisfied that recovery of petroleum from the area comprised in the blocks specified in the application:
    - (i) is not, at the time of the application, commercially viable; and
    - (ii) is likely to become commercially viable within 15 years after that time,

the Minister shall, by instrument in writing served on the applicant, inform him:

- (d) that he is prepared to grant to him a lease in respect of the block or blocks specified in the application.

- (2) Where an application has been made under section 38A and:
- (a) the applicant has not furnished any further information as and when required by the Minister under section 38A(3); or
  - (b) the Minister is not satisfied as to the matters referred to in subsection (1)(c) in relation to the blocks specified in the application,

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



- (3) An instrument under subsection (1) shall contain:
- (a) a summary of the conditions subject to which the lease is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.
- (4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on him before the end of the first-mentioned period of one month, allows, by instrument in writing served on the Minister request the Minister to grant the lease to the applicant.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4), the Minister shall grant to him a retention lease in respect of the block or blocks specified in the instrument.
- (6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.
- (7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit in respect of the block or blocks ceases to be in force in respect of those blocks.

**38BA Application of sections 38A and 38B where permit transferred**

Where:

- (a) after an application has been made under section 38A(1) in relation to a block or blocks in respect of which a permit is in force; and
- (b) before a decision has been made by the Minister under section 38B(1) or (2) in relation to the application,

a transfer of the permit is registered under section 78, sections 38A and 38B have effect, after the time of the transfer, as if a reference in those sections to the applicant were a reference to the transferee.

**38C Rights conferred by lease**

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

**38D Term of lease**

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

**38E Notice of intention to cancel lease**

(1) Where:

- (a) a lessee has been given a notice of the kind referred to in section 38H(3)(b) during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice;
- (b) the lessee has not made an application for the renewal of the lease; and
- (c) after consideration of the results of the re-evaluation referred to in paragraph (a) and such other matters as the Minister thinks fit, the Minister is of the opinion that recovery of petroleum from the lease area is commercially viable,

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

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

- (2) Where:
- (a) an instrument under subsection (1) is served on a lessee; and
  - (b) he does not, within the period referred to in subsection (1)(e), serve on the Minister an instrument setting out matters that he wishes to be considered, or the Minister after consideration of matters set out in such an instrument served on the Minister by the lessee within that period, determines that the lease should be cancelled,
- the Minister shall, by instrument in writing served on the lessee, cancel the lease.
- (3) The cancellation of a lease under subsection (2) has effect:
- (a) in a case to which paragraph (b) does not apply – at the end of the period of 12 months commencing on the date of service of the instrument of cancellation; or
  - (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph (a) – when the Minister grants, or refuses to grant, the licence or when the application lapses, whichever first occurs.
- (4) Where a lease is cancelled under subsection (2), the lease shall be deemed to continue in force in all respects until the cancellation has effect in accordance with subsection (3).

### **38F Application for renewal of lease**

- (1) A lessee may, from time to time, make an application to the Minister for the renewal of a lease.
- (2) An application for the renewal of a lease:
- (a) shall be in accordance with an approved form;
  - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force;
  - (c) shall be accompanied by particulars of:
    - (i) the proposals of the applicant for work and expenditure in respect of the lease area; and

- (ii) particulars of the commercial viability of recovery of petroleum from the lease at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area; and
- (d) shall be accompanied by the prescribed fee.
- (3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of a lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.
- (4) Where an application has been made for the renewal of a lease, the Minister may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

### **38G Grant or refusal of renewal of lease**

- (1) Where:
  - (a) an application for the renewal of a lease has been made under section 38F;
  - (b) any further information required by the Minister under section 38F(4) has been furnished in accordance with that section; and
  - (c) the Minister is satisfied that recovery of petroleum from the lease area:
    - (i) is not, at the time of the application, commercially viable; and
    - (ii) is likely to become commercially viable within 15 years after that time,

the Minister:

- (d) shall, if the conditions to which the lease is, or has from time to time been, subject and the provisions of this Part and the Regulations have been complied with; or
- (e) may, if:
  - (i) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part and the Regulations have not been complied with; and

- (ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the lease,

by instrument in writing served on the person who is then the lessee, inform the person that he is prepared to grant to the person the renewal of the lease.

- (2) Subject to subsection (3), where an application for the renewal of a lease has been made under section 38F and:
  - (a) any further information required by the Minister under section 38F(4) has not been furnished in accordance with that section;
  - (b) the Minister is not satisfied as to the matters referred to in subsection (1)(c); or
  - (c) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with and the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the lease,

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

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

- (4) An instrument referred to in subsection (1) shall contain:
- (a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6).
- (5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that he is not satisfied as to the matter referred to in subsection (1)(c)(i), contain a statement to the effect that the lessee may, within the period of 12 months after the date of service of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.
- (6) A lessee on whom there has been served an instrument under subsection (1) may, within the period of one month after the date of service of the instrument on him, by instrument in writing served on the Minister, request the Minister to grant the renewal of the lease to the lessee.
- (7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.
- (8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period.
- (9) Where:
- (a) an application for the renewal of a lease has been made; and
  - (b) the lease expires:
    - (i) before the Minister grants, or refuses to grant, the renewal of the lease; or
    - (ii) before the application lapses as provided by subsection (8),
- the lease shall be deemed to continue in force in all respects:
- (c) until the Minister grants, or refuses to grant, the renewal of the lease; or
  - (d) until the application so lapses,

whichever first occurs.

- (10) Where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1)(c)(i), the lease shall be deemed to continue in force in all respects:
- (a) in a case to which paragraph (b) does not apply – until 12 months after the date of service of the instrument under subsection (2); or
  - (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph (a) – until it grants, or refuses to grant, the licence or until the application lapses, whichever first occurs.

### **38H Conditions of lease**

- (1) A lease may be granted subject to such conditions as the Minister thinks fit and are specified in the lease.
- (2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the lessee in or in relation to the lease area during the term of the lease, or amounts to be expended by him in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring him to comply with directions given in accordance with the lease concerning those matters.
- (3) A lease shall be deemed to contain a condition that the lessee:
  - (a) will comply with the provisions of this Act relating to the payment of royalty as in force from time to time; and
  - (b) will, within the period of 3 months after the receipt of a written notice from the Minister requesting him to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first-mentioned period, allows, re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells) and inform the Minister in writing of the results of the re-evaluation.
- (4) Where a lessee has complied with 2 notices of the kind referred to in subsection (3)(b) during the term of the lease, the Minister shall not give to the lessee a further notice of that kind until such time, if ever, as that term is extended.

### **38J Discovery of petroleum to be notified**

- (1) Where petroleum is discovered in a lease area, the lessee:
  - (a) shall inform the Minister of the discovery forthwith; and
  - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (2) Where petroleum is discovered in a lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following:
  - (a) the chemical composition and physical properties of the petroleum;
  - (b) the nature of the subsoil in which the petroleum occurs; and
  - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

### **38K Directions by designated authority on discovery of petroleum**

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

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.



## **Division 3 Production licences for petroleum**

### **39 Recovery of petroleum in adjacent area**

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

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

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

### **40 Application by permittee for licence**

- (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a licence:
  - (a) where 9 or more blocks constitute the location concerned – in respect of 5 of those blocks;
  - (b) where 8 or 7 blocks constitute the location concerned – in respect of 4 of those blocks;
  - (c) where 6 or 5 blocks constitute the location concerned – in respect of 3 of those blocks;
  - (d) where 4 or 3 blocks constitute the location concerned – in respect of 2 of those blocks;
  - (e) where 2 blocks constitute the location concerned – in respect of one of those blocks; or
  - (f) where one block constitutes the location concerned – in respect of that block.
- (2) A permittee whose permit is in force in respect of blocks that constitute a location:
  - (a) instead of making an application under subsection (1) in respect of his primary entitlement may, within the application period, make an application to the Minister for the grant of a licence in respect of a number of those blocks that is less than his primary entitlement; and

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

(3) Where:

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

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

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

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

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

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

(5) Where:

(a) a permittee applies for the grant by the Joint Authority of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 38A; and

(b) an instrument refusing to grant the lease is served on the permittee pursuant to section 38B(2),

the application period shall be:

- (c) the period that is applicable under subsection (4); or
- (d) the period of 12 months after the day of service of the instrument,

whichever period last expires.

#### **40A Application for licence by holder of lease**

- (1) A lessee whose lease is in force may make an application to the Minister for the grant of a licence where the lease is:
  - (a) in respect of 9 blocks – in respect of 5 of those blocks;
  - (b) in respect of 8 or 7 blocks – in respect of 4 of those blocks;
  - (c) in respect of 6 or 5 blocks – in respect of 3 of those blocks;
  - (d) in respect of 4 or 3 blocks – in respect of 2 of those blocks;
  - (e) in respect of 2 blocks – in respect of one of those blocks; or
  - (f) in respect of one block – in respect of that block.
- (2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (1) in respect of his primary entitlement, make an application to the Minister for the grant of a licence in respect of a number of blocks that is less than his primary entitlement.
- (3) Where an application has been made under subsection (1) in respect of his primary entitlement, the person who is then the lessee may, at any time while the lease concerned is in force, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the lease.

#### **41 Application for licence**

- (1) An application made under section 40 or 40A:
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application;

- (d) may set out any other matters that the applicant wishes the Minister to consider; and
  - (e) shall, in the case of an application for the grant of a licence, be accompanied by the prescribed fee.
- (2) The Minister may, at any time, by notice in writing served on the applicant, require him to furnish, within the period specified in the notice, further information in writing in connection with the application.

#### **42 Determination of rate of royalty**

- (1) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum recovered, whether under the primary licence or under the secondary licence, being a rate that is not less than 11% or more than 12½% of the value of that petroleum at the well-head.
- (2) The Minister shall not, under subsection (1), determine the rate at which royalty is to be payable unless he has given to the applicant an opportunity to confer with him concerning that rate.

#### **43 Notification as to grant of licence**

- (1) Where an application for the grant of a licence has been made under section 40 or 40A and the applicant has furnished further information as and when required by the Minister under section 41(2), the Minister, by notice in writing served on the applicant, shall inform the applicant that he is prepared to grant to the applicant a licence in respect of the blocks specified in the application.
- (2) A notice served under subsection (1) shall:
- (a) contain a summary of the conditions subject to which the licence is to be granted;
  - (b) if the notice relates to an application for a secondary licence – specify the rate of royalty determined by the Minister in pursuance of section 42(1); and
  - (c) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 44(1) in respect of the grant of the licence.

#### **44 Grant of licence**

- (1) An applicant who has been served with a notice under section 43(1) may, within a period of 3 months after the date of service of the notice on him, or within such further period not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by notice in writing served on the Minister, request the Minister to grant to the applicant the licence referred to in the first-mentioned instrument.
- (2) Where an applicant who has been served with a notice under section 43(1) has made a request under subsection (1) within the period applicable under that subsection, the Minister shall grant to the applicant a licence in respect of the blocks specified in the application.
- (3) A secondary licence shall not be granted to a permittee or lessee in respect of any one or more of the blocks that constitute a location unless:
  - (a) a primary licence has been granted in respect of a block or blocks forming part of that location; and
  - (b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 45, is the permittee's or lessee's primary entitlement.
- (4) Where an applicant who has been served with a notice under section 43(1) has not made a request under subsection (1) within the period applicable under that subsection, the application lapses upon the expiration of that period.
- (5) On the day on which a licence granted under this section comes into force, the permit or lease in respect of the blocks in respect of which the licence was granted ceases to be in force in respect of those blocks.

#### **44A Application of sections 41 to 44 where permit, &c., transferred**

Where:

- (a) after an application has been made:
  - (i) under section 40 for the grant of a licence in respect of a block in respect of which a permit is in force; or
  - (ii) under section 40A for the grant of a licence in respect of a block in respect of which a lease is in force; and

- (b) before a decision has been made by the Minister under section 43(1) in relation to the application,

a transfer of the permit or lease (as the case may be) is registered under section 78, then, after the time of the transfer, sections 41 to 44 (inclusive) have effect in relation to the application as if a reference in those sections to the applicant were a reference to the transferee.

#### **45 Variation of licence area**

- (1) Where an application is made under section 40(2) for a variation of a licence, the Minister shall, by notice in writing served on the licensee, vary the licence to include in the licence area the blocks specified in the application.
- (2) On and from the day on and from which a variation of a licence under this section has effect:
- (a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and
- (b) the permit that is in force in respect of the blocks so included ceases to be in force in respect of those blocks.

#### **46 Determination of permit or lease as to block not taken up**

- (1) Subject to subsection (2), where:
- (a) a permittee who may make an application under section 40 in respect of a block does not, within the application period, make the application; or
- (b) all applications made by a permittee under that section in respect of a block have lapsed,

the permit is determined as to that block and the determination has effect:

- (c) in a case referred to in paragraph (a) – upon the expiration of the application period; and
- (d) in a case referred to in paragraph (b):
- (i) upon the expiration of the application period; or
- (ii) upon the lapsing of the last of the applications referred to in that paragraph,

whichever is the later.

- (1A) Subject to subsection (2), where all applications made by a lessee under section 40A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect on the lapsing of the last of those applications.
- (2) Where a permittee or lessee makes an application for a secondary licence:
- (a) the permit or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
  - (b) the determination has effect upon the making of the application.
- (3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Minister shall, by instrument in the *Gazette*:
- (a) in a case where that block or those blocks constitutes or constitute that location – revoke the declaration made under section 37 in respect of that location; or
  - (b) in a case where that block or those blocks forms or form part of that location – revoke the declaration made under section 37 in respect of that location to the extent that it relates to that block or those blocks.
- (4) Subsection (3) does not apply in relation to a block:
- (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or
  - (b) in respect of which a lease or licence is in force.
- (5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by notice in the *Gazette*, revoke the declaration made under section 37 to the extent that it relates to the block that is or blocks that are not within the lease area.
- (6) Where:
- (a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and

- (b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 38B(1)(c)(ii),

the Minister shall, by notice in the *Gazette*, revoke the declaration made under section 37 in respect of that location.

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

(1) Where:

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

the Minister may, at any subsequent time, by notice in the *Gazette*:

- (c) invite applications for the grant of a licence in respect of that block; and
- (d) specify a period within which applications may be made.

(2) The Minister shall, in a notice under subsection (1), state:

- (a) that an applicant is required to specify an amount that he would be prepared to pay in respect of the grant of a licence to him on his application; or
- (b) that an applicant is required to specify a rate of royalty that he would be prepared to pay, if the licence were granted to him on his application, in respect of petroleum recovered under the licence, being a rate that exceeds 10% of the value of that petroleum at the well-head.

(3) Where the Minister, in a notice under subsection (1), states that an applicant is required to specify a rate of royalty as mentioned in subsection (2)(b), the Minister may, in that notice, state that an applicant on whose application he is prepared to grant a licence will also be required to pay to him, in respect of the grant of the licence, the amount specified in that behalf in that notice.



- (6) An application made under this section:
- (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by the particulars referred to in section 41(1)(c);
  - (d) in the case of an application under subsection (1), shall specify, in accordance with the requirement in the notice by which applications were invited, the amount or the rate of royalty, that the applicant would be prepared to pay; and
  - (f) may set out any other matters that the applicant wishes the Minister to consider.
- (7) The Minister may, at any time, by notice in writing served on the applicant, require him to furnish, within the period specified in the notice, further information in connection with his application.

**48 Application fee, &c.**

- (1) An application made under section 47 shall be accompanied by:
- (a) the prescribed fee; and
  - (b) a deposit:
    - (i) if the applicant has specified an amount that he would be prepared to pay in respect of the grant of a licence to him on the application – of 10% of that amount; or
    - (ii) if the Minister has, in the notice by which the applications were invited, stated an amount that the applicant will be required to pay in respect of the grant of a licence – of 10% of that amount.
- (2) Where a licence is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.
- (3) Where an applicant who has been served with a notice under section 49(1) does not request the Minister, under section 49(6), to grant to him the licence referred to in the notice, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

**49 Request by applicant for grant of licence**

- (1) Where, at the expiration of the period specified in a notice under section 47(1), only one application has been made under that subsection in respect of the block specified in the notice, the Minister may reject or grant the application.
- (2) Where, at the expiration of the period specified in a notice under section 47(1), 2 or more applications have been made under that subsection in respect of the block specified in the notice, the Minister may reject any or all of the applications and, if he does not reject all of the applications, may:
  - (a) if only one application remains unrejected – by notice in writing served on the applicant; or
  - (b) if 2 or more applications remain unrejected – by notice in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified in his application an amount, or a rate of royalty, that he would be prepared to pay that is not less than the amount, or the rate of royalty, specified in the application of any other applicant whose application has not been rejected,  
  
inform the applicant:
    - (c) that he is prepared to grant to him a licence; and
    - (d) that the applicant will be required to pay:
      - (i) the amount specified in the application;
      - (ii) royalty at the rate specified in the application; or
      - (iii) royalty at the rate specified in the application and the amount specified in the notice under section 47(1),  
  
as the case may be.
- (5) A notice under any of the preceding provisions of this section shall contain:
  - (a) a summary of the conditions subject to which the licence is to be granted;
  - (b) a statement of the balance of the amount, if any, that the applicant will be required to pay in respect of the grant of the licence to him; and

- (c) a statement to the effect that the application will lapse:
  - (i) if the applicant does not make a request under subsection (6); or
  - (ii) in a case where the notice contains a statement referred to in paragraph (b) – if the applicant does not pay the balance of the amount referred to in that statement or enter into an agreement under section 109 in respect of that balance.
- (6) An applicant who has been served with a notice under any of the preceding provisions of this section may, within a period of 3 months after the date of service of the notice on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows:
  - (a) by notice in writing served on the Minister, request the Minister to grant to him the licence; and
  - (b) if the first-mentioned notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to him – pay that balance or enter into an agreement under section 109 in respect of that balance.
- (7) Where an applicant who has been served with a notice under subsection (1) or (2):
  - (a) has not made a request under subsection (6); or
  - (b) if the notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him – has not paid that balance or entered into an agreement under section 109 in respect of that balance,within the period applicable under subsection (6), the application lapses upon the expiration of that period.
- (8) Where the application lapses, as provided by subsection (7), of an applicant who has been served with a notice under subsection (2), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

## 50 Grant of licence on request

Where an applicant who has been served with a notice under section 49:

- (a) has made a request under section 49(6); and
- (b) if the notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him – has paid that balance or entered into an agreement under section 109 in respect of that balance,

within the period applicable under section 49(6), the Minister shall grant to him a licence in respect of the block specified in the notice.

## 51 Grant of licences in respect of individual blocks

- (1) Where a licence (in this section called the *original licence*) is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the licensee may make an application to the Minister for the grant to him of 2 or more licences in respect of the blocks the subject of the original licence in exchange for the original licence.
- (2) An application under subsection (1):
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the number of licences required;
  - (d) shall specify the block or blocks the subject of the original licence in respect of which each licence is sought; and
  - (e) shall be accompanied by the prescribed fee.
- (4) Where a licensee has made an application under this section, the Minister shall grant to the licensee licences in accordance with the application.
- (5) A licence granted on an application under this section:
  - (a) remains in force, subject to this Part, but notwithstanding section 53, for the remainder of the term of the original licence; and
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject.

- (6) Where licences are granted on an application under this section the original licence is determined and the determination has effect on and from the day on which those licences come into force.

## **52 Rights conferred by licence**

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

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

## **53 Term of licence**

Subject to this Part, a licence remains in force:

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

## **54 Application for renewal of licence**

- (1) A licensee may, from time to time, make an application to the Minister for the renewal of a licence.

- (2) An application for the renewal of a licence:
- (a) shall be in accordance with an approved form;
  - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months before the day on which the licence ceases to be in force;
  - (c) shall be accompanied by particulars of the proposals of the licensee for work and expenditure in respect of the licence area; and
  - (d) shall be accompanied by the prescribed fee.
- (3) The Minister may receive an application for the renewal of a licence less than 6 months before, but not in any case after, the day on which the licence ceases to be in force.

## **55 Grant or refusal of licence**

- (1) Where:
- (a) an application for the renewal of a licence has been made under section 54; and
  - (b) the conditions to which the licence is, or has from time to time been, subject and the provisions of this Part and the Regulations have been complied with,
- the Minister:
- (c) shall, if the application is in respect of the first renewal of the licence; or
  - (d) may, if the application is in respect of a renewal other than the first renewal of the licence,
- by instrument in writing served on the person who is then the licensee, inform the person that he is prepared to grant to the person the renewal of the licence.
- (2) Where:
- (a) an application for the renewal of a licence has been made under section 54; and
  - (b) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with, but the Minister is, nevertheless, satisfied that special circumstances exist that

justify the granting of the renewal of the licence,

the Minister may, by instrument in writing served on the person who is then the licensee, inform the person that he is prepared to grant to the person the renewal of the licence .

- (3) If any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4), by notice in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- (4) The Minister shall not, under subsection (3), refuse to grant the renewal of a licence unless:
- (a) he has, by notice in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the renewal of the licence;
  - (b) he has served a copy of the notice on such other persons, if any, as he thinks fit;
  - (c) he has, in the notice:
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the licensee or a person on whom a copy of the notice is served may, by notice in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
  - (d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned notice has been served.
- (5) Where an application has been made under section 54 in respect of a renewal other than the first renewal of a licence, the Minister may, by notice in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- (7) A notice under subsection (1) or (2) shall contain:
- (a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (8).

- (8) A licensee who has been served with a notice under subsection (1) or (2) may, within a period of one month after the date of service of the notice on him, by notice in writing served on the Minister, request the Minister to grant the renewal of the licence to the licensee.
- (9) Where a licensee who has been served with a notice under subsection (1) or (2) has made a request under subsection (8) within the period referred to in subsection (8), the Minister shall grant to him the renewal of the licence.
- (10) Where a licensee who has been served with a notice under subsection (1) or (2) has not made a request under subsection (8) within the period referred to in subsection (8), the application lapses upon the expiration of that period.
- (11) Where:
- (a) an application for the renewal of a licence is made under section 54; and
  - (b) a licence expires:
    - (i) before the Minister grants, or refuses to grant, the renewal of the licence; or
    - (ii) before the application lapses as provided by subsection (10),

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

- (c) until the Minister grants, or refuses to grant, the renewal of the licence; or
  - (d) until the application so lapses,
- whichever first happens.

## **56 Conditions of licence**

- (1) A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.
- (2) A licence shall be deemed to contain a condition that the licensee will comply with the provisions of this Act relating to the payment of royalty as in force from time to time.



## 58 Directions as to recovery of petroleum

- (1) Where petroleum is not being recovered in a licence area and the Minister is satisfied that there is recoverable petroleum in that area, he may, by notice in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.
- (2) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Minister may, by notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the recovery of petroleum in the licence area.
- (3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that he thinks sufficient, by notice in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Minister specifies in the notice.
- (4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area.
- (5) Without limiting the matters that may be taken into account by the Minister in determining whether to give a direction under subsection (3) or (4), the Minister may take into account matters relating to the effects on the revenue of the Territory of the proposed direction, but the Minister shall not give a direction under subsection (3) or (4) if the direction would require action to be taken that is contrary to good oil-field practice.

## 59 Unit development

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

- (b) means the carrying on of operations for the recovery of petroleum from that pool under co-operative arrangements between the persons entitled to carry on such operations in each of those areas.
- (2) A licensee may, from time to time, enter into an agreement in writing for or in relation to the unit development of a petroleum pool, but nothing in this subsection derogates from the operation of section 81(2).
- (3) The Minister of his own motion or on application made to him in writing by:
- (a) a licensee in whose licence area there is a part of a particular petroleum pool; or
  - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside an adjacent area that includes part of a particular petroleum pool that extends into the adjacent area,

may for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee whose licence area includes part of the petroleum pool, by instrument in writing served on the licensee, to enter into an agreement in writing, within the period specified in the notice, for or in relation to the unit development of the petroleum pool and to lodge an application in accordance with section 81 for approval of any dealing to which the agreement relates.

- (4) Where:
- (a) a licensee who is directed, under subsection (3), to enter into an agreement for or in relation to the unit development of a petroleum pool does not enter into such an agreement within the specified period; or
  - (b) the licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 81,

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

- (5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Minister may, by

notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

- (6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the Minister may, by notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by notice in writing served on the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as he thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (8) The Minister shall not give a direction under subsection (6) or (7) unless he has given to the licensee or licensees concerned an opportunity to confer with him concerning the proposed direction.
- (9) Directions given under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.
- (10) In this section, *dealing* means a dealing to which section 81 applies.
- (11) The Minister shall:
  - (a) if a petroleum pool extends, or is reasonably believed by him to extend, from an adjacent area into lands to which the laws of another State relating to the exploitation of petroleum resources apply, consult with the appropriate authority of that State concerning the exploitation of the petroleum pool;
  - (b) if a petroleum pool extends, or is reasonably believed by him to extend, from an adjacent area into the adjacent area in respect of a State, consult with the Designated Authority under the Commonwealth Act in respect of that State concerning the exploitation of the petroleum pool; or
  - (c) if both paragraphs (a) and (b) apply, comply with both of those paragraphs.

- (12) Where subsection (11) applies in relation to a petroleum pool, the Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool except with the approval of any other authority or Designated Authority required by that subsection to be consulted.
- (13) For the purposes of subsection (11)(b), the adjacent area in respect of a State is one of the following areas:
- (a) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is in force – the adjacent area in respect of the State within the meaning of that Act;
  - (b) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is repealed and re-enacted (with or without modification) – the area that, under the Act of the Commonwealth that re-enacts the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, corresponds to the area which, immediately before the repeal of the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, was the adjacent area in respect of the State determined in accordance with section 5A of that Act.

## Division 4 Pipeline licences

### 60 Construction etc. of pipelines etc.

- (1) A person shall not, in the adjacent area:
- (a) commence or continue the construction, or the alteration or reconstruction, of a pipeline; or
  - (b) operate a pipeline,
- except under and in accordance with a pipeline licence.
- (2) A person shall not, in the adjacent area:
- (a) commence or continue the construction, or the alteration or reconstruction, of a secondary line or water line; or
  - (b) operate a secondary line or water line,
- except with and in accordance with a consent in writing of the Minister.

- (3) A person shall not, in the adjacent area:
- (a) commence or continue the construction, or the alteration or reconstruction, of a pumping station, tank station or valve station; or
  - (b) operate a pumping station, tank station or valve station,  
except under and in accordance with a pipeline licence or with and in accordance with a consent in writing of the Minister.
- (4) A person shall not, in the adjacent area, commence to operate a pipeline, a secondary line or a water line unless:
- (a) in the case of a pipeline, it has been constructed and tested in accordance with the pipeline licence;
  - (b) in the case of a secondary line or water line it has been constructed and tested in accordance with a consent in writing of the Minister; and
  - (c) the Minister has certified in writing that he is satisfied that the pipeline, secondary line or water line, as the case may be, has been so constructed and tested and is fit to be operated.
- (5) A person shall not, in the adjacent area, recommence to operate a pipeline, a secondary line or a water line, the previous operation of which was discontinued, except with and in accordance with a consent in writing of the Minister.
- (6) The Minister may refuse to give a consent or certificate for the purposes of this section and, where he gives a consent, may attach conditions to it.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

## 61 Acts done in emergency, &c.

It is not an offence against section 60:

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

order and repair and:

- (i) as soon as practicable notifies the Minister of the act done; and
  - (ii) complies with any directions given to him by the Minister;  
or
- (b) if a person does an act in compliance with a direction under this Act or the Regulations.

## **62 Removal of pipeline, &c., constructed in contravention of Act**

(1) Where:

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

the Minister may, by notice in writing served on the appropriate person, direct him:

- (c) to make such alterations to the pipeline, water line, pumping station, tank station, valve station or secondary line as are specified in the notice; or
- (d) to move the pipeline, water line, pumping station, tank station, valve station or secondary line to a specified place in, or to remove it from, the adjacent area,

within the period specified in the notice.

(2) For the purposes of subsection (1), the appropriate person is:

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

- (3) Where a person who has been served with a notice under subsection (1) does not, within the period specified in the notice or within such further period, if any, as the Minister, on application in writing served on him before the expiration of the first-mentioned period, allows, comply with the direction, the Minister may do all or any of the things required by the direction to be done.
- (4) Costs and expenses incurred by the Minister under subsection (3) are a debt due by the person referred to in that subsection to the Territory and are recoverable in a court of competent jurisdiction.

### **63 Terminal station**

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

### **64 Application for pipeline licence**

- (1) An application for a pipeline licence:
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by particulars of:
    - (i) the proposed design and construction of the pipeline;
    - (ii) the proposed size and capacity of the pipeline;
    - (iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline;
    - (iv) the technical qualifications of the applicant and of his employees;
    - (v) the technical advice available to the applicant;
    - (vi) the financial resources available to the applicant; and
    - (vii) any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline;
  - (d) shall be accompanied by a plan, drawn to an approved scale, showing:
    - (i) the routes to be followed by the pipeline;

- (ii) the sites of pumping stations, tank stations and valve stations to be used in connection with the pipeline; and
    - (iii) the site of any pumping station, tank station or valve station that the applicant desires to be declared under section 63 to be a terminal station in connection with the pipeline;
  - (e) may set out any other matters that the applicant wishes the Minister to consider; and
  - (f) shall be accompanied by the prescribed fee.
- (2) Where a notice is published in the *Gazette*:
- (a) of an application by a person other than the licensee for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area; or
  - (b) of an application by a person other than the pipeline operator under the Commonwealth Act or a corresponding law for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area of a production licence under the Commonwealth Act or a corresponding law,

the licensee or, as the case may be, the pipeline operator under the Commonwealth Act or a corresponding law may, within a period of 3 months after the date of publication of the notice, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, make an application for a pipeline licence referred to in paragraph (a) or (b), as the case requires, and in the application request that the application referred to in the notice be rejected.

- (3) Where:
- (a) a notice referred to in subsection (2) is published in the *Gazette*; and
  - (b) a pipeline licence is granted to a licensee or to a pipeline operator under the Commonwealth Act or a corresponding law on an application under subsection (2),

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



- (4) The Minister may, at any time, by notice in writing served on a person who has made an application under this section, require him to furnish, within the time specified in the notice, further information in writing in connection with his application.
- (5) In this section, *pipeline operator under the Commonwealth Act or a corresponding law* has the same meaning as in section 65.

## 65 Grant or refusal of grant of pipeline licence

- (1) Where a person makes an application in accordance with section 64, the Minister may, if that person is not the licensee and the application has not been rejected under section 64(3), inform the applicant, by notice in writing served on the applicant, that the Minister is prepared to grant a pipeline licence to the applicant.
- (2) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the licensee, the Minister:
  - (a) shall, if the conditions to which the licence is, or has from time to time been, subject and the provisions of this Part and the Regulations have been complied with; or
  - (b) may, if:
    - (i) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with; and
    - (ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of a pipeline licence,by instrument in writing served on the person who is then the licensee, inform the person that the Minister is prepared to grant to the person a pipeline licence.
- (2A) If a person makes an application in accordance with section 64 for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered from a place beyond the outer limits of any adjacent area, the Minister may inform the person, by instrument in writing served on the person, that he or she is prepared to grant the person a pipeline licence.

- (3) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the licensee, the Minister shall, if:
- (a) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with; and
  - (b) the Minister is not satisfied that special circumstances exist that justify the granting of a pipeline licence,
- by instrument in writing served on the person who is then the licensee, refuse to grant a pipeline licence.
- (4) The Minister shall not, under subsection (3), refuse to grant a pipeline licence to a licensee unless:
- (a) he or she has, by notice in writing served on the licensee, given not less than one month's notice of his or her intention to refuse to grant the pipeline licence;
  - (b) he or she has served a copy of the notice on such other persons, if any, as he or she thinks fit;
  - (c) he or she has, in the notice:
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the licensee or a person on whom a copy of the notice is served may, by notice in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and
  - (d) he or she has taken into account any matters so submitted to him or her on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned notice has been served.
- (5) Where a person other than a licensee or a pipeline operator under the Commonwealth Act or a corresponding law makes an application in accordance with section 64 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area or, as the case may be, a licence area of a production licence under the Commonwealth Act or a corresponding law, the Minister may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.

- (7) A notice under subsection (1) or an instrument under subsection (2) or (2A):
- (a) shall specify the route to be followed by the pipeline;
  - (b) shall contain a summary of the conditions subject to which a pipeline licence is to be granted; and
  - (c) shall contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection (9).
- (8) The route to be specified in a notice under subsection (1) or an instrument under subsection (2) or (2A) shall be:
- (a) the route shown in the plan accompanying the application; or
  - (b) if the Minister is of the opinion that, for any reason, that route is not appropriate – a route that, in the opinion of the Minister, is appropriate.
- (9) A person who has been served with a notice under subsection (1) or an instrument under subsection (2) or (2A) may, within a period of 3 months after the date of service of the notice on the person, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on the person before the expiration of the first-mentioned period of 3 months, allows, by notice in writing served on the Minister, request the Minister to grant to the person the pipeline licence.
- (10) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) or (2A) has made a request under subsection (9) within the period applicable under subsection (9), the Minister shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the notice or instrument.
- (11) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) or (2A) has not made a request under subsection (9) within the period applicable under subsection (9), the application lapses upon the expiration of that period.
- (13) In this section, ***pipeline operator under the Commonwealth Act or a corresponding law*** means a person who is entitled under the Commonwealth Act or a corresponding law to carry on operations for the recovery of petroleum in an area outside the adjacent area and who the Minister is satisfied is or will be entitled to construct a pipeline from the first-mentioned area to the boundary of the adjacent area.

## **66 Rights conferred by pipeline licence**

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

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

## **67 Term of pipeline licence**

- (1) Subject to this Part, a pipeline licence remains in force indefinitely.
- (2) A pipeline licence comes into force on the day on which it is granted or, if a later day is specified in the pipeline licence as being the day on which it is to come into force, on that later day.

## **70 Conditions of pipeline licence**

- (1) A pipeline licence may be granted subject to such conditions as the Minister thinks fit and specifies in the pipeline licence.
- (2) The conditions referred to in subsection (1) may include a condition that the pipeline licensee shall complete the construction of the pipeline within the period specified in the pipeline licence.

## **71 Variation of pipeline licence on application by pipeline licensee**

- (1) A pipeline licensee may, at any time, make an application to the Minister for the variation of the pipeline licence.
- (2) An application under this section:
  - (a) shall be in accordance with an approved form;

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

## **72 Variation of pipeline licence by designated authority**

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

by notice in writing served on a person who is a pipeline licensee or the holder of a notice of consent under section 60, direct that person to make such changes in the design, construction, route or position of the pipeline, or of a water line, pumping station, tank station, valve station or secondary line to which the pipeline licence or notice of consent relates, as are specified in the first-mentioned notice, within the period specified in the first-mentioned notice and, if the person so directed is a pipeline licensee, shall vary the pipeline licence accordingly.

- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

- (3) Where the Minister gives a direction under subsection (1), and the person to whom the direction was given has complied with the direction, that person may bring an action in the Supreme Court against the Minister or Minister of State of the Commonwealth or body making the request.
- (4) The Supreme Court shall hear the action, without a jury, and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.
- (5) If the Supreme Court determines that it is just that such a payment ought to be made, the Supreme Court shall determine the amount of the payment and give judgment accordingly.

### **73 Common carrier**

- (1) The Minister may, by notice in writing served on a pipeline licensee, direct the pipeline licensee to be a common carrier of petroleum in respect of the pipeline and thereupon the pipeline licensee is a common carrier of petroleum in respect of the pipeline.
- (2) Subsection (1) does not apply in relation to a pipeline, or a part of a pipeline, that is a covered pipeline within the meaning of the National Gas (NT) Law as defined in the *National Gas (Northern Territory) Act*.

### **74 Ceasing to operate pipeline**

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

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

- (2) It is not an offence against subsection (1) if the failure of the pipeline licensee to operate the pipeline:
- (a) was in the ordinary course of operating the pipeline;
  - (b) was for the purpose of repairing or maintaining the pipeline; or
  - (c) was in an emergency in which there was a likelihood of loss or injury.

#### **74AA Termination of pipeline licence if no operations for 5 years**

- (1) If a pipeline licensee:
- (a) has not carried out any construction work under the pipeline licensee's pipeline licence for a continuous period of at least 5 years; and
  - (b) has not used the pipeline or a part of the pipeline the subject of the pipeline licensee's pipeline licence for a continuous period of at least 5 years,

the Minister may, by written notice served on the pipeline licensee, inform the pipeline licensee that the Minister proposes to terminate the pipeline licence, or to terminate the pipeline licence in respect of a part of the pipeline, (as the case requires) after the end of one month after the notice is served.

- (2) At any time after the end of one month after the notice referred to in subsection (1) is served on the pipeline licensee, the Minister may, by written notice served on the pipeline licensee, terminate the pipeline licence or terminate the pipeline licence in respect of a part of the pipeline (as the case requires).
- (3) In working out, for the purposes of subsection (1), the duration of the period in which a pipeline licensee did not carry out any construction work under the pipeline licence or did not use the pipeline or a part of the pipeline, any period in which construction work was not carried out, or the pipeline or part of the pipeline was not used, because of circumstances beyond the pipeline licensee's control is to be disregarded.

### **Division 5 Registration of instruments**

#### **74A Interpretation**

In this Division, *title* means a permit, lease, licence, pipeline licence or access authority.

**75 Register of certain instruments to be kept**

For the purposes of this Part, the Minister shall keep a register of titles and special prospecting authority granted by him.

**75A Application of *Law of Property Act***

On the commencement of the *Law of Property Act 2000*:

- (a) that Act applies to estates, interests and any other rights in or in respect of land, granted, created or taking effect under this Act, but if there is an inconsistency between the provisions of that Act and a specific provision of this Act, this Act prevails;
- (b) Part 7 of that Act applies to or in respect of an interest granted, created or taking effect under this Act, subject that a reference to the Registrar-General is to be construed as a reference to the Minister; and
- (c) in registering the creation or transfer of an interest under this Act, the Minister is to record co-owners (if any) of the interest as tenants in common unless satisfied that the intention was for the interest to be held as joint tenants.

**76 Particulars to be entered in register**

- (1) The Minister shall enter in the register a memorial in respect of each title or special prospecting authority:
  - (a) specifying the name of the holder of the title or special prospecting authority;
  - (b) in the case of a permit, lease or licence, setting out an accurate description (including, where convenient, a map) of the permit area, lease area or licence area;
  - (c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient, a map) of the area in respect of which the special prospecting authority or access authority is in force;
  - (d) in the case of a pipeline licence, setting out a description of the route of the pipeline;
  - (e) specifying the term of the title and special prospecting authority;
  - (f) setting out such other matters and things as are required by this Part to be entered in the register; and



- (g) setting out such further matters relating to the registered holder or to the terms and conditions of the title or special prospecting authority as the Minister deems proper and expedient in the public interest.
- (2) The Minister shall enter in the register a memorial of:
- (a) any notice varying, cancelling, surrendering or otherwise affecting a title or special prospecting authority;
  - (b) any notice under section 59(5), (6) or (7);
  - (c) any agreement under section 109; and
  - (d) any notice or instrument varying or revoking a notice or instrument referred to in paragraph (a) or (b).
- (3) It is sufficient compliance with the requirements of subsection (1) or (2) if the Minister enters a copy of the title, special prospecting authority or instrument in the register.
- (5) The Minister shall endorse on the memorial or copy of the title, special prospecting authority or instrument a memorandum of the date upon which the memorial or copy was entered in the register.

**77 Memorials to be entered of permits, &c., determined, &c.**

Where:

- (a) a permit or lease ceases to be in force in respect of a block in respect of which a licence is granted;
- (b) a permit or lease has been wholly determined or partly determined; or
- (c) a permit, licence, pipeline licence or access authority has expired,

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

**78 Approval and registration of transfers**

- (1) A transfer of a title is of no force or effect until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.
- (2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.

- (3) An application for approval of a transfer of a title shall be accompanied by:
  - (a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee;
  - (b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out:
    - (i) the technical qualifications of that transferee or those transferees;
    - (ii) details of the technical advice that is or will be available to that transferee or those transferees; and
    - (iii) details of the financial resources that are or will be available to that transferee or those transferees; and
  - (c) a copy of the application and of the instruments referred to in paragraphs (a) and (b).
- (4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.
- (5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as he considers appropriate.
- (6) The Minister shall consider each application for approval of the transfer of a title and determine whether to approve the transfer.
- (7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister.
- (9) Where the Minister approves the transfer of a title, he shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the fee provided by this Act, enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.

- (10) Upon the entry in the register of a memorandum of the transfer of a title and of the name of the transferee in accordance with subsection (9):
- (a) the transfer shall be deemed to be registered; and
  - (b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.
- (11) Where the Minister refuses to approve the transfer of a title, he shall make a notation of the refusal in the register.
- (12) Where a transfer is registered:
- (a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and
  - (b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.
- (13) The mere execution of an instrument of transfer of a title creates no interest in the title.

## **79 Entries in register on devolution of title, &c.**

- (1) A person upon whom the rights of a registered holder of a particular title have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the title.
- (2) The Minister shall, if he is satisfied that the rights of a holder have devolved upon an applicant by operation of law and on payment of the prescribed fee enter the name of the applicant in the register as the holder of the title and, upon that entry being so made, the applicant becomes the registered holder of the title.
- (3) Where a company that is the registered holder of a particular title has changed its name, it may apply in writing to the Minister to have its new name substituted for its previous name in the register in relation to that title and, if:
- (a) the Minister is satisfied that the company has so changed its name; and
  - (b) the company has paid the prescribed fee,
- the Minister shall make the necessary alterations in the Register.

## 81 Approval of dealings relating to existing titles

- (1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects:
- (a) the creation or assignment of an interest in an existing title;
  - (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;
  - (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by, or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under co-operative arrangements for the recovery of petroleum);
  - (d) the creation or assignment of:
    - (i) an interest in or in relation to an existing permit, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or
    - (ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorized by an existing permit, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;
  - (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
  - (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d); and
  - (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f),

but this section does not apply to a transfer to which section 78 applies.

- (2) A dealing to which this section applies is of no force or effect in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until:
- (a) the dealing, in so far as it relates to that title, has been approved by the Minister; and
  - (b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12).
- (3) A party to a dealing to which this section applies may lodge with the Minister:
- (a) in a case where the dealing relates to only one title, an application in writing for approval by the Minister of the dealing; or
  - (b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each title to which the dealing relates.
- (4) An application under subsection (3) for approval of a dealing:
- (a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and
  - (b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.
- (4A) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of:
- (a) the application;
  - (b) the instrument referred to in subsection (4)(a); and
  - (c) any instrument lodged for the purposes of subsection (4)(b).
- (5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within the period of 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister in special circumstances, allows.

- (6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 81A(1), the Minister shall not approve the dealing unless:
  - (a) a provisional application for approval of the dealing was lodged in accordance with section 81A(1); or
  - (b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.
- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.
- (8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4)(a), and with subsection (4A) in so far as that subsection requires 2 copies of the document referred to in subsection (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document relating to the creation of that charge required to be lodged under section 262 of the Corporations Act 2001 or with ASIC under section 263 of the Corporations Act 2001, or under the corresponding provision of a law of a State or another Territory of the Commonwealth.
- (9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register on the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.
- (10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.
- (11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.
- (12) If the Minister approves a dealing, he shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the fee provided by this Act make an entry of the approval of the dealing in the register on the memorial

relating to, or on the copy of, the title in respect of which the approval is sought.

- (13) Where an entry is made in the Register in relation to a dealing in accordance with subsection (12):
- (a) if the dealing was approved before the commencement of section 11 of the *Petroleum (Submerged Lands) Amendment Act 1989* or the application for approval of the dealing was not accompanied by an instrument for the purpose of subsection (4)(b), one copy of the instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division;
  - (b) if the application for approval of the dealing was accompanied by an instrument for the purpose of subsection (4)(b), a copy of that instrument endorsed with a copy of the memorandum of approval of the dealing shall be retained by the Minister and made available for inspection in accordance with this Division but a copy of the instrument evidencing the dealing shall not be so made available; and
  - (c) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval and the instrument (if any) lodged for the purpose of subsection (4)(b) shall be returned to the person who made the application for approval.
- (13A) The approval of a dealing or the making of an entry in the Register in relation to a dealing is not rendered ineffective by a failure to comply, in relation to the application for approval of the dealing, with the requirements of this section.
- (14) Where the Minister refuses to approve a dealing, he shall make a notation of the refusal in the register.
- (15) In this section, *charge* and *debenture* have the same respective meanings as they have for section 263 of the Corporations Act 2001.

**81A Approval of dealings in future interests, &c.**

- (1) Where 2 or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 81 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title, lodge with the Minister:

- (a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or
  - (b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.
- (2) Section 81(4), (7) and (8) applies to a provisional application lodged under subsection (1) of this section as if that provisional application were an application lodged under section 81(3).
- (3) Where:
- (a) the title to which a dealing referred to in subsection (1) relates comes into existence; and
  - (b) upon that title coming into existence, the dealing becomes a dealing to which section 81 applies,
- the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 81(3) on the day on which that title came into existence.
- (4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period:
- (a) commencing:
    - (i) in the case of a permit, lease, licence or pipeline licence – on the day of service of an instrument informing the applicant for the permit, lease, licence or pipeline licence that the Minister is prepared to grant the permit, lease, licence or pipeline licence; or
    - (ii) in the case of an access authority – on the day on which the application for the grant of the access authority is made; and
  - (b) ending on the day on which the title comes into existence.

## **82 True consideration to be shown**

- (1) A person who is a party to a transfer referred to in section 78, a dealing to which section 81 applies or a dealing referred to in section 81A(1) shall not lodge with the Minister:
- (a) an instrument of transfer;



- (b) an instrument evidencing the dealing; or
- (c) an instrument of the kind referred to in section 81(4)(b),

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

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

- (2) Where a person is found guilty of an offence against subsection (1), the Minister may make a fresh determination of the amount of the fee payable under section 92 in respect of the memorandum relating to the transfer or dealing.
- (3) Section 91(2) and (3) applies in relation to a determination under subsection (2) as it applies in relation to a determination under section 91(1).

### **83 Minister not concerned with certain matters**

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

### **84 Power of Minister to acquire information as to dealings**

- (1) The Minister may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Division to furnish to him in writing such information concerning the transfer or dealing as the Minister considers necessary or advisable.
- (1A) The Minister may require a person who is a party to a dealing approved under section 81 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.

(1B) The Minister may require a person making an application under section 79(1) or (3) or 87A(2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.

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

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

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

## **85 Production and inspection of documents**

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

(1A) The Minister may require a person to produce to him or to make available for inspection by him a document in the possession or under the control of that person and relating to an application made under section 79(1) or (3) or 87A(2) to the Minister.

(2) A person shall not fail or refuse to comply with a requirement given to him under subsection (1) or (1A).

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

## **86 Inspection of register and documents**

(1) The register and all instruments or copies of instruments subject to inspection under this Division shall at all convenient times be open for inspection by any person upon payment of the fee prescribed or calculated in accordance with the Regulations.

## **87 Evidentiary provisions**

(1) The register shall be received by all courts as evidence of all matters required or authorized by this Division to be entered in the register.

- (2) The Minister may, on payment of a fee calculated in accordance with the Regulations, supply copies of or extracts from the register or of or from any instrument lodged with him under this Division certified by writing under his hand, and such a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.
- (3) The Minister may, on payment of the fee prescribed or calculated in accordance with the Regulations, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

**87A Minister may make corrections to register**

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

## **88 Appeals**

- (1) The Supreme Court may, on the application of a person aggrieved by:
  - (a) the omission of an entry from the register;
  - (b) an entry made in the register without sufficient cause;
  - (c) an entry wrongly existing in the register; or
  - (d) an error or defect in an entry in the register,make such an order as it thinks fit directing the rectification of the register.
- (2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.
- (3) Notice of an application under this section shall be given to the Minister, who may appear and be heard and shall appear if so directed by the Supreme Court.
- (4) An office copy of an order made by the Supreme Court may be served on the Minister and the Minister shall, upon receipt of the order, rectify the register accordingly.

## **89 Minister not liable to certain actions**

Subject to section 88, neither the Minister nor a person acting under his direction or authority is liable to an action, suit or proceeding for or in respect of an act or matter bona fide done or omitted to be done in exercise or purported exercise of any power or authority conferred by this Division.

## **90 Offences**

A person who wilfully:

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

is guilty of an offence.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

## 91 Assessment of fee

- (1) The Minister may determine the amount of the fee payable under section 92 in respect of any memorandum.
- (2) A person dissatisfied with a determination of the Minister under subsection (1) may appeal to the Supreme Court against the determination.
- (3) Upon the hearing of an appeal under subsection (2), the Supreme Court may affirm, reverse or modify the determination of the Minister.

## 92 Imposition of registration fees

- (1) In this section *title* means a permit, lease, licence, pipeline licence or access authority.
- (2) Subject to this section, there is payable to the Minister in respect of an entry in the register of a memorandum of the transfer of a title under section 78 a fee at the rate of 1.5% of:
  - (a) the value of the consideration for the transfer; or
  - (b) the value of the title transferred,whichever is the greater or, if the amount of that fee is less than the prescribed amount, a fee of the prescribed amount.
- (3) Where:
  - (a) a fee imposed by subsection (5) in respect of an entry of approval of a dealing, being a dealing pursuant to which the transfer of a title is agreed to, has been paid; and
  - (b) but for this subsection, the amount of the fee imposed by subsection (2) in respect of the entry of a memorandum of the transfer of the title, being a transfer executed for the purpose of giving effect to the dealing referred to in paragraph (a), would be greater than the prescribed amount,

the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer is the prescribed amount.

(4) Where:

- (a) the parties to a transfer of a title lodged for approval under section 78 satisfy the Minister that:
  - (i) they are related corporations within the meaning of the Corporations Act 2001;
  - (ii) the transfer was executed solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and
  - (iii) the transfer was not executed substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (2) in respect of the entry of a memorandum of the transfer; and
- (b) but for this subsection, the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer of the title would be more than the prescribed amount,

the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer is the prescribed amount.

- (5) Subject to this section, there is payable to the Minister in respect of an entry in the register of the approval of a dealing under section 81 a fee at the rate of 1.5% of:
- (a) the value of the consideration for the dealing or, if the Minister approves the dealing in relation to another title or other titles, an amount equal to the value of the consideration for the dealing divided by the number of titles in relation to which the dealing is approved; or
  - (b) in a case where:
    - (i) the entry of approval relates to an interest in a licence or pipeline licence;
    - (ii) the value of the interest is greater than the amount applicable under paragraph (a);

(iii) the dealing has an effect of the kind referred to in section 81(1)(a), (b) or (d); and

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

the value of the interest.

(6) Where:

(a) but for this subsection, the amount of the fee imposed by subsection (5) in relation to an entry of approval of a dealing would be less than the prescribed amount; or

(b) an approval under section 81 is given in respect of a dealing that is a dealing to which that section applies by reason only that the dealing creates, varies or terminates a charge over some or all of the assets of a body corporate,

the amount of the fee imposed by subsection (5) in respect of the entry of that approval is the prescribed amount.

(7) Where:

(a) the parties to a dealing lodged for approval under section 81 satisfy the Minister that:

(i) they are related corporations within the meaning of the Corporations Act 2001;

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

(iii) the dealing was not entered into substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (5) in respect of the entry of approval of the dealing; and

(b) but for this subsection, the amount of the fee imposed by subsection (5) in relation to the entry of approval of the dealing would be more than the prescribed amount,

the amount of the fee imposed by subsection (5) in respect of the entry of approval of that dealing is the prescribed amount.

- (8) For the purposes of calculating the amount of the fee imposed by subsection (5) in respect of an entry of approval of a dealing, the value, as determined by the Minister of any exploration works to be carried out pursuant to the dealing, being works that were, at the time when the application for approval of the dealing was lodged, required or permitted to be carried out by or under the relevant title, shall be deducted from the value of the consideration for the dealing or from the value of the interest in the relevant licence as the case requires.

### **93 Exemption from stamp duty**

Duty under the *Stamp Duty Act* shall not be chargeable:

- (a) on a permit, licence, pipeline licence or access authority;
- (b) on a transfer of a permit, licence, pipeline licence or access authority to which section 78 applies; or
- (c) on any other instrument in so far as it relates to a legal or equitable interest in or affecting a permit, licence, pipeline licence or access authority.

## **Division 6 General**

### **94 Notice of grants of permits etc. to be published**

The Minister shall cause notice of, and such particulars as he or she thinks fit of:

- (a) the grant, and the grant of the renewal, of a permit, lease or licence;
- (aa) the grant of a pipeline licence;
- (b) the variation of a licence or pipeline licence;
- (c) the surrender or cancellation of a permit, lease or licence as to all or some of the blocks in the permit area, lease area or licence area;
- (d) the determination of a permit or lease as to a block or blocks;
- (e) an application for a pipeline licence or for the variation of a pipeline licence;
- (f) the surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline; and



- (g) the expiry of a permit, lease or licence, or the termination of a pipeline licence,

under this Part to be published in the *Gazette*.

**95 Date of effect of permits, &c.**

- (2) The surrender or cancellation of a permit, lease or licence as to all or some of the blocks in the permit area, lease area or licence area has effect on and from the day on which notice of the surrender or cancellation is published in the *Gazette*.
- (3) The surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline has effect on and from the day on which notice of the surrender or cancellation is published in the *Gazette*.
- (4) A variation of a licence or pipeline licence has effect on and from the day on which notice of the variation is published in the *Gazette*.

**96 Commencement of works**

- (1) Where a permit, lease, licence or pipeline licence is granted subject to a condition that works or operations specified in the permit, lease, licence or pipeline licence are to be carried out, the permittee, lessee, licensee or pipeline licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force.
- (2) The Minister may, by notice in writing served on the permittee, lessee, licensee or pipeline licensee:
- (a) exempt him from compliance with the requirements of subsection (1); and
- (b) direct him to commence to carry out the works or operations specified in the permit, lease, licence or pipeline licence, as the case may be, within such period after the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force as is specified in the notice.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

## 97 Work practices

- (1) A permittee, lessee or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in those operations in or about the permit area, lease area or licence area.
- (2) In particular, and without limiting the generality of subsection (1), but subject to any authorization or requirement given or made by or under this Act or regulations or directions under this Act, a permittee, lessee or licensee shall:
  - (a) control the flow and prevent the waste or escape in the permit area, lease area or licence area of petroleum or water;
  - (b) prevent the escape in the permit area, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter;
  - (c) prevent damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which the permit, lease or licence is not in force;
  - (d) keep separate:
    - (i) each petroleum pool discovered in the permit area, lease area or licence area; and
    - (ii) such of the sources of water, if any, discovered in that area as the Minister, by notice in writing served on that person, directs; and
  - (e) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area or licence area except when required by, and in accordance with, good oilfield practice.
- (3) A pipeline licensee shall operate a pipeline in a proper and workmanlike manner and shall secure the safety, health and welfare of persons engaged in operations in connection with the pipeline.
- (4) In particular, and without limiting the generality of subsection (3), a pipeline licensee shall prevent the waste or escape of petroleum or water from a pipeline or from any secondary line, pumping station, tank station, valve station or water line.

- (5) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in those operations in or about that area.
- (7) It is a defence if a person charged with failing to comply with a provision of this section, or a defendant in an action arising out of a failure by the defendant to comply with a provision of this section, proves that he took all reasonable steps to comply with that provision.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

#### **97A Conditions relating to insurance**

- (1) The holder of a permit, lease, licence or pipeline licence shall maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, lease, licence or pipeline licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.
- (2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the holder maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.
- (3) Where:
- (a) a permit, lease, licence or pipeline licence was in force immediately before the commencement;
  - (b) the Minister has required the holder to maintain insurance under subsection (1); and
  - (c) the Minister is satisfied that the required insurance is in effect;
- the Minister shall issue a certificate that he is so satisfied.

- (4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, lease, licence or pipeline licence, being a security that was required under this Act before the commencement of this section, is discharged.
- (5) The discharge of a security under subsection (4) has no effect on any liability arising under or in relation to the security before its discharge.

## 98 Maintenance, &c., of property

- (1) In this section:

***operations area:***

- (a) in relation to an operator who is a permittee, lessee or licensee – means a permit area, lease area or licence area, as the case may be;
- (b) in relation to an operator who is a pipeline licensee – means the part of an adjacent area in which a pipeline is constructed; and
- (c) in relation to an operator who is the holder of a special prospecting authority or access authority – means the area in respect of which that authority is in force.

***operator*** means the permittee, lessee, licensee, pipeline licensee or holder of a special prospecting authority or access authority.

- (2) An operator shall maintain in good condition and repair all structures, equipment and other property in an operations area and used in connection with the operations in which he is engaged.
- (3) An operator shall remove from an operations area all structures, equipment or other property that are not either used or to be used in connection with the operations in which he is engaged.
- (4) Subsections (2) and (3) do not apply in relation to any structure, equipment or other property that was not brought into the operations area by or with the authority of the operator.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

**99 Sections 97 and 98 to have effect subject to this Act, &c.**

Sections 97 and 98 have effect subject to:

- (a) any other provisions of this Act;
- (b) the Regulations;
- (c) a direction under section 101; and
- (d) any other law.

**100 Drilling near boundaries**

- (1) A permittee, lessee or licensee shall not make a well any part of which is less than 300 metres from the boundary of the permit area, lease area or licence area, as the case may be, except with the consent in writing of the Minister and in accordance with such conditions, if any, as are specified in the notice of consent.
- (2) Where a permittee, lessee or licensee does not comply with subsection (1), the Minister may, by notice in writing served on the permittee, lessee or licensee, as the case may be, direct him to do one or more of the following, within the period specified in the notice:
  - (a) plug the well;
  - (b) close off the well; and
  - (c) comply with such directions relating to the making or maintenance of the well as are specified in the notice.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

**101 Directions**

- (1) The Minister may, by notice in writing served on the registered holder of a permit, lease, licence, pipeline licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter in respect of which regulations may be made.

- (2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to:
- (a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons:
    - (i) servants or agents of, or persons acting on behalf of, the registered holder;
    - (ii) persons performing work or services, whether directly or indirectly, for the registered holder; or
  - (b) a person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the adjacent area for any reason touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil or is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of that kind,

and where a direction so expressed is given, the direction shall be deemed to apply to each person included in that specified class or to each person who is in the adjacent area as mentioned in paragraph (b), as the case may be.

- (2A) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(a), the registered holder shall cause a copy of the instrument by which the direction was given to be given to that other person or to be exhibited at a prominent position at a place in an adjacent area frequented by that other person.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

- (2B) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the registered holder shall cause a copy of the instrument by which the direction was given to be exhibited at a prominent position at a place in an adjacent area.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

- (2C) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the Minister may, by notice in writing given to the registered holder, require him to cause to be displayed at such places in an adjacent area, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

- (3) The Minister shall not give a direction of a standing or permanent nature except after consultation with the Minister of State for the time being administering the Commonwealth Act, but the validity of a direction of the Minister shall not be called in question by reason only of a failure to comply with this subsection.
- (4) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.
- (5) A direction under this section has effect and shall be complied with notwithstanding anything in the Regulations or the applied provisions.
- (6) Section 169(3) and (4) apply in relation to directions made under this section in like manner as they apply to the Regulations.
- (7) A person who fails to comply with a direction in force under subsection (1) that applies to the person is guilty of an offence.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

- (8) Where:
- (a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (7) in relation to the direction; and
- (b) the person adduces evidence that he did not know, and could not reasonably be expected to have known, of the existence of the direction,

he shall not be found guilty of the offence unless the prosecutor proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

## **102 Compliance with directions**

- (1) Where a person does not comply with a direction given or applicable to him under this Part or the Regulations the Minister may do all or any of the things required by the direction to be done.
  - (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given or was applicable to the Territory and are recoverable in a court of competent jurisdiction.
- (2A) Where:
- (a) a direction given under section 101 applies to a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and
  - (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

- (3) It is a defence if a person charged with failing to comply with a direction given or applicable to him under this Part or under the Regulations or a defendant in an action under subsection (2) proves that he took all reasonable steps to comply with the direction.

## **103 Exemption**

- (1) Where:
  - (a) a permit, lease or licence is under this Part, deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, lease or licence;
  - (b) a licence is varied under section 45;
  - (c) a licensee enters into an agreement under section 59 or a direction is given to a licensee under that section;



- (d) a permit, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force;
- (e) a pipeline licence is varied under section 71 or 72;
- (f) a direction is given to a pipeline licensee under section 73;
- (g) a pipeline licence is partly cancelled;
- (h) an access authority is granted in respect of a block the subject of a permit, lease or licence, or an access authority as in force in respect of such a block is varied;
- (j) a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority applies, by notice in writing served on the Minister:
  - (i) for a variation or suspension; or
  - (ii) for exemption from compliance with,  
  
any of the conditions to which the permit, lease, licence, pipeline licence, special prospecting authority or access authority is subject; or
- (k) the Minister under this Part or the Regulations gives a direction or consent to a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority,

the Minister may, at any time, by notice in writing served on the permittee, lessee, licensee, pipeline licensee or the holder of the special prospecting authority or access authority:

- (m) vary or suspend; or
- (n) exempt the permittee, lessee, licensee, pipeline licensee or the holder of the special prospecting authority or access authority from compliance with,

any of the conditions to which the permit, lease, licence, pipeline licence, special prospecting authority or access authority is subject, upon such conditions, if any, as the Minister determines and specifies in the notice.

- (2) Subsection (1) does not authorize the making of an instrument to the extent that it would affect the term of a permit, lease or licence.

- (3) Where, in pursuance of subsection (1), the Minister suspends, or exempts the permittee or lessee from compliance with, any of the conditions to which a permit or lease is subject, the Minister may, if he or she considers that circumstances make it reasonable to do so, in the notice of suspension or exemption or by a later notice in writing served on the permittee or lessee, extend the term of the permit or lease by a period not exceeding the period of suspension or exemption.

#### **104 Surrender of permits, &c.**

- (1) The registered holder of an instrument, being a permit, lease, licence or pipeline licence may, at any time, by application in writing served on the Minister, apply for consent to surrender the instrument:
- (a) in the case of a permit or licence – as to all or some of the blocks in respect of which it is in force;
  - (aa) in the case of a lease – as to all of the blocks in respect of which it is in force; or
  - (b) in the case of a pipeline licence – as to the whole or a part of the pipeline in respect of which it is in force.
- (2) Subject to subsection (3), the Minister shall not give his consent to a surrender of an instrument under subsection (1) unless the registered holder:
- (a) has paid all fees and amounts payable by him under this Act, or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts;
  - (b) has complied with the conditions to which the instrument is subject and with the provisions of this Part and of the Regulations;
  - (c) has, to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorized by the instrument, or has made arrangements that are satisfactory to the Minister with respect to that property;
  - (d) has, to the satisfaction of the Minister, plugged or closed off all wells made in the area by any person engaged or concerned in the operations authorized by the instrument;

- (e) subject to this Part and to the Regulations, has made provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the area; and
  - (f) has, to the satisfaction of the Minister, made good any damage to the sea-bed or subsoil in the area caused by any person engaged or concerned in the operations authorized by the instrument.
- (3) Where the registered holder of an instrument, being a permit, lease, licence or pipeline licence, has not complied with the conditions to which the instrument is subject and with the provisions of this Part and of the Regulations, the Minister may give his consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder has not so complied, special circumstances exist that justify the giving of consent to the surrender.
- (4) Where the Minister consents to an application under subsection (1), the applicant may, by notice in writing served on the Minister, surrender the instrument accordingly.
- (5) In this section, the *area to which the surrender relates* means:
- (a) in relation to a surrender of a permit, lease or licence – the area constituted by the blocks as to which the permit, lease or licence is proposed to be surrendered; and
  - (b) in relation to a surrender of a pipeline licence – the part of an adjacent area in which the pipeline, or the part of the pipeline, as to which the pipeline licence is proposed to be surrendered, is constructed.

## 105 Cancellation of permits, &c.

- (1) Where a permittee, lessee, licensee or pipeline licensee:
- (a) has not complied with a condition to which a permit, lease, licence or pipeline licence is subject;
  - (b) has not complied with a direction given to him under this Part by the Minister;
  - (c) has not complied with a provision of this Part or of the Regulations; or
  - (d) has not paid any amount payable by him under the Act, within a period of 3 months after the day on which the amount became payable,

the Minister may, on that ground, by notice in writing served on the permittee, lessee, licensee or pipeline licensee, as the case may be:

- (e) in the case of a permit or licence – cancel the permit or licence as to all or some of the blocks in respect of which it is in force;
  - (ea) in the case of a lease – cancel the lease as to all the blocks in respect of which it is in force; or
  - (f) in the case of a pipeline licence – cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.
- (2) The Minister shall not, under subsection (1), cancel a permit, licence or pipeline licence as to all or some of the blocks, or as to the whole or a part of the pipeline, in respect of which it is in force, or cancel a lease as to all of the blocks in respect of which it is in force, on a ground referred to in that subsection unless:
- (a) he has, by notice in writing served on the permittee, lessee, licensee or pipeline licensee, as the case may be, given not less than one month's notice of his intention so to cancel the permit, lease, licence or pipeline licence on that ground;
  - (b) he has served a copy of the notice on such other persons, if any, as he thinks fit;
  - (c) he has, in the notice, specified a date on or before which the permittee, lessee, licensee or pipeline licensee or a person on whom a copy of the notice is served may, by notice in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
  - (d) he has taken into account:
    - (i) any action taken by the permittee, lessee, licensee or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
    - (ii) any matters so submitted to him on or before the specified date by the permittee, lessee, licensee or pipeline licensee or by a person on whom a copy of the first-mentioned notice has been served.

**106 Cancellation of permit, &c., not affected by other provisions**

- (1) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence or pipeline licence has not complied with a provision of this Part or of the Regulations notwithstanding that he has been found guilty of an offence by reason of his failure to comply with the provisions.
- (2) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he has not complied with a provision of this Part or of the Regulations may be found guilty of an offence by reason of his failure to comply with the provision, notwithstanding that the permit, lease, licence or pipeline licence has been so cancelled.
- (3) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence or pipeline licence had not paid an amount payable by him under this Act within a period of 3 months after the day on which the amount became payable, notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.
- (4) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he has not paid an amount payable by him under this Act within a period of 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount, notwithstanding that the permit, lease, licence or pipeline licence has been so cancelled.

**107 Removal of property etc. by permittee etc.**

- (1) If:
  - (aa) a permit or licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired;
  - (ab) a pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has been terminated; or

- (ac) a lease has been wholly determined, partly determined or wholly cancelled, or has expired,

the Minister may, by notice in writing served on the person who is or was the permittee, licensee, pipeline licensee or lessee (as the case requires), direct that person to do any one or more of the following things:

- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the permit, lease, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations;
  - (c) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
  - (d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.
- (2) The Minister may, by notice in writing served on a permittee, lessee, licensee or pipeline licensee, direct the permittee, lessee, licensee or pipeline licensee to do any one or more of the following things:
- (a) to remove or cause to be removed from the permit area, lease area, licence area or part of the adjacent area in which the pipeline is constructed, as the case may be, all property brought into that area or part by any person engaged or concerned in the operations authorized by the permit, lease, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area or part by any person engaged or concerned in those operations;
  - (c) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area or part; and
  - (d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area or part caused by any person engaged or concerned in those operations.

- (3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction:
- (a) in the case of a direction given under subsection (1) – within the period specified in the notice by which the direction was given; or
  - (b) in the case of a direction given under subsection (2) – on or before the date of expiration of the permit, lease, licence or pipeline licence concerned.

Penalty: If the offender is a natural person – 500 penalty units.

If the offender is a body corporate – 2 500 penalty units.

## 108 Removal of property etc. by Minister

If:

- (aa) a permit or licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired;
- (ab) a pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has been terminated; or
- (ac) a lease has been wholly determined, partly determined or wholly cancelled, or has expired,

and, in respect of the permit, licence, pipeline licence or lease, a direction under section 107 has not been complied with, or an arrangement under that section has not been carried out, in relation to a relinquished area:

- (a) the Minister may do all or any of the things required by the direction or arrangement to be done; and
- (b) if any property brought into that area by any person engaged or concerned in the operations authorized by the permit, lease, licence or pipeline licence has not been removed in accordance with the direction or arrangement, the Minister may, by instrument published in the *Gazette*, direct that the owner or owners of that property shall remove it from that area, or dispose of it to the satisfaction of the Minister, within the period specified in the notice and shall serve a copy of the notice on each person whom he or she believes to be the owner of that property or any part of that property.

### **109 Payment by instalments**

- (1) The Minister and a person who may request, or has requested, that a permit under section 27 or a licence under section 50 be granted to him may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the permit or licence, together with interest at the rate that is the specified rate from time to time on so much of that amount as from time to time remains unpaid.
- (2) For the purposes of subsection (1), the specified rate is 10% per annum or, if a lower rate is prescribed, that lower rate.
- (3) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not be greater than 21 years.
- (4) Where a person enters into an agreement under this section for or in relation to the payment of an amount in respect of the grant of a permit or licence, any instalment or interest that is due under the agreement and has not been paid is payable by the registered holder of the permit or licence, as the case may be.

### **110 Penalty for late payments of instalments, &c.**

- (1) Where the liability of a person under section 109 to pay an amount, being an instalment or any interest, is not discharged at or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of one-third of 1% per day upon so much of the first-mentioned amount as from time to time remains unpaid, to be computed from the time when the first-mentioned amount became payable until it is paid.
- (2) The Minister may, in a particular case, remit the whole or part of an amount payable under this section.

### **111 Special prospecting authorities**

- (1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.
- (2) An application under this section:
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;



- (c) shall specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations; and
  - (d) shall be accompanied by the prescribed fee.
- (3) The Minister may:
- (a) grant to the applicant a special prospecting authority subject to such conditions as the Minister thinks fit and specifies in the authority; or
  - (b) refuse to grant the application.
- (4) A special prospecting authority, while it remains in force, authorizes the holder, subject to this Act and the Regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the petroleum exploration operations so specified.
- (5) Nothing in a special prospecting authority authorizes the holder to make a well.
- (6) A special prospecting authority comes into force on the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.
- (6A) A special prospecting authority is not capable of being transferred.
- (6B) Where:
- (a) a person holds a special prospecting authority in respect of a block; and
  - (b) another special prospecting authority is granted to another person in respect of the block,
- the Minister shall, by notice in writing served on each of those persons, inform each of them of:
- (c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person; and
  - (d) the conditions to which the special prospecting authority granted to the other person is subject.

- (7) A special prospecting authority:
- (a) may be surrendered by the holder at any time by notice in writing served on the Minister; and
  - (b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by notice in writing served on the holder.
- (8) Where a special prospecting authority has been surrendered or cancelled or has expired, the Minister may, by notice in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things:
- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
  - (c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.
- (9) A person to whom a direction is given under subsection (8) shall comply with the direction.

Penalty: If the offender is a natural person – 500 penalty units.

If the offender is a body corporate – 2 500 penalty units.

- (10) Section 108 applies to and in relation to a special prospecting authority as if:
- (a) a reference in that section to a permit were a reference to a special prospecting authority; and
  - (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (8).

## 112 Access authorities

- (1) A permittee, lessee or licensee may make an application to the Minister for the grant of an access authority to enable him to carry on in an area, being part of an adjacent area that is not part of a permit area, lease area or licence area, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, lease area or licence area.
- (1A) A holder of a State title may make an application to the Minister for the grant of an access authority to enable the holder to carry on, in a part of the adjacent area, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that State title relates.
- (1B) The holder of a special prospecting authority may make an application to the Minister for the grant of an access authority to enable the applicant to carry on petroleum exploration operations in an area, being part of the adjacent area not included in any block that is the subject of the special prospecting authority.
- (1C) The holder of a permit, lease, licence or special prospecting authority may make an application to the Minister for the grant of an access authority to enable the applicant to carry on, in a block or blocks within an adjoining adjacent area:
  - (a) petroleum exploration operations; or
  - (b) where the applicant is the holder of a permit, lease or licence, operations related to the recovery of petroleum in or from any block within the adjacent area that is the subject of the permit, lease or licence.
- (2) An application under this section:
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the operations that the applicant proposes to carry on and the area in which the applicant proposes to carry on those operations; and
  - (d) may set out any other matters that the applicant wishes the Minister to consider.
- (3) The Minister may:
  - (a) if he is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper

performance of the duties, of a permittee, lessee, licensee, holder of a special prospecting authority or holder of a state title who has made an application under this section, grant to him an access authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and

- (b) at any time, by notice in writing served on the registered holder of an access authority so granted, vary the access authority.
- (4) Subject to subsection (4AA), the Minister shall not grant an access authority on an application made under a provision of this section other than subsection (1C) in respect of a block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the applicant, or vary such an access authority as in force in respect of a block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority, unless:
- (a) he has, by notice in writing served on that person, given not less than one month's notice of his intention to grant or vary, as the case may be, the access authority;
  - (b) he has served a copy of the notice:
    - (i) on such other persons, if any, as he thinks fit; and
    - (ii) in a case where he intends to vary an access authority – on the registered holder of the access authority;
  - (c) he has, in the notice:
    - (i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and
    - (ii) specified a date on or before which a person on whom the notice, or a copy of the notice, is served may, by notice in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
  - (d) he has taken into account any matters submitted to him under paragraph (c) on or before the specified date by a person on whom the first-mentioned notice, or a copy of that notice, has been served.
- (4AA) Subsection (4) does not apply if the holder of the permit, lease, licence or special prospecting authority has consented in writing to the grant of the access authority.

- (4A) The Minister shall not grant or vary an access authority on an application under subsection (1C) without the approval of the Minister of State administering the corresponding law in respect of the adjoining adjacent area within which the block or blocks to be specified in the access authority is or are situated.
- (4B) Where the approval of the Minister is sought in respect of:
- (a) an application under a corresponding law for the grant of an access authority in respect of a block within the adjacent area that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the applicant; or
  - (b) a proposal to vary an access authority granted on an application under a corresponding law in respect of a block within the adjacent area that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority,

the Minister shall not approve the grant or the variation unless:

- (c) the Minister has, by instrument in writing served on that person, given not less than one month's notice of the intention to grant or vary, as the case may be, the access authority;
- (d) a copy of the instrument has been served:
  - (i) on such other persons, if any, as the Minister thinks fit; and
  - (ii) where it is proposed to vary an access authority – on the registered holder of the access authority;
- (e) the instrument gives:
  - (i) particulars of the access authority that it is proposed to grant or vary, as the case may be; and
  - (ii) notice that a person on whom the instrument, or a copy of the instrument, has been served may, by instrument in writing served on the Minister on or before the date specified in the instrument, submit any matters that the person wishes the Minister to consider; and
- (f) the Minister has taken into account any matters submitted in accordance with the notice referred to in paragraph (e)(ii).

- (5) An access authority, while it remains in force, authorizes the holder, subject to this Act and the Regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.
- (6) Nothing in an access authority authorizes the holder to make a well.
- (7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Minister for a further period.
- (8) An access authority:
  - (a) may be surrendered by the holder at any time by notice in writing served on the Minister; and
  - (b) may be cancelled by the Minister at any time by notice in writing served on the holder and on any person in whose permit area, lease area or licence area operations may be carried on in pursuance of the access authority.
- (9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by notice in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things:
  - (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
  - (c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.
- (10) A person to whom a direction is given under subsection (9) shall comply with the direction.

Penalty: If the offender is a natural person – 500 penalty units.

If the offender is a body corporate – 2 500 penalty units.

- (11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit, lease or licence of which he is not the registered holder, furnish to the registered holder of that permit, lease or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations carried on in that block during that month and a summary of the facts ascertained from those operations.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

- (12) Section 108 applies to and in relation to an access authority as if:
- (a) a reference in that section to a permit were a reference to an access authority; and
  - (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (9).

- (13) In this section:

***adjoining adjacent area*** means an adjacent area (within the meaning of a corresponding law) that adjoins the adjacent area.

***State Title*** means an authority, however described, under a law of the Commonwealth, Western Australia or Queensland, to explore for, or to recover, petroleum.

## 113 Sale of property

- (1) Where a direction under section 108 has not been complied with in relation to any property, the Minister may do all or any of the following things:
- (a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;
  - (b) dispose of, in such manner as he thinks fit, all or any of that property; and
  - (c) if he has served a copy of the notice by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any of that property that belongs, or that he believes to belong, to that person.

- (2) The Minister may deduct from the proceeds of a sale held under subsection (1) of property that belongs, or that he believes to belong, to a particular person:
- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
  - (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by that person; and
  - (c) all or any part of any fees or amounts due and payable under this Act by that person.
- (3) Costs and expenses incurred by the Minister under subsection (1):
- (a) if incurred in relation to the removal, disposal or sale of a property, are a debt due by the owner of the property to the Territory; or
  - (b) if incurred in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by a person who is or was a permittee, lessee, licensee, pipeline licensee or holder of a special prospecting authority or access authority, are a debt due by that person to the Territory,
- and, to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction.
- (4) Subject to subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

**115 Minister, &c., may require information to be furnished, &c.**

- (1) Where the Minister or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in an adjacent area, he may, by notice in writing served on that person, require that person:
- (a) to furnish to him in writing within the period and in the manner specified in the notice, any such information; or
  - (b) to attend before him or a person specified in the notice, at such time and place as is specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are specified.



- (2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 117.

**116 Power to examine on oath**

- (1) The Minister or an inspector may administer an oath to a person required to attend before him in pursuance of section 115 and may examine that person on oath.
- (2) Where a person attending before the Minister or an inspector in pursuance of section 115 conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.
- (3) An affirmation made under subsection (2) is of the same force and effect, and entails the same penalties, as an oath.

**117 Failing to furnish information, &c.**

A person shall not:

- (a) refuse or fail to comply with a requirement in a notice under section 115 to the extent to which he is capable of complying with it;
- (b) in purported compliance with such a requirement, knowingly furnish information that is to his knowledge, false or misleading in a material particular; or
- (c) when attending before the Minister or an inspector in pursuance of such a requirement, knowingly make a statement or produce a document that is, to his knowledge, false or misleading in a material particular.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

## 118 Release of information

(1) The Minister may, at any time, make available to a Minister of State of the Commonwealth or of a State of the Commonwealth:

- (a) any information contained in a document to which this section applies that has been furnished to the Minister; and
- (b) any cores or cuttings from, or samples of, the sea-bed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister.

(1A) The Minister may, at any time after the grant or renewal, or refusal to grant or renew, a permit, lease, licence, pipeline licence, access authority or special prospecting authority:

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person,

any information contained in, or accompanying, the application for the grant or renewal, as the case may be, but not including:

- (c) information of a kind referred to in subsection (2) or (5A); or
- (d) particulars of:
  - (i) the technical qualifications of the applicant and of the employees of the applicant;
  - (ii) the technical advice available to the applicant; or
  - (iii) the financial resources available to the applicant.

(2) The Minister may, at any time after the relevant day:

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person,

any information contained in a document to which this section applies that has been furnished to the Minister, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in

part, on, any such information.

- (3) The Minister may, at any time after the relevant day:
- (a) make publicly known any particulars of; or
  - (b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, permit that person to inspect,

any cores or cuttings from, or samples of, the sea-bed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister or have been made available to the Minister under subsection (1).

- (4) For the purposes of subsections (2) and (3):
- (a) where:
    - (i) a permit or lease is in force in respect of the block; and
    - (ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:
      - (A) the permit or lease;
      - (B) in a case where a lease is in force in respect of the block – the permit that ceased to be in force in respect of the block by virtue of section 38B(7) on the day on which the lease came into force,

the relevant day is the day on which the period of 2 years that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

- (b) where:
  - (i) a licence is in force in respect of the block; and
  - (ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:
    - (A) the licence;
    - (B) the permit or lease that ceased to be in force in respect of the block by virtue of section 44(5) on the day on which the licence came into force,

the relevant day is the day on which the period of 12 months that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

- (c) where the document, core, cutting or sample was furnished to the Minister during a period during which a permit, lease or licence was in force in respect of the block and:
- (i) the permit, lease or licence is surrendered, cancelled or determined as to the block; or
  - (ii) the permit, lease or licence expires but is not renewed in respect of the block,

the relevant day is the day on which the permit, lease or licence is so surrendered, cancelled or determined or expires, as the case may be, whether another permit, lease or licence is subsequently in force in respect of the block or not;

- (d) where:
- (i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and
  - (ii) the information in the document or the core, cutting or sample was collected for the purpose of the sale of information on a non-exclusive basis,

the relevant day is the day determined by the Minister, being a day not more than 5 days after the day on which the document, core, cutting or sample was furnished to the Minister; and

- (e) where:
- (i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and
  - (ii) paragraph (d)(ii) does not apply,

the relevant day is the day determined by the Minister, being a day not more than 2 years after the day on which the document, core, cutting or sample was furnished to the Minister.

(5) Where:

- (a) a document, core, cutting or sample referred to in subsection (1) was furnished to the Minister:
  - (i) during or in respect of a period during which a permit, lease or licence was in force in respect of a block; or
  - (ii) during or in respect of a period during which a special prospecting authority or access authority was in force in respect of a block but during which a permit, lease or licence was not in force in respect of the block; and
- (b) the permittee, lessee, licensee or holder of a special prospecting authority or access authority or, if the permit, lease, licence, special prospecting authority or access authority has ceased to be in force, the person who was the holder of the permit, lease, licence, special prospecting authority or access authority:
  - (i) has made publicly known any information contained in the document or has consented in writing to any of that information being made publicly known; or
  - (ii) has made publicly known any particulars of that core, cutting or sample or has consented in writing to any particulars of that core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection,

the Minister to whom that information, core, cutting or sample has been made available under subsection (1) may, at any time after that information has, or those particulars have, been made publicly known or after that consent has been given:

- (c) make publicly known that information or, on request by another person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make that information available to that other person; or
- (d) make publicly known those particulars or, on request by any other person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, permit that other person to inspect that core, cutting or sample,

as the case may be.

(5A) Subject to subsection (5F), the Minister may, at any time after 5 years after a document to which this section applies was furnished to him:

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person,

any information contained in the document, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, and that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on any such information.

(5B) Before the Minister makes available or publicly known any information pursuant to subsection (5A) he shall

- (a) cause to be published in the *Gazette* a notice:
  - (i) stating that he proposes to make the information available or publicly known;
  - (ii) inviting interested persons to give to him by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, a notice objecting to the whole or any part of the information being made available or publicly known; and
  - (iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known; and
- (b) if it is practicable to do so, cause a copy of the notice so published in the *Gazette* to be served on the person who furnished the document containing the information.

(5C) There shall be set out in a notice of objection under subsection (5B)(a)(ii) the reasons for making the objection.

(5D) A person is not entitled to make an objection to information being made available or publicly known except on the grounds that to do so would disclose:

- (a) a trade secret; or

- (b) any other information the disclosure of which would, or could reasonably be expected to, adversely affect him in respect of his lawful business, commercial or financial affairs.
- (5E) Where a person makes an objection to the Minister in accordance with such an invitation, the Minister shall, within 45 days after the receipt of the notice of objection, consider the objection, and may disallow it or allow it in whole or in part, and shall cause to be served on the person written notice of the decision on the objection.
- (5F) The Minister shall not make available or make publicly known any information pursuant to subsection (5A) if there is in force an objection made in relation to the information being made available or publicly known but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (5B) being made in relation to the information.
- (6) Except as provided by the preceding provisions of this section or for the purposes of the administration of this Act and the Regulations, the Minister shall not:
- (a) make publicly known, or make available to any person (not being a Minister of State of the Commonwealth or another State), any information contained in a document to which this section applies; or
  - (b) make publicly known any particulars of, or permit any person (not being a Minister referred to in paragraph (a)) to inspect any core, cutting or sample so referred to.
- (6A) This section applies to:
- (a) an application made under this Act to the Minister or a document accompanying such an application; and
  - (b) a report, return or other document relating to a block that has been furnished under this Act to the Minister.
- (7) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.
- (8) For the purposes of this section:
- (a) cores and cuttings, and well data logs, sample descriptions and other documents relating to the drilling of a well shall be deemed to have been furnished to the Minister not later than one month after the drilling of the well was, in the opinion of the Minister, substantially completed; and

- (b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been furnished to the Minister not later than one year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.
- (9) Subsections (2) and (5A) apply to information contained in a document to which this section applies that was furnished to the Minister before or after the commencement of section 29 of the *Petroleum (Submerged Lands) Amendment Act 1986*.
- (10) Subsection (3) applies to cores, cuttings and samples furnished to the Minister before or after the commencement of section 29 of the *Petroleum (Submerged Lands) Amendment Act 1985*.

## 120      **Discovery of water**

Where water is discovered in a permit area, a lease area or a licence area, the permittee, lessee or licensee, as the case may be, shall, within a period of one month after the date of the discovery, furnish to the Minister in writing particulars of the discovery.

Penalty:      If the offender is a natural person – 200 penalty units.

                  If the offender is a body corporate – 1 000 penalty units.

## 121      **Survey of wells etc.**

- (1) The Minister may, at any time, by notice in writing served on a permittee, lessee or licensee, direct the permittee, lessee or licensee:
  - (a) to carry out a survey of the position of the well, structure or equipment specified in the notice; and
  - (b) to furnish to him a report in writing of the survey.
- (2) Where the Minister is not satisfied with a report of a survey furnished to him under subsection (1) by a permittee, lessee or licensee, he may, by notice in writing served on the permittee, lessee or licensee, direct the permittee, lessee or licensee to furnish further information in writing in connection with the survey.



- (3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

## **122 Records etc. to be kept**

- (1) The Minister may, by notice in writing served on a person carrying on operations in an adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority or notice of consent under section 123, direct that person to do any one or more of the following things:

(a) to keep such accounts, records and other documents in connection with those operations as are specified in the notice;

(b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified; and

(c) to furnish to the Minister, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are specified.

- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

## **123 Scientific investigations**

- (1) The Minister may, by notice in writing, consent to the carrying on in an adjacent area by any person of petroleum exploration operations in the course of scientific investigation.

- (2) A notice of consent given under subsection (1) may be made subject to such conditions, if any, as are specified in the notice.

- (3) A notice of consent in force under subsection (1) authorizes the person specified in the notice, subject to section 124 and in accordance with the conditions, if any, to which the notice is subject, to carry on, in an adjacent area, petroleum exploration operations specified in the course of the scientific investigation

specified.

#### **124 Interference with other rights**

A person carrying on operations in an adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 123 shall carry on those operations in a manner that does not interfere with:

- (a) navigation;
- (b) fishing;
- (ba) registered native title rights and interests;
- (c) the conservation of the resources of the sea and sea-bed; or
- (d) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or by way of construction or operation of a pipeline,

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of that first-mentioned person.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

#### **125 Inspectors**

- (1) The Minister may, by notice in writing, appoint a person to be an inspector for the purposes of this Act and the Regulations.
- (2) The Minister may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act and the Regulations.
- (3) Where the appointment of a person under this section expires or is revoked, that person shall forthwith surrender the certificate furnished to him under this section to the Minister or, if the Minister, by notice in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Penalty: 20 penalty units.

## 126 Powers of inspectors

- (1) For the purposes of this Act and the Regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 125:
  - (a) shall have access to any part of the adjacent area and to any structure, ship, aircraft or building in that area that, in his opinion, has been, is being or is to be used in connection with petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in that area;
  - (b) may inspect and test any equipment that, in his opinion, has been, is being or is to be used in that area in connection with any of those operations; and
  - (c) may enter any structure, ship, aircraft, building or place in that area or in the State, in which, in his opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.
- (2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any ship, aircraft or equipment referred to in subsection (1), shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.
- (3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers under this section.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

## 127 Property in petroleum

Subject to this Act, if petroleum is recovered by a permittee, lessee or licensee in the permit area, lease area or licence area:

- (a) the petroleum becomes the property of the permittee, lessee or licensee; and
- (b) it is not subject to any rights of other persons (other than any person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).

**128 Suspension of rights conferred by permit**

- (1) Where the Minister is satisfied that it is necessary to do so in the public interest, he shall, by notice in writing served on a permittee, suspend, either for a specified period or indefinitely, all or any of the rights conferred by the permit.
- (2) Where any rights are suspended in accordance with subsection (1), any conditions required to be complied with in the exercise of those rights are also suspended.
- (3) The Minister may, by notice in writing served on the permittee, terminate a suspension of rights under subsection (1).
- (4) Where rights conferred by a permit are suspended in accordance with subsection (1), the Minister may, by the notice of suspension or by a later notice in writing served on the permittee, extend the term of the permit by a period not exceeding the period of suspension.

**129 Certain payments to be made by Territory to Commonwealth**

The Treasurer shall, not later than the last day of each month of the year, pay to the Commonwealth, from the public moneys of the Territory amounts ascertained in accordance with the formula:

$$\frac{4A}{B}$$

where:

- A is the amount of royalty payable under this Act, together with the amount, if any, payable under this Act by reason of late payment of that royalty, by a permittee, lessee or licensee in respect of petroleum recovered in the adjacent area under the permit, lease or licence and received by the Minister during the preceding month; and
- B is the percentage rate at which royalty is payable under this Act by the permittee, lessee or licensee in respect of that petroleum,

and the appropriation for that purpose is established or increased to the extent necessary.

**130 Determination to be disregarded in certain cases**

Where a determination has been made by the Minister under section 143 in relation to a well, that determination shall be disregarded in ascertaining the value of B for the purposes of section 129.

**131 Continuing offences**

- (1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the Regulations, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.
- (2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act or the Regulations, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.
- (3) Where, under subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, upon being found guilty for such an additional offence, to a fine not exceeding 100 penalty units.

**133 Orders for forfeiture in respect of certain offences**

- (1) Where a person is found guilty by the Supreme Court of an offence against section 19, 39 or 60 the Court, arising under section 4, 8, 12, 13 or 16 of the Criminal Code in relation to an offence referred to in section 19, 39 or 60, the Court may, in addition to imposing a fine, make one or more of the following orders:
  - (a) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence;
  - (b) an order for the forfeiture of specified equipment used in the commission of the offence; and
  - (c) an order:
    - (i) for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence;

- (ii) for the payment by that person to the Territory of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed; or
  - (iii) for the payment by that person to the Territory of an amount equal to the value at the well-head, assessed by the Court, of the quantity, so assessed, of petroleum so recovered or conveyed or for the payment of such part of that amount as the Court, having regard to all the circumstances, thinks fit.
- (2) Where the Court is satisfied that an order made under subsection (1)(c)(i) cannot, for any reason, be enforced, the Court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subsection (1)(c)(ii) or (iii).
- (3) The Court may, before making an order under this section, require notice to be given to, and hear, such persons as the Court thinks fit.

#### **134 Disposal of forfeited goods**

Goods in respect of which an order is made under section 133 shall be dealt with as the Attorney-General directs and, pending his direction, may be detained in such custody as the Court directs.

#### **135 Time for bringing proceedings for offences**

Proceedings in respect of an offence against this Act (being an offence arising under this Part or under the Criminal Code in relation to an offence referred to in this Part) or the Regulations may be brought at any time.

#### **136 Judicial notice**

- (1) All courts shall take judicial notice of the signature of a person who is, or has been, the Minister or a delegate of the Minister and of the fact that that person is, or has been, the Minister or a delegate of the Minister.
- (2) In this section, *court* includes all persons authorized by the law of the Territory or by consent of parties to receive evidence.

#### **137 Service**

- (1) A document required or permitted by this Act to be served on a person other than the Minister or a corporation shall be served:
  - (a) by delivering the document to that person personally;

- (b) by prepaying and posting the document as a letter addressed to that person at his last-known place of residence or business or, if he is carrying on business at 2 or more places, at one of those places;
  - (c) by leaving the document at the last-known place of residence of that person with some person apparently a resident of that place and apparently not less than 16 years of age; or
  - (d) by leaving the document at the last-known place of business of that person or, if he is carrying on business at 2 or more places, at one of those places, with some person apparently in the service of that person and apparently not less than 16 years of age.
- (2) A document required or permitted by this Act to be served on the Minister shall be served:
- (a) by prepaying and posting the document as a letter addressed to the Minister at a place of business of the Minister; or
  - (b) by leaving it at a place of business of the Minister with some person apparently employed in connection with the business of the Minister and apparently not less than 16 years of age.
- (3) A document required by this Act to be served upon a person, being a corporation, shall be served:
- (a) by prepaying and posting the document as a letter addressed to the corporation at its last-known place of business or, if it is carrying on business at 2 or more places, at one of those places; or
  - (b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.

**137AA Service of documents on 2 or more permittees, &c.**

- (1) Where there are 2 or more registered holders of a title or special prospecting authority, those registered holders may, by notice in writing signed by each of them and served on the Minister, nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.

- (2) Subject to subsections (3) and (4), where:
- (a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder;
  - (b) there are 2 or more registered holders of the title or special prospecting authority; and
  - (c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the title or special prospecting authority,
- the document shall be deemed to have been served on each of those registered holders.
- (3) Where:
- (a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and
  - (b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination,
- that nomination ceases to be in force.
- (4) Where:
- (a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and
  - (b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority,
- that nomination ceases to be in force.
- (5) In this section, *title* means a permit, lease, licence, pipeline licence or access authority.

**137AB Liability for approval given under this Act, &c.**

- (1) This section applies to the following bodies and people:
- (a) the Minister;
  - (b) an inspector;
  - (c) a person acting under the direction or authority of the Minister.



- (2) A body or person to whom this section applies is not liable to an action, suit or proceeding for or in respect of an approval given in good faith under:
- (a) this Act;
  - (b) the Regulations; or
  - (c) a direction under this Act.
- (3) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been approved by or on behalf of the Minister.

## Division 6A Safety zones

### 137A Interpretation

- (1) In this Division:

***authorized person*** means:

- (a) a member or special member within the meaning of the *Australian Federal Police Act 1979* of the Commonwealth;
- (b) a member of the Police Force;
- (c) a member of the Police Force of a State of the Commonwealth;
- (d) a defence member within the meaning of the *Defence Force Discipline Act 1982* of the Commonwealth; or
- (e) a person, or a person included in a class of persons, authorized under subsection (2) to perform duties under this Division.

***exempt vessel***, in relation to a safety zone, means a vessel:

- (a) that is excluded from the operation of section 137B in relation to that safety zone by virtue of the instrument establishing the safety zone; or
- (b) in respect of which there is in force a consent, under section 137B(1), of the Minister in relation to that safety zone.

***master***, in relation to a vessel, means the person having command or charge of the vessel.

**owner**, in relation to a vessel, means:

- (a) in a case to which paragraph (b) does not apply – the person who owns the vessel; or
- (b) where the vessel is being operated by a person (not being the person who owns the vessel) who has the whole possession and control of the vessel – the operator of the vessel.

**safety zone** means an area specified in a notice under section 137B(1).

- (2) The Minister may, by notice in the *Gazette*, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.

### **137B Safety zones**

- (1) For the purpose of protecting a well, structure or equipment, in an adjacent area, the Minister may, by notice in the *Gazette*, prohibit:

- (a) all vessels;
- (b) all vessels other than specified vessels; or
- (c) all vessels other than the vessels included in specified classes of vessels,

from entering or remaining in a specified area surrounding the well, structure or equipment without the consent in writing of the Minister.

- (2) A safety zone specified in a notice under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the notice measured from each point of the outer edge of the well, structure or equipment.
- (3) Where a vessel enters or remains in a safety zone in contravention of a notice under subsection (1), the owner and the person in command or in charge of the vessel are each guilty of an offence against this section.

Penalty: If the offender is a natural person – 10 000 penalty units or imprisonment for 4 years.

If the offender is a body corporate – 50 000 penalty units.

- (4) It is a defence to a prosecution for an offence against this section where the person charged satisfies the court that:
- (a) an unforeseen emergency rendered it necessary for the vessel to enter or remain in the safety zone in order to attempt to secure the safety of the vessel, of another vessel, of a well, pipeline, structure or equipment or of human life; or
  - (b) the vessel entered or remained in the safety zone in circumstances not under the control of the person who was in charge of the navigational watch of the vessel.

### **137C Powers of authorized persons**

- (1) Subject to subsection (3), an authorized person may:
- (a) board a vessel that the authorized person has reasonable grounds to believe has been used, is being used or is about to be used, in contravention of section 137B;
  - (b) where, under paragraph (a), he has boarded a vessel:
    - (i) require a person on board the vessel to answer questions relating to the vessel or to the movements of the vessel;
    - (ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under section 137B(1) and, if so, to produce the consent;
    - (iii) if the vessel is registered under the *Shipping Registration Act 1981* of the Commonwealth – require the master of the vessel to produce the certificate of registration of the vessel; or
    - (iv) search the vessel for documents relating to the vessel or movements of the vessel;
  - (c) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone;
  - (d) require the master of a disabled vessel that is in a safety zone to permit the vessel to be towed away from the safety zone or to accept the giving of such other assistance to the vessel as the authorized person considers necessary; or
  - (e) detain a vessel that the authorized person has reasonable grounds to believe has been used in contravention of section 137B.

- (2) A person who:
- (a) fails to facilitate, by all reasonable means, the boarding under subsection (1)(a) of a vessel by an authorized person;
  - (b) refuses to allow a search to be made under subsection (1)(b)(iv) by an authorized person;
  - (c) refuses or neglects to comply with a requirement made under subsection (1) by an authorized person;
  - (d) where, under subsection (1), an authorized person requires the person to give information, gives information that is, to the knowledge of the person, false or misleading in a material particular; or
  - (e) resists or obstructs an authorized person who is acting in pursuance of subsection (1),

is guilty of an offence.

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

- (3) The powers, under subsection (1)(a), (b) and (e), of an authorized person in relation to a vessel shall not be exercised except:
- (a) in pursuance of a warrant issued under section 137D;
  - (b) after obtaining the consent of the master of the vessel; or
  - (c) in circumstances of seriousness and urgency, under section 137E.

### **137D Search warrants**

- (1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used, in contravention of section 137B and the information sets out those grounds and identifies the vessel, a magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in section 137C(1)(a), (b) and (e) in relation to that vessel.

- (2) A magistrate shall not, under subsection (1), issue a warrant unless:
- (a) the informant or some other person has given the magistrate either orally or by affidavit such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
  - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant issued under subsection (1) shall:
- (a) specify the purpose for which it is issued;
  - (b) set out a description of the vessel in relation to which it is issued; and
  - (c) specify a day, not being later than 7 days after the day on which it is issued, as being the day on which it ceases to have effect.

### **137E Exercise of powers in serious circumstances**

An authorized person may exercise, in relation to a vessel, all or any of the powers under section 137C(1)(a), (b) and (e) where:

- (a) the authorized person has reasonable grounds to believe that:
  - (i) the vessel has been used, is being used or is about to be used, in contravention of section 137B; or
  - (ii) the exercise of those powers is necessary to prevent damage being caused to a well, structure or equipment in a safety zone; and
- (b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 137D.

## **Division 7 Fees and royalties**

### **138 Fees**

- (1) The holder of:
- (a) an exploration permit;
  - (b) a retention lease;

(c) a production licence; or

(d) a pipeline licence,

shall pay a fee in respect of each year of the term of the permit, lease, licence or pipeline licence.

(2) The fee:

(a) is payable to the Minister; and

(b) is to be calculated in accordance with the Regulations.

(3) The fee for the first year of the term of the permit, lease, licence or pipeline licence is payable within one month after the day on which the term commences.

(4) The fee for a subsequent year of the term of the permit, lease, licence or pipeline licence is payable within one month after the anniversary of the day on which the first year of the term commences.

#### **141 Time of payment of fees**

A fee under section 138 is payable within one month after:

(a) in the case of the first year of the term of a permit, lease, licence or pipeline licence – the day on which that term commenced; and

(b) in the case of a year of the term of a permit, lease, licence or pipeline licence other than the first – the anniversary of that day.

#### **142 Royalty**

(1) A permittee, lessee or licensee shall, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the permittee, lessee or licensee in the permit area, lease area or licence area.

(2) Subject to the succeeding provisions of this section and section 143, the prescribed rate in respect of petroleum recovered under a permit, lease or licence is 10% of the value of the petroleum at the well-head.

(3) The prescribed rate in respect of petroleum recovered under a secondary licence is the percentage determined by the Minister in pursuance of section 42(1) in respect of petroleum so recovered.

- (4) Where a secondary licence is granted to the holder of a primary licence, the prescribed rate in respect of petroleum recovered under the primary licence is, as from the commencement of the next royalty period after the day from which the secondary licence has effect, the same percentage as is applicable in respect of petroleum recovered under the secondary licence.
- (5) Where:
- (a) a licence is granted on an application under section 47; and
  - (b) the notice served on the applicant under section 49 contains a statement that the applicant will be required to pay, in respect of petroleum recovered under that licence, royalty at the rate specified in that statement,
- the prescribed rate in respect of petroleum recovered under that licence is the percentage specified in that statement.
- (6) Where a licence is granted on an application under section 51(1), the prescribed rate in respect of petroleum recovered under that licence is the same percentage as was applicable in respect of petroleum recovered under the original licence as defined by that subsection.
- (7) The prescribed rate in respect of petroleum recovered in the licence area referred to in a licence granted by way of renewal is the percentage that would be the prescribed rate of the previous licence.
- (8) A reference in this section or in a permit, lease or licence to royalty at the prescribed rate or royalty at the rate that is for the time being the prescribed rate shall be read as a reference to royalty at the rate that is or was the prescribed rate applicable in accordance with the provisions of this Act as in force from time to time.

#### **143 Reduction of royalty in certain cases**

- (1) Where the Minister is satisfied that the rate of recovery of petroleum from a well has become so reduced that, having regard to the rate or rates of royalty applicable under section 142, further recovery of petroleum from that well would be uneconomic, the Minister may, by notice in writing, determine that the royalty in respect of all or any of the petroleum recovered from that well on or after a date specified in the determination shall be at such rate (being a rate lower than the rate that would be applicable under section 142) as the Minister specifies.

- (2) The prescribed rate in respect of petroleum to which a determination under subsection (1) is applicable is the rate specified in the determination.
- (3) he Minister may, by notice in writing, revoke or vary a determination under subsection (1) and the revocation or variation applies to petroleum recovered on or after such date as is specified in the notice.

#### **144 Royalty not payable in certain cases**

- (1) Royalty under this Act:
  - (a) is not payable in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained;
  - (b) is not payable in respect of petroleum that is used by the permittee, lessee or licensee, as approved by the Minister, for the purposes of petroleum exploration operations; and
  - (c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.
- (2) Where petroleum that has been recovered by a permittee, lessee or licensee is, with the approval of the Minister, returned to a natural reservoir, royalty under this Act is not payable in respect of that petroleum by reason of that recovery but this subsection does not affect the liability of that or any other permittee, lessee or licensee to pay royalty in respect of petroleum that is recovered from that natural reservoir.

#### **145 Ascertainment of well-head**

For the purposes of this Act, the well-head, in relation to any petroleum, is such valve station as is agreed between the permittee, lessee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such valve station as is determined by the Minister as being that well-head.

#### **146 Ascertainment of value**

For the purposes of this Act, the value of any petroleum at the well-head is such amount as is agreed between the permittee, lessee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such amount as is determined by the Minister as being that value.



**147 Ascertainment of quantity of petroleum recovered**

For the purposes of this Act, the quantity of petroleum recovered by a permittee, lessee or licensee from a well during a period shall be taken to be:

- (a) the quantity measured during that period by a measuring device approved by the Minister and installed at the well-head or at such other place as the Minister approves; or
- (b) where no such measuring device is installed, or the Minister is not satisfied that the quantity of petroleum recovered by the permittee, lessee or licensee from that well has been properly or accurately measured by such a measuring device – the quantity determined by the Minister as being the quantity recovered by the permittee, lessee or licensee during that period.

**148 Payment of royalty**

Royalty under this Act in respect of petroleum recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.

**149 Penalty for late payment**

- (1) Where a fee or an amount of royalty under this Act is not paid under this Division at or before the time when the fee or the amount of royalty is payable there is payable to the Minister by the permittee, lessee, licensee or pipeline licensee an additional amount calculated at the rate of one-third of 1% per day on the amount of the fee or royalty from time to time remaining unpaid to be computed from the time when the amount became payable until it is paid.
- (2) An additional amount in respect of royalty is not payable under subsection (1) or section 149B(2)(a) in respect of any period before the expiration of 7 days after the value of the petroleum was agreed or determined under section 146.

**149A Provisional payment of royalty**

- (1) Where, in relation to petroleum recovered during a royalty period, the value of the petroleum has not been agreed or determined under section 146, the Minister may determine a provisional value.
- (2) Where:
  - (a) a provisional value of any petroleum has been determined under subsection (1); and

- (b) the value of that petroleum has not yet been agreed or determined under section 146;

the Act operates in relation to that petroleum as if:

- (c) the provisional value of the petroleum were its value; and
- (d) the determination of the provisional value were an agreement or determination under section 146.

#### **149B Adjustment of payment**

- (1) This section applies:

- (a) where section 149A(2) has operated in relation to petroleum recovered during a royalty period and a value of the petroleum different to the provisional value is subsequently agreed or determined under section 146; or
- (b) where an error has been made in the calculation of royalty due or in the application of a procedure by the application of which the value of the petroleum has been ascertained.

- (2) Where this section applies:

- (a) if the determined royalty is greater than the provisional royalty, the difference is payable within 28 days; and
- (b) if the determined royalty is less than the provisional royalty, the difference is deducted from any amount subsequently payable by the permittee, lessee or licensee concerned.

- (3) In this section:

***determined royalty*** means:

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the value ascertained under section 146; and
- (b) where subsection (1)(b) applies, the amount of royalty payable in relation to the petroleum.

***provisional royalty*** means:

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the provisional value; and

- (b) where subsection (1)(b) applies, the amount of royalty demanded in relation to petroleum as a result of the erroneous calculation.

**150          Fees and penalties debts due to the Territory**

A fee, royalty or other amount payable under this Division is a debt due by the permittee, lessee, licensee or pipeline licensee to the Territory and is recoverable in a court of competent jurisdiction.

**Part IIA          Datums**

**150A          Object of Part**

The main objects of this Part are:

- (a) to maintain the use of the Australian Geodetic Datum to determine the position of blocks and certain other areas; and
- (b) to enable the position of a point, line, block or other area to be described in a title or other instrument under this Act, using another datum (but not so as to change the position of a point, line, block or area).

**150B          Definitions**

In this Part:

***Australian Geodetic Datum*** means the Australian Geodetic Datum as defined in the *Commonwealth Gazette* No. 84 of 6 October 1966.

***changeover time*** means the time when a declaration under section 150D takes effect.

***current datum*** means the datum declared to be the current datum under section 150D.

***instrument under this Act*** does not include the Regulations.

***previous datum*** means:

- (a) if a datum is the first datum declared to be the current datum under section 150D – the Australian Geodetic Datum; or
- (b) in any other case – the datum that was the current datum immediately before the changeover time.

***this Act*** includes the Regulations.

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

### **150C Australian Geodetic Datum**

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

- (a) a graticular section or block; and
- (b) a point, parallel of latitude or meridian of longitude referred to in Schedule 3,

is to be determined by reference to the Australian Geodetic Datum.

(2) Subject to subsection (3), subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line, block or other area.

(3) Until a declaration under subsection 150D takes effect, the Australian Geodetic Datum applies for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line, block or other area.

### **150D Current datum and previous datum**

The Regulations may declare that, for the purposes of describing the position on the surface of the earth of a point, line, block or other area in a title or other instrument under this Act, a specified datum:

- (a) is the current datum; and
- (b) replaces the previous datum.

### **150E Use of current datum**

For the purposes of this Act, the position on the surface of the Earth of:

- (a) a permit area the subject of a permit granted or renewed after the changeover time;
- (b) a lease area the subject of a lease granted or renewed after the changeover time;
- (c) a licence area the subject of a licence granted or renewed after the changeover time;

- (d) an area the subject of an access authority granted after the changeover time;
- (e) an area the subject of a special prospecting authority granted after the changeover time;
- (f) a route of a pipeline authorised by a pipeline licence granted after the changeover time; or
- (g) a point, line, block or other area set out in any other instrument made or granted under this Act after the changeover time,

is to be described by reference to the current datum, and the title or instrument may be annotated accordingly.

#### **150F Use of previous datum**

- (1) This section applies subject to section 150G.
- (2) For the purposes of this Act, the position on the surface of the Earth of:
  - (a) a permit area the subject of a permit in force immediately before the changeover time;
  - (b) a lease area the subject of a lease in force immediately before the changeover time;
  - (c) a licence area the subject of a licence in force immediately before the changeover time;
  - (d) an area the subject of a special prospecting authority in force immediately before the changeover time;
  - (e) an area the subject of an access authority in force immediately before the changeover time;
  - (f) the route of a pipeline authorised by a pipeline licence in force immediately before the changeover time; or
  - (g) a point, line, block or area set out in any other instrument in force under this Act immediately before the changeover time,

is to be described by reference to the previous datum.

**150G Variation of titles etc.**

The Regulations may authorise the Minister to issue an instrument varying:

- (a) a permit in force immediately before the changeover time for the sole purpose of relabelling the permit area the subject of the permit using geographic co-ordinates based on the current datum;
- (b) a lease in force immediately before the changeover time for the sole purpose of relabelling the lease area the subject of the lease using geographic co-ordinates based on the current datum;
- (c) a licence in force immediately before the changeover time for the sole purpose of relabelling the licence area the subject of the licence using geographic co-ordinates based on the current datum;
- (d) a special prospecting authority in force immediately before the changeover time for the sole purpose of relabelling the area the subject of the special prospecting authority using geographic co-ordinates based on the current datum;
- (e) an access authority in force immediately before the changeover time for the sole purpose of relabelling the area the subject of the access authority using geographic co-ordinates based on the current datum;
- (f) a pipeline licence in force immediately before the changeover time for the sole purpose of relabelling the route of the pipeline authorised by the pipeline licence using geographic co-ordinates based on the current datum;
- (g) any other instrument under this Act that:
  - (i) is in force immediately before the changeover time; and
  - (ii) sets out a point, line, block or other area,  
  
for the sole purpose of relabelling the point, line, block or area using geographic co-ordinates based on the current datum;  
and
- (h) a title or other instrument under this Act for the sole purpose of inserting an annotation about the applicable datum.

**150H Variation of applications for titles**

The Regulations may authorise the Minister to issue an instrument varying an application for a title for the sole purpose of relabelling a point, line, block or other area by reference to geographic co-ordinates based on the current datum.

**150I No change to actual position of point, line or area**

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

**Part III Occupational health and safety**

**Division 1 Introduction**

**151 Definitions**

In this Part, unless the contrary intention appears:

*Board* means the National Offshore Petroleum Safety Authority Board within the meaning of the Commonwealth Act.

*CEO* means the Chief Executive Officer of the Safety Authority.

*facility* has the meaning in Schedule 4.

*offshore petroleum operations* means any operations (including diving operations) that:

- (a) relate to the exploration for petroleum or the recovery, processing, storage, offloading or piped conveyance of petroleum; and
- (b) take place:
  - (i) if the operations are diving operations – in the adjacent area; or
  - (ii) if the operations are not diving operations – at a facility.

**152 Occupational health and safety**

Schedule 4 has effect.

**153 Listed OHS laws**

The following provisions are the listed OHS laws:

- (a) Schedule 4;

- (b) regulations made for Schedule 4;
- (c) regulations of the Commonwealth relating to occupational health and safety matters as applied for Schedule 4;
- (d) regulations made for section 154;
- (e) any other regulations relating to occupational health and safety matters prescribed by the Regulations.

**154 Regulations relating to occupational health and safety**

- (1) The Regulations may make provision in relation to the occupational health and safety of persons at or near a facility who are under the control of a person who is carrying on an operation.
- (2) Without limiting subsection (1), the Regulations may:
  - (a) require a person who is carrying on an operation to establish and maintain a system of management to secure the occupational health and safety of persons mentioned in the subsection; and
  - (b) specify requirements with which the system must comply.

**Division 2 Functions and powers of Safety Authority**

**155 Safety Authority's functions**

The Safety Authority has the following functions:

- (a) the functions conferred on it under this Act in relation to offshore petroleum operations;
- (b) to promote the occupational health and safety of persons engaged in offshore petroleum operations;
- (c) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations under this Act and the Regulations;
- (d) to:
  - (i) investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations; and



- (ii) report, as appropriate, to the Minister and the Commonwealth Minister on those investigations;
- (e) to advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations;
- (f) to make reports, including recommendations, to the Minister and the Commonwealth Minister on issues relating to the occupational health and safety of persons engaged in offshore petroleum operations;
- (g) to cooperate with:
  - (i) the Minister and Territory agencies having functions relating to offshore petroleum operations; and
  - (ii) Commonwealth agencies having functions relating to offshore petroleum operations.

#### **156 Safety Authority's ordinary powers**

- (1) The Safety Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The Safety Authority's powers include, but are not limited to, the following:
  - (a) to acquire, hold and dispose of real and personal property;
  - (b) to enter into contracts;
  - (c) to lease the whole or any part of any land or building for the purposes of the Safety Authority;
  - (d) to occupy, use and control any land or building owned or held under lease by the Territory and made available for the purposes of the Safety Authority;
  - (e) to conduct research and development projects and to cooperate with others in such projects;
  - (f) to apply for and hold patents and exploit patents;
  - (g) to do anything incidental to any of its functions.

**157 Judicial notice of seal**

All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the seal of the Safety Authority appearing on a document; and
- (b) presume the document was duly sealed.

**Division 3 Safety Authority Board**

**158 Functions**

- (1) The Board has the following functions:
  - (a) to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;
  - (b) to give advice, and make recommendations, to:
    - (i) the Minister;
    - (ii) the Commonwealth Minister;
    - (iii) interstate Ministers; and
    - (iv) the body known as the Ministerial Council on Mineral and Petroleum Resources,about either or both of the following:
    - (v) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations;
    - (vi) the performance by the Safety Authority of its functions;
  - (c) any other functions specified in a written notice given by the Commonwealth Minister to the Chair of the Board.
- (2) As soon as practicable after the Board gives advice, or makes recommendations, under subsection (1)(b) to:
  - (a) the Minister;
  - (b) an interstate Minister; or
  - (c) the body known as the Ministerial Council on Mineral and Petroleum Resources,

the Board must give the Commonwealth Minister a written copy of the advice or those recommendations.

**159 Powers**

The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

**160 Validity of decisions**

The performance of the functions, or the exercise of the powers, of the Board is not affected merely because of a vacancy or vacancies in the membership of the Board.

**Division 4 Chief Executive Officer and staff of Safety Authority**

**161 CEO acts for Safety Authority**

Anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

**162 Working with Board**

- (1) The CEO must request the Board's advice on strategic matters relating to the performance of the Safety Authority's functions.
- (2) The CEO must have regard to the advice given to him or her by the Board (whether or not the advice was given in response to a request).
- (3) The CEO must:
  - (a) keep the Board informed of the Safety Authority's operations; and
  - (b) give the Board any reports, documents and information in relation to those operations the Chair of the Board requires.

**163 Delegation**

- (1) An officer or employee of the Territory, or of a public authority of the Territory, may perform any function and exercise any power delegated to him or her by the CEO under the Commonwealth Act.
- (2) In performing a function or exercising a power under the delegation, the delegate must comply with any directions of the CEO.

**164 Secondments to Safety Authority**

An officer or employee of the Territory, or of a public authority of the Territory, may assist the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers under this Act, the Commonwealth Act or a corresponding law.

**Division 5 Other Safety Authority provisions**

**165 Minister may require Safety Authority to prepare reports or give information**

- (1) The Minister may, by written notice, require the Safety Authority within the period specified in the notice:
  - (a) to prepare a report about one or more specified matters relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
  - (b) to give a copy of the report to:
    - (i) the Minister;
    - (ii) each interstate Minister; and
    - (iii) the Commonwealth Minister.
- (2) The Minister may, by written notice, require the Safety Authority within the period specified in the notice:
  - (a) to prepare a document setting out specified information relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
  - (b) to give a copy of the report to:
    - (i) the Minister;
    - (ii) each interstate Minister; and
    - (iii) the Commonwealth Minister.
- (3) The Safety Authority must comply with a notice under subsection (1) or (2).

**166 Directions to Safety Authority**

- (1) The Minister may request the Commonwealth Minister to give a direction to the Safety Authority that relates wholly or principally to the Safety Authority's operations in the adjacent area.
- (2) The Commonwealth Minister must use his or her best endeavours to make a decision on the request within 30 days after receiving the request.
- (3) If the Commonwealth Minister refuses the request, the Commonwealth Minister must give the Minister a written statement stating the reasons for the refusal.
- (4) The Safety Authority must comply with any direction given by the Commonwealth Minister under this section.

**167 Reviews of operations of Safety Authority**

- (1) The Minister must review the operations of the Safety Authority in relation to the adjacent area.
- (2) The Minister must prepare a report of a review.
- (3) The first review is for the 3-year period starting on 1 January 2005, and must be completed within 6 months, or the longer period the Minister allows, after the end of the 3-year period.
- (4) Subsequent reviews are for successive 3-year periods, and must be completed within 6 months, or the longer period the Minister allows, after the end of the 3-year period to which the review relates.
- (5) A review may be conducted in conjunction with a review under the Commonwealth Act or a corresponding law (or both).
- (6) Without limiting the matters to be covered by a review, the review must include an assessment of the effectiveness of the Safety Authority in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
- (7) The Minister must table a copy of the report of a review in the Legislative Assembly within 15 sitting days of the Assembly after the report of the review is completed.
- (8) For this section, a review is completed when the report of the review is made available to the Minister.

**168 Protection from liability**

- (1) This section applies to a person who is or has been:
  - (a) the Safety Authority;
  - (b) the CEO;
  - (c) an OHS inspector; or
  - (d) a person acting under the direction or authority of the Safety Authority or CEO.
- (2) The 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 or purported exercise of a power, or the performance or purported performance of a function, under a listed OHS law.

**Part IV Miscellaneous provisions****169 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Regulations may make provision for securing, regulating, controlling or restricting any of the following matters:
  - (a) exploration for petroleum and the carrying on of operations and the execution of works for that purpose;
  - (b) recovery of petroleum and the carrying on of operations and the execution of works for that purpose;
  - (c) conserving and preventing the waste of natural resources whether petroleum or otherwise of the adjacent area;
  - (d) construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations and the carrying on of operations, and the execution of works, for any of those purposes;
  - (e) construction, erection, maintenance, operation or use of installations or equipment;

- (f) control of the flow or discharge, and the prevention of the escape, of petroleum, water, drilling fluid or a mixture of water or drilling fluid with petroleum or any other matter;
- (g) clean-up or other remedying of the effects of the escape of petroleum;
- (h) prevention of damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which a permit, lease or licence is not in force;
- (i) keeping separate:
  - (i) each petroleum pool discovered in a permit area, lease area or licence area; and
  - (ii) each source of water discovered in a permit area, lease area or licence area;
- (j) prevention of water or other matter from entering a petroleum pool through wells;
- (k) prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station;
- (l) maintaining in good condition and repair all structures, equipment and other property in the adjacent area used or intended to be used for or in connection with the exploration for, or the exploitation of, petroleum in the adjacent area;
- (m) removal from the adjacent area of structures, equipment and other property brought into the adjacent area for or in connection with exploration for, or the exploitation of, petroleum that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum in the adjacent area;
- (n) provide that a contravention or failure to comply with the Regulations is an offence and prescribing:
  - (i) a penalty of not more than 100 penalty units for a natural person and 500 penalty units for a body corporate for the offence; and
  - (ii) a further penalty of not more than 100 penalty units for a natural person and 500 penalty units for a body corporate for each day on which the offence occurs.

- (3) The Regulations may make provision in relation to matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the Regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to the matter.
- (4) The Regulations may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the Regulations, of the consent or approval of a person specified in the Regulations.
- (5) The Regulations may prescribe, in relation to the exploration for petroleum, and the exploitation of, the adjacent area, matters for carrying out or giving effect to the Convention entitled "Convention on the Continental Shelf" signed at Geneva on 29 April 1958.
- (6) The Regulations may:
  - (a) make different provision in relation to:
    - (i) different persons or matters; or
    - (ii) different classes of persons or matters; or
  - (b) apply differently by reference to specified exceptions or factors.

**170 Transitional regulations for occupational health and safety**

The Regulations may make provision for any transitional matters arising out of the amendments made to this Act by the *Petroleum (Submerged Lands) Amendment Act 2004*.



---

**Schedule 3 Area that includes the adjacent area**

## section 4

The area the boundary of which commences at the point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia and runs thence northerly along the geodesic to a point of Latitude 14° 37' 30" South, Longitude 129° 01' 45" East, thence northerly along the geodesic to a point of Latitude 14° 32' 30" South, Longitude 129° 01' 15" East, thence north-westerly along the geodesic to a point of Latitude 14° 19' 30" South, Longitude 128° 53' East, thence north-westerly along the geodesic to a point of Latitude 14° South, Longitude 128° 42' 15" East, thence north-westerly along the geodesic to a point of Latitude 13° 49' 45" South, Longitude 128° 33' 15" East, thence north-westerly along the geodesic to a point of Latitude 13° 39' 45" South, Longitude 128° 30' 45" East, thence north-westerly along the geodesic to a point of Latitude 13° 15' 30" South, Longitude 128° 28' East, thence northerly along the meridian of Longitude 128° 28' East to its intersection by the parallel of Latitude 12° 55' 30" South, thence north-westerly along the geodesic to a point of Latitude 12° 32' 45" South, Longitude 128° 24' East, thence north-westerly along the geodesic to a point of Latitude 12° 26' 30" South, Longitude 128° 22' East, thence north-westerly along the geodesic to a point of Latitude 11° 48' South, Longitude 127° 53' 45" East, thence north-westerly along the geodesic to a point of Latitude 11° 13' 15" South, Longitude 127° 32' East, thence north-westerly along the geodesic to a point of Latitude 10° 05' South, Longitude 126° 47' 30" East, thence north-easterly along the geodesic to a point of Latitude 9° 53' 45" South, Longitude 127° 18' 30" East, thence north-easterly along the geodesic to a point of Latitude 9° 28' South, Longitude 127° 56' East, thence north-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 128° East, thence easterly along the rhumb line which is on the parallel of Latitude 9° 25' South to its intersection by the meridian of Longitude 130° 10' East, thence north-easterly along the rhumb line to a point of Latitude 8° 54' South, Longitude 133° 14' East, thence north-easterly along the rhumb line to a point of Latitude 8° 53' South, Longitude 133° 23' East, thence south-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 134° 50' East, thence north-easterly along the rhumb line to a point of Latitude 9° 22' South, Longitude 135° 03' East, thence north-easterly along the rhumb line to a point of Latitude 9° 17' South, Longitude 135° 13' East, thence north-easterly along the rhumb line to a point of Latitude 9° 08' South, Longitude 135° 29' East, thence south-easterly along the rhumb line to a point of Latitude 9° 57' South, Longitude 137° 45' East, thence south-easterly along the rhumb line to a point of Latitude 10° 09' South, Longitude 138° 13' East, thence south-easterly along the rhumb line to a point of Latitude 10° 22' South, Longitude 138° 35' East, thence south-easterly along the rhumb line to a point of Latitude 10° 24' South, Longitude 138° 38' East, thence south-easterly along the rhumb line to a point of Latitude 10° 50' South, Longitude 139° 12' East, thence south-easterly along the geodesic to a point of Latitude 10° 51' South, Longitude 139° 12' 30" East, thence south-easterly along the

geodesic to a point of Latitude 11° South, Longitude 139° 15' East, thence southerly along the meridian of Longitude 139° 15' East to its intersection by the parallel of Latitude 14° 30' South, thence westerly along that parallel to its intersection by the meridian of Longitude 138° 30' East, thence southerly along that meridian to its intersection by the parallel of Latitude 15° 55' South, thence south-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland, thence along the coastline of the Northern Territory of Australia at mean low water to the point of commencement.

## Schedule 4 Occupational health and safety

section 152

### Part 1 Introduction

#### 1 Objects

The objects of this Schedule are, in relation to facilities located in the adjacent area:

- (a) to secure the occupational health and safety and welfare of persons at or near those facilities;
- (b) to protect persons at or near those facilities from risks to occupational health and safety arising out of activities being conducted at those facilities;
- (c) to ensure expert advice is available on occupational health and safety matters in relation to those facilities;
- (d) to promote an occupational environment for members of the workforce at those facilities that is adapted to their needs relating to health and safety; and
- (e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at those facilities.

#### 2 Simplified outline

- (1) This clause sets out a simplified outline of this Schedule.
- (2) This Schedule sets up a scheme to regulate occupational health and safety matters at or near facilities.
- (3) Occupational health and safety duties are imposed on the following:
  - (a) the operator of a facility;
  - (b) a person in control of a part of a facility or of any work carried out at a facility;
  - (c) an employer;
  - (d) a manufacturer of plant or a substance for use at a facility;
  - (e) a supplier of a facility or of any plant or substance for use at a facility;

- (f) a person who erects or installs a facility or any plant at a facility;
- (g) a person at a facility.
- (4) A group of members of the workforce at a facility may be established as a designated work group.
- (5) The members of a designated work group may select a health and safety representative for that designated work group.
- (6) The health and safety representative may exercise certain powers for the purpose of promoting or ensuring the occupational health and safety of group members.
- (7) An OHS inspector may conduct an inspection:
  - (a) to ascertain whether a listed OHS law is being complied with;
  - (b) concerning a contravention or possible contravention of a listed OHS law; or
  - (c) concerning an accident or dangerous occurrence that has happened at or near a facility.
- (8) The operator of a facility must report accidents and dangerous occurrences to the Safety Authority.

### 3 Definitions

In this Schedule, unless the contrary intention appears:

***accident*** includes the contraction of a disease.

***associated offshore place***, in relation to a facility, means any offshore place near the facility where activities (including diving activities) relating to the construction, installation, operation, maintenance or decommissioning of the facility take place, but does not include:

- (a) another facility;
- (b) a supply vessel, offtake tanker, anchor handler or tugboat; or
- (c) a vessel, or structure, that is declared by the regulations not to be an associated offshore place.

***contract*** includes an arrangement or understanding.

***contractor*** has the meaning in clause 7.

***dangerous occurrence*** means an occurrence declared by the regulations to be a dangerous occurrence.

***designated work group*** means:

- (a) a group of members of the workforce at a facility that is established as a designated work group under clause 18 or 19; or
- (b) that group as varied in accordance with clause 20 or 21.

***employee***, in relation to an employer, means an employee of the employer.

***employer*** means an employer who carries on an activity at a facility.

***facility*** means a facility within the meaning of clause 4, and:

- (a) includes a facility that is being constructed or installed; and
- (b) except in the definition of ***associated offshore place***, includes an associated offshore place in relation to a facility (as defined by clause 4).

***group member***, in relation to a designated work group at a facility, means a person who is:

- (a) a member of the workforce at that facility; and
- (b) included in that designated work group.

***improvement notice*** means an improvement notice issued under clause 61(1).

***inspection*** means an inspection conducted under Part 4 of this Schedule, and includes an investigation or inquiry.

***master***, in relation to a vessel, means the person having command or charge of the vessel.

***member of the workforce***, in relation to a facility, means a natural person who does work at the facility, whether as:

- (a) an employee of the operator of the facility or another person; or
- (b) a contractor of the operator or another person.

***offshore petroleum operations*** has the meaning in Part III.

**operator**, in relation to a facility or proposed facility, means the person who, under the regulations, is taken to be the operator of the facility or proposed facility.

**operator's representative at a facility** means a person present at the facility in compliance with the obligations imposed on the operator by clause 5.

**own** includes own jointly and own in part.

**plant** includes any machinery, equipment and tool and any component of those things.

**premises** includes the following:

- (a) a structure or building;
- (b) a place (whether or not enclosed or built on);
- (c) a part of a thing mentioned in paragraph (a) or (b).

**prohibition notice** means a prohibition notice issued under clause 59(1).

**proposed facility** means a facility proposed to be constructed, installed or operated.

**recovery**, in relation to petroleum, includes all processes directly or indirectly associated with its recovery.

**registered organisation** means an organisation within the meaning of the *Workplace Relations Act 1996* of the Commonwealth.

**regulated business premises** means:

- (a) a facility; or
- (b) premises that are:
  - (i) occupied by a person who is the operator of a facility; and
  - (ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations.

**regulations** means:

- (a) regulations made for this Schedule; or

- (b) regulations of the Commonwealth relating to occupational health and safety matters as applied for this Schedule.

**reviewing authority** means the Australian Industrial Relations Commission.

**work** means work offshore that is directly or indirectly related to the construction, installation, operation, maintenance or decommissioning of a facility.

**workforce representative** means:

- (a) in relation to a person who is a member of the workforce at a facility – a registered organisation of which the person is a member if the person is qualified to be a member of the organisation because of the work the person performs at the facility; or
- (b) in relation to a designated work group or a proposed designated work group – a registered organisation of which a person who is, or who is likely to be, in the work group is a member if the person is qualified to be a member of the organisation because of the work the person performs, or will perform, at a facility as a member of the group.

**work group employer**, in relation to a designated work group at a facility, means an employer of one or more group members, but does not include the operator of the facility.

**workplace**, in relation to a facility, means the whole facility or any part of the facility.

#### **4 Facilities**

- (1) A vessel or structure is taken to be a facility for this Schedule while the vessel or structure:
- (a) is located at a site in the adjacent area; and
- (b) is being used, or prepared for use, at the site:
- (i) for the recovery of petroleum, for the processing of petroleum, or for the storage and offloading of petroleum, or for any combination of those activities;
- (ii) for the provision of accommodation for persons working on another facility (whether or not connected by a walkway to that other facility);

- (iii) for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process;
  - (iv) for laying pipes for petroleum, including any manufacturing of such pipes and for doing work on an existing pipe;
  - (v) for the erection, dismantling or decommissioning of a vessel or structure mentioned in a previous subparagraph; or
  - (vi) for another purpose related to offshore petroleum operations prescribed by the regulations.
- (2) Subclause (1) applies to a vessel or structure:
  - (a) whether it is floating or fixed; and
  - (b) whether or not it is capable of independent navigation.
- (3) Subclause (1) has effect subject to subclauses (6) and (7).
- (4) A vessel or structure used for a purpose mentioned in subclause (1)(b)(i) includes:
  - (a) any wells and associated plant and equipment by means of which petroleum processed or stored at the vessel or structure is recovered;
  - (b) any pipe or system of pipes through which petroleum is conveyed from a well to the vessel or structure; and
  - (c) any secondary line associated with the vessel or structure.
- (5) For subclause (1), a vessel or structure that is located offshore for laying pipes as described in subclause (1)(b)(iv) is taken to be located at a site despite the fact the vessel or structure moves as the pipe laying process proceeds.
- (6) Despite subclause (1), a vessel or structure is taken not to be a facility for this Schedule if the vessel or structure is:
  - (a) an offtake tanker;
  - (b) a tug or anchor handler;
  - (c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore; or
  - (d) a vessel or structure used for any purpose declared by the regulations not to be a facility.



- (7) In determining when a vessel or structure that has the potential to be used for one or more of the purposes mentioned in subclause (1)(b) is in fact being so used, the vessel or structure is taken:
- (a) to commence to be so used only at the time when it arrives at the site where it is to be so used and any activities necessary to make it operational at that site are started; and
  - (b) to cease to be so used when operations cease and the vessel or structure has been returned either to a navigable form or to a form in which it can be towed to another place.
- (8) Each of the following is taken to be a facility for this Schedule:
- (a) a pipeline subject to a pipeline licence;
  - (b) if a pipeline subject to a pipeline licence conveys petroleum recovered from a well without the petroleum having passed through another facility, the pipeline together with:
    - (i) the well and associated plant and equipment; and
    - (ii) any pipe or system of pipes through which petroleum is conveyed from the well to the pipeline.
- (9) In subclause (8)(b):

*facility* does not include a pipeline.

## 5 Operator must ensure presence of operator's representative

- (1) The operator of a facility must ensure, at all times when one or more natural persons are present at the facility, there is also present a natural person (the *operator's representative at the facility*) who has day-to-day management and control of operations at the facility.

Penalty: If the offender is a natural person – 50 penalty units.

If the offender is a body corporate – 250 penalty units.

- (2) The operator of a facility must ensure the name of the operator's representative at the facility is displayed in a prominent place at the facility.

Penalty: If the offender is a natural person – 50 penalty units.

If the offender is a body corporate – 250 penalty units.

- (3) Subclause (1) does not imply that, if the operator is a natural person, the operator's representative at the facility may not be, from time to time, the operator.

## **6 Health and safety of persons using accommodation facility**

To remove doubt, a reference in this Schedule to the occupational health and safety of a person includes a reference to the health and safety of a person using an accommodation facility provided for the accommodation of persons working on another facility.

## **7 Contractor**

For this Schedule, a natural person is taken to be a contractor of another person if the natural person does work at a facility under a contract for services between:

- (a) the other person; and
- (b) either:
  - (i) the natural person; or
  - (ii) the natural person's employer.

# **Part 2 Occupational health and safety**

## **Division 1 Duties relating to occupational health and safety**

### **8 Duties of operator**

- (1) The operator of a facility must take all reasonably practicable steps to ensure:
- (a) the facility is safe and without risk to the health of any person at or near the facility; and
  - (b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

- (2) Without limiting subclause (1), the operator of a facility must:
- (a) provide and maintain a physical environment at the facility that is safe and without risk to health;
  - (b) provide and maintain adequate facilities for the welfare of all members of the workforce at the facility;
  - (c) ensure any plant, equipment, materials and substances at the facility are safe and without risk to health;
  - (d) implement and maintain systems of work at the facility that are safe and without risk to health;
  - (e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility;
  - (f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the occupational health and safety of persons at the facility;
  - (g) monitor the occupational health and safety of all members of the workforce and keep records of that monitoring;
  - (h) provide appropriate medical and first aid services at the facility; and
  - (i) develop, in consultation with members of the workforce and workforce representatives, a policy relating to occupational health and safety that:
    - (i) will enable the operator and the members to cooperate effectively in promoting and developing measures to ensure the occupational health and safety of persons at the facility;
    - (ii) will provide adequate mechanisms for reviewing the effectiveness of the measures; and
    - (iii) provides for the making of an agreement that complies with subclauses (4) and (5).

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

- (3) Subclause (2)(i) does not require the operator of a facility to engage in consultations with a workforce representative unless a member of the workforce at the facility has requested the workforce representative to be involved in those consultations.
- (4) The agreement mentioned in subclause (2)(i)(iii) must be between:
  - (a) on the one hand – the operator; and
  - (b) on the other hand:
    - (i) the members of the workforce; and
    - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement – the workforce representative.
- (5) The agreement mentioned in subclause (2)(i)(iii) must provide appropriate mechanisms for continuing consultation between:
  - (a) on the one hand – the operator; and
  - (b) on the other hand:
    - (i) the members of the workforce; and
    - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion – the workforce representative.
- (6) The agreement may provide for any other matters agreed between the parties to it.

**9 Duties of persons in control of parts of facility or particular work**

- (1) A person who is in control of any part of a facility, or of any particular work carried out at a facility, must take all reasonably practicable steps to ensure:
  - (a) that part of the facility, or the place where the work is carried out, is safe and without risk to health; and

- (b) if the person is in control of particular work – the work is carried out in a manner that is safe and without risk to health.

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

- (2) Without limiting subclause (1), a person who is in control of any part of a facility, or of any particular work carried out at a facility, must:

(a) ensure the physical environment at that part of the facility, or at the place where that work is carried out, is safe and without risk to health;

(b) ensure any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health;

(c) implement and maintain systems of work at that part of the facility, or in carrying out work at that place, that are safe and without risk to health;

(d) ensure a means of access to, and egress from, that part of the facility or that place that is safe and without risk to health; and

(e) provide all members of the workforce located at that part of the facility or engaged on that work, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

## 10 Duties of employers

- (1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

- (2) Without limiting subclause (1), an employer must:
- (a) provide and maintain a working environment that is safe for employees and without risk to their health;
  - (b) ensure any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health;
  - (c) implement and maintain systems of work that are safe and without risk to health;
  - (d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health; and
  - (e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.
- (3) A person has, in relation to a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in relation to an employee of that employer, but only in relation to:
- (a) matters over which the first-mentioned person has control; or
  - (b) matters over which:
    - (i) the first-mentioned person would have had control apart from express provision to the contrary in a contract; and
    - (ii) the first-mentioned person would, in the circumstances, usually be expected to have had control.
- (4) An employer must take all reasonable steps to:
- (a) monitor the health and safety of employees; and
  - (b) keep records of that monitoring.

Penalty: If the offender is a natural person – 1 000 penalty units.

If the offender is a body corporate – 5 000 penalty units.

## 11 Duties of manufacturers in relation to plant and substances

- (1) A manufacturer of any plant that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps:
- (a) to ensure the plant is so designed and constructed as to be, when properly used, safe and without risk to health;
  - (b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the plant; and
  - (c) to make available, in connection with the use of the plant at a facility, adequate written information about:
    - (i) the use for which it is designed and has been tested;
    - (ii) details of its design and construction; and
    - (iii) any conditions necessary to ensure that, when put to the use for which it was designed and tested, it will be safe and without risk to health.

Penalty: If the offender is a natural person – 250 penalty units.

If the offender is a body corporate – 1 250 penalty units.

- (2) A manufacturer of any substance that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps:
- (a) to ensure the substance is so manufactured as to be, when properly used, safe and without risk to health;
  - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the substance; and
  - (c) to make available, in connection with the use of the substance at a facility, adequate written information concerning:
    - (i) the use for which it is manufactured and has been tested;
    - (ii) details of its composition;

- (iii) any conditions necessary to ensure, when put to the use for which it was manufactured and tested, it will be safe and without risk to health; and
- (iv) the first aid and medical procedures that should be followed if the substance causes injury.

Penalty: If the offender is a natural person – 250 penalty units.  
If the offender is a body corporate – 1 250 penalty units.

(3) If:

- (a) plant or a substance is imported into Australia by a person who is not its manufacturer; and
- (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia,

the first-mentioned person is taken, for this clause, to be the manufacturer of the plant or substance.

(4) This clause does not affect the operation of any other law of the Territory that imposes an obligation on a manufacturer in relation to defective goods or in relation to information to be supplied in relation to goods.

## **12 Duties of suppliers of facilities, plant and substances**

(1) A supplier of a facility, or of any plant or substance the supplier ought reasonably to expect will be used by members of the workforce at a facility, must take all reasonably practicable steps:

- (a) to ensure, at the time of supply, the facility, plant or substance, is in such condition as to be, when properly used, safe and without risk to health;
- (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health or safety that may arise from the condition of the facility, plant or substance; and
- (c) to make available the operator of the facility or person to whom the plant or substance is supplied adequate written information in connection with the use of the facility, plant or substance about:
  - (i) the condition of the facility, plant or substance at the time of supply;



- (ii) any risk to the health and safety of members of the workforce at the facility to which the condition of the facility, plant or substance may give rise unless it is properly used;
- (iii) the steps that need to be taken in order to eliminate the risk; and
- (iv) for a substance – the first aid and medical procedures that should be followed if the condition of the substance causes injury to a member of the workforce at the facility.

Penalty: If the offender is a natural person – 250 penalty units.

If the offender is a body corporate – 1 250 penalty units.

- (2) For subclause (1), if a person (the *ostensible supplier*) supplies to a person a facility, or any plant or substance that is to be used by members of the workforce at a facility, and the ostensible supplier:
  - (a) carries on the business of financing the acquisition or the use of goods by other persons;
  - (b) has, in the course of the business, acquired an interest in the facility, plant or substance from another person (the *actual supplier*), solely for financing its acquisition by, or its provision to, the person to whom it is finally supplied; and
  - (c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for passing possession of the facility, plant or substance to the person to whom it is finally supplied,

a reference in subclause (1) to a supplier must, in relation to the facility, plant or substance mentioned in this subclause, be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

- (3) This clause does not affect the operation of another law of the Territory that imposes an obligation in relation to the sale or supply of goods or the information to be supplied in relation to goods.

**13 Duties of persons erecting facilities or installing plant**

- (1) A person who erects or installs a facility or erects or installs any plant at a facility must take all reasonably practicable steps to ensure the facility or plant is not erected or installed in a way that is unsafe or constitutes a risk to health.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

- (2) This clause does not affect the operation of another law of the Territory that imposes an obligation in relation to the erection or installation of structures or goods or the supply of services.

**14 Duties of persons in relation to occupational health and safety**

- (1) A person at a facility must, at all times, take all reasonably practicable steps:

(a) to ensure the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the occupational health and safety of that or another person at or near the facility;

(b) in relation to any obligation imposed on the operator or on another person by or under a listed OHS law – to cooperate with the operator or the other person to the extent necessary to enable the operator or other person to fulfil the obligation; and

(c) to use equipment that is:

(i) supplied to the person by the operator, an employer of the person or any other person having control of work at a facility (the *equipment supplier*); and

(ii) necessary to protect the occupational health and safety of the person or of any other person at or near the facility,

in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Penalty: If the offender is a natural person – 50 penalty units.

If the offender is a body corporate – 250 penalty units.

- (2) Despite subclause (1), the choice or manner of use, or choice and manner of use, of equipment of the kind mentioned in subclause (1)(c)(ii) is a matter that may be, consistently with each listed OHS law:
  - (a) agreed on between the equipment supplier and any relevant health and safety representative; or
  - (b) agreed on by a health and safety committee.
- (3) If an agreement of the kind mentioned in subclause (2)(a) or (b) provides a process for choosing equipment of a particular kind that is to be provided by the equipment supplier, action must not be taken against a person for failure to use equipment of the kind that is so provided unless the equipment has been chosen in accordance with the process.
- (4) If an agreement of the kind mentioned in subclause (2)(a) or (b) provides a process for determining the manner of use of equipment of a particular kind, action must not be taken against a person for failure to use, in the manner required by the equipment supplier, equipment of the kind that is so provided unless the manner has been determined in accordance with the process.

**15 Reliance on information supplied or results of research**

- (1) For the application of clause 8, 9 or 10 to the use of plant or a substance, a person on whom an obligation is imposed under any of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to the use of the plant or substance, to the extent that:
  - (a) the person ensured, so far as practicable, its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to occupational health and safety in its use; and
  - (b) it was reasonable for the person to rely on the information.
- (2) For the application of clause 11 or 12 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under either of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to carrying out research, testing and examining the facility, plant or substance, to the extent that:
  - (a) the research, testing or examination has already been carried out by or on behalf of someone else; and

- (b) it was reasonable for the person to rely on the research, testing or examination.
- (3) For the application of clause 13 to the erection of a facility or erection or installation of plant at a facility, a person on whom an obligation is imposed under the clause is regarded as having taken reasonably practicable steps as required by that clause to the extent that:
  - (a) the person ensured, so far as is reasonably practicable, the erection of the facility, or erection or installation of the plant, was:
    - (i) in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation; and
    - (ii) consistent with the occupational health and safety of persons at the facility; and
  - (b) it was reasonable for the person to rely on the information.
- (4) This clause does not limit what constitutes reasonably practicable steps as required by clause 8, 9, 10, 11, 12 or 13.

## **Division 2 Regulations relating to occupational health and safety**

### **16 Regulations**

- (1) The regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of persons at a facility.
- (2) Regulations made for subclause (1) may make provision for any of the following:
  - (a) prohibiting or restricting the performance of all work or specified work at a facility;
  - (b) prohibiting or restricting the use of all plant or specified plant at a facility;
  - (c) prohibiting or restricting the carrying out of all processes or a specified process at a facility;
  - (d) prohibiting or restricting the storage or use of all substances or specified substances at a facility;

- (e) specifying the form in which information required to be made available under clause 11(1)(c) or 12(1)(c) is made available;
- (f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or substances at a facility;
- (g) providing for:
  - (i) the issue, variation, renewal, transfer, suspension and cancellation of those licences; and
  - (ii) the conditions to which the licences may be subject;
- (h) regulating the maintenance and testing of plant used at a facility;
- (i) regulating the labelling or marking of substances used at a facility;
- (j) regulating the transport of specified plant or substances for use at a facility;
- (k) prohibiting the performance, at a facility, of specified activities or work except:
  - (i) by persons who satisfy requirements of the regulations as to qualifications, training or experience; or
  - (ii) under the supervision specified in the regulations;
- (l) requiring specified action to avoid accidents or dangerous occurrences;
- (m) providing for, or prohibiting, specified action in the event of accidents or dangerous occurrences;
- (n) providing for the employment at a facility of persons to perform specified duties relating to the maintenance of occupational health and safety at the facility;
- (o) regulating the provision and use, at a facility, of protective clothing and equipment, safety equipment and rescue equipment;
- (p) providing for monitoring the health of members of the workforce at a facility and the conditions at the facility;
- (q) requiring employers to keep records of matters related to the occupational health and safety of employees;

- (r) providing for the provision of first aid equipment and facilities at facilities.

## **Part 3 Workplace arrangements**

### **Division 1 Introduction**

#### **17 Simplified outline**

- (1) This clause sets out a simplified outline of this Part.
- (2) A group of members of the workforce at a facility may be established as a designated work group.
- (3) The members of a designated work group may select a health and safety representative for that designated work group.
- (4) The health and safety representative may exercise certain powers for promoting or ensuring the occupational health and safety of group members.
- (5) A health and safety committee may be established in relation to the members of the workforce at a facility.
- (6) The main function of a health and safety committee is to assist the operator in relation to occupational health and safety matters.

### **Division 2 Designated work groups**

#### **Subdivision 1 Establishment of designated work groups**

#### **18 Establishment of designated work groups by request**

- (1) A request to the operator of a facility to enter into consultations to establish designated work groups in relation to the members of the workforce at the facility may be made by:
  - (a) any member of the workforce; or
  - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator – the workforce representative.
- (2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with:
  - (a) if any member of the workforce made a request to establish designated work groups:
    - (i) that member of the workforce;

- (ii) if that member requests the operator enter into consultations with a workforce representative in relation to the member – that workforce representative; and
    - (iii) each employer (if any) of members of the workforce; and
  - (b) if a workforce representative made a request to establish designated work groups:
    - (i) if a member of the workforce requests the operator enter into consultations with that workforce representative – that workforce representative; and
    - (ii) each employer of members of the workforce.
- (3) Within 14 days after completing consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

**19 Establishment of designated work groups at initiative of operator**

- (1) If, at any time, the operator of a facility considers designated work groups should be established, the operator must enter into consultations with:
  - (a) all members of the workforce;
  - (b) if a member of the workforce requests the operator enter into consultations with a workforce representative in relation to the member – that workforce representative; and
  - (c) each employer (if any) of members of the workforce.
- (2) Within 14 days after completing consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

**Subdivision 2 Variation of designated work groups**

**20 Variation of designated work groups by request**

- (1) A request to the operator of a facility to enter into consultations to vary designated work groups that have already been established in relation to the members of the workforce at the facility may be made by:
  - (a) any member of the workforce; or

- (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator – that workforce representative.
- (2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with:
- (a) if any member of the workforce made a request to vary designated work groups:
    - (i) that member of the workforce;
    - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
    - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation; and
  - (b) if a workforce representative made a request to vary designated work groups:
    - (i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group – that workforce representative;
    - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
    - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation.
- (3) If:
- (a) consultations take place about the variation of designated work groups that have already been established; and
  - (b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified,

then, within 14 days after completing the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary those designated work groups in accordance with the outcome of the consultations.



**21 Variation of designated work groups at initiative of operator**

- (1) If the operator of a facility believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with:
- (a) the health and safety representative of each of the designated work groups affected by the proposed variation;
  - (b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group – that workforce representative; and
  - (c) each work group employer (if any) in relation to each designated work group affected by the proposed variation.
- (2) If:
- (a) consultations take place about the variation of designated work groups that have already been established; and
  - (b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified,

then, within 14 days after completing the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

**Subdivision 3 General**

**22 Referral of disagreement to reviewing authority**

- (1) If, in the course of consultations under clause 18, 19, 20 or 21, there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a designated work group, any party may, for facilitating that consultation, refer the matter of disagreement to the reviewing authority.
- (2) If the matter of a disagreement is referred to the reviewing authority, the parties to the disagreement must complete the consultation in accordance with the resolution of that matter by the reviewing authority.

## **23 Manner of grouping members of the workforce**

- (1) Consultations about the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping members of the workforce:
  - (a) that best and most conveniently enables their interests relating to occupational health and safety to be represented and safeguarded; and
  - (b) that best takes account of the need for any health and safety representative selected for that designated work group to be accessible to each group member.
- (2) The parties to the consultations must have regard, in particular, to:
  - (a) the number of members of the workforce at the facility to which the consultation relates;
  - (b) the nature of each type of work performed by those members;
  - (c) the number and grouping of those members who perform the same or similar types of work;
  - (d) the workplaces where each type of work is performed;
  - (e) the nature of any risks to health and safety at each of those workplaces; and
  - (f) any overtime or shift working arrangement at the facility.
- (3) The designated work groups must be established or varied in such a way that, so far as practicable, each of the members of the workforce at a facility is in a designated work group.
- (4) All the members of the workforce at a facility may be in one designated work group.

## **Division 3 Health and safety representatives**

### **Subdivision 1 Selection of health and safety representatives**

## **24 Selection of health and safety representatives**

- (1) One health and safety representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the health and safety representative for a designated work group unless the person is a member of the workforce included in the group.

- (3) A person is taken to have been selected as the health and safety representative for a designated work group if:
  - (a) all the members of the workforce in the group unanimously agree to the selection; or
  - (b) the person is elected as the health and safety representative of the group in accordance with clause 25.

## **25 Election of health and safety representatives**

- (1) If:
  - (a) there is a vacancy in the office of health and safety representative for a designated work group; and
  - (b) within a reasonable time after the vacancy occurs, a person has not been selected under clause 24(3)(a),

the operator of the facility must invite nominations from all group members for election as the health and safety representative of the group.
- (2) If the office of health and safety representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Safety Authority may direct the operator to do so.
- (3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.
- (4) The election must be conducted in accordance with regulations made for this subclause if this is requested by the lesser of:
  - (a) 100 members of the workforce normally in the designated work group; or
  - (b) a majority of the members of the workforce normally in the designated work group.
- (5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.
- (6) A person cannot be a candidate in the election if he or she is disqualified under clause 31.
- (7) All the members of the workforce in the designated work group are entitled to vote in the election.

- (8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Safety Authority.

**26 List of health and safety representatives**

The operator of a facility must:

- (a) prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising members of the workforce performing work at the facility; and
- (b) ensure the list is available for inspection, at all reasonable times, by:
- (i) the members of the workforce at the facility; and
  - (ii) OHS inspectors.

**27 Members of designated work group must be notified of selection etc. of health and safety representative**

The operator of a facility must:

- (a) notify members of a designated work group in relation to the facility of a vacancy in the office of health and safety representative for the designated work group within a reasonable time after the vacancy arises; and
- (b) notify those members of the name of any person selected (whether under clause 24(3)(a) or (b)) as health and safety representative for the designated work group within a reasonable time after the selection is made.

**28 Term of office**

- (1) A health and safety representative for a designated work group holds office:
- (a) if, in consultations that took place under clause 18, 19, 20 or 21, the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office – for that period; or
  - (b) if paragraph (a) does not apply – for 2 years.
- (2) The term of office of a health and safety representative begins at the start of the day on which he or she was selected.

- (3) This clause does not prevent a health and safety representative from being selected for further terms of office.

## **29 Training of health and safety representatives**

- (1) A health and safety representative for a designated work group must undertake a course of training relating to occupational health and safety that is accredited by the Safety Authority for this clause.
- (2) The operator of the facility concerned must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.
- (3) If a person other than the operator is the employer of the representative, that person must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

## **30 Resignation etc. of health and safety representatives**

- (1) A person ceases to be the health and safety representative for the designated work group if:
  - (a) the person resigns as the health and safety representative;
  - (b) the person ceases to be a group member of that designated work group;
  - (c) the person's term of office expires without the person having been selected, under clause 24, to be the health and safety representative for the designated work group for a further term; or
  - (d) the person is disqualified under clause 31.
- (2) A person may resign as the health and safety representative for a designated work group by notice in writing delivered to the operator and to each work group employer.
- (3) If a person resigns as the health and safety representative for a designated work group, the person must notify the resignation to the group members.
- (4) If a person has ceased to be the health and safety representative for a designated work group because of subclause (1)(b), the person must notify in writing:
  - (a) the group members; and

(b) the operator and each work group employer,

that the person has ceased to be the health and safety representative for that designated work group.

### **31 Disqualification of health and safety representatives**

- (1) An application for the disqualification of a health and safety representative for a designated work group may be made to the Safety Authority by:
  - (a) the operator;
  - (b) a work group employer; or
  - (c) at the request of a group member of the designated work group – a workforce representative in relation to the designated work group.
- (2) The application may be made on either or both of the following grounds:
  - (a) that action taken by the representative in the exercise or purported exercise of a power under clause 33(1) or any other provision of this Schedule was taken:
    - (i) with the intention of causing harm to the operator or work group employer or to an undertaking of the operator or work group employer; or
    - (ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the representative;
  - (b) that the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a health and safety representative, information acquired from the operator or work group employer.
- (3) On the application, the Safety Authority may disqualify the representative, for a specified period not exceeding 5 years, from being a health and safety representative for any designated work group, if the Safety Authority is satisfied the representative has acted in a manner mentioned in subclause (2).

- (4) In making a decision under subclause (3), the Safety Authority must have regard to:
- (a) the harm (if any) that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative;
  - (b) the past record of the representative in exercising the powers of a health and safety representative;
  - (c) the effect (if any) on the public interest of the action of the representative; and
  - (d) any other matters the Safety Authority considers relevant.

### **32 Deputy health and safety representatives**

- (1) One deputy health and safety representative may be selected for each designated work group for which a health and safety representative has been selected.
- (2) A deputy health and safety representative must be selected in the same way as a health and safety representative under clause 24.
- (3) If the health and safety representative for a designated work group:
- (a) ceases to be the health and safety representative; or
  - (b) is unable (because of absence or for any other reason) to exercise the powers of a health and safety representative,
- then:
- (c) the powers may be exercised by the deputy health and safety representative (if any) for the group; and
  - (d) this Schedule (other than this clause) applies in relation to the deputy health and safety representative accordingly.

## **Subdivision 2 Powers of health and safety representatives**

### **33 Powers of health and safety representatives**

- (1) A health and safety representative for a designated work group may, for promoting or ensuring the health and safety at a workplace of the group members:
  - (a) do all or any of the following:
    - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or dangerous occurrence at the workplace or if there is an immediate threat of such an accident or dangerous occurrence;
    - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator's representative at the facility and to any other person having immediate control of the workplace;
    - (iii) make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace;
    - (iv) accompany an OHS inspector during any inspection at the workplace by the OHS inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);
    - (v) if there is no health and safety committee in relation to the members of the workforce at the facility – represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;
    - (vi) if a health and safety committee has been established in relation to the members of the workforce at the facility – examine any of the records of that committee;
  - (b) investigate complaints made by any group member to the health and safety representative about the health and safety of any of the members of the workforce (whether in the group or not);



- (c) with the consent of a group member, be present at any interview about health and safety at work between that member and:
  - (i) an OHS inspector;
  - (ii) the operator or a person representing the operator; or
  - (iii) a work group employer or person representing the employer;
- (d) obtain access to any information under the control of the operator or any work group employer:
  - (i) relating to risks to the health and safety of any group member; and
  - (ii) relating to the health and safety of any group member; and
- (e) issue provisional improvement notices in accordance with clause 37.

- (2) Subclause (1)(d)(ii) has effect subject to clause 35.

### **34 Assistance by consultant**

- (1) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.
- (2) A health and safety representative for a designated work group may:
  - (a) be assisted by a consultant at a workplace at which work is performed; or
  - (b) provide to a consultant information that has been provided to the health and safety representative by a group member under clause 33(1)(d),

only if the operator or the Safety Authority has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information.

- (3) The operator or a workplace employer does not become liable, because of the agreement under subclause (2) to the provision of assistance by a consultant, for any remuneration or other expenses incurred in connection with the consultant's activities.

- (4) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between a group member and:

- (a) an OHS inspector; or
- (b) the operator or any work group employer or a person representing the operator or that employer,

only if the group member consents to the presence of the consultant.

### **35 Information**

- (1) A health and safety representative or consultant assisting a health and safety representative is not entitled, under clause 33(1)(d)(ii), to have access to information in respect of which a group member is entitled to claim, and does claim, legal professional privilege.

- (2) A health and safety representative or consultant assisting a health and safety representative is not entitled, under clause 33(1)(d)(ii), to have access to information of a confidential medical nature relating to a person who is or was a group member unless:

- (a) the person has delivered to the operator or any work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
- (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

### **36 Obligations and liabilities of health and safety representatives**

This Schedule does not:

- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or
- (b) render a person liable in a civil proceeding because of:
  - (i) a failure to exercise such a power; or
  - (ii) the way such a power was exercised.

### 37 Provisional improvement notices

- (1) If:
- (a) a health and safety representative for a designated work group believes, on reasonable grounds, that a person:
    - (i) is contravening a provision of a listed OHS law; or
    - (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and
  - (b) the contravention affects or may affect one or more group members,

the representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

- (2) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional improvement notice to any or all of the persons (each of whom is in this clause called a *responsible person*) responsible for the contravention.
- (3) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
- (4) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to that responsible person:
- (a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and
  - (b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.
- (5) The notice must:
- (a) specify the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and specify the reasons for that opinion; and

- (b) specify a period that:
  - (i) is not less than 7 days starting on the day after the notice is issued; and
  - (ii) is, in the representative's opinion, reasonable, within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention.
- (6) The notice may specify action that the responsible person is to take during the period specified in the notice.
- (7) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.
- (8) On issuing the notice, the health and safety representative must give a copy of the notice to:
  - (a) if the operator is not a responsible person – the operator;
  - (b) each work group employer other than a work group employer who is a responsible person;
  - (c) if the supervisor is not a responsible person – the supervisor; and
  - (d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c) – that owner.

### **38 Effect of provisional improvement notice**

- (1) Within 7 days after a notice is issued under clause 37:
  - (a) the responsible person; or
  - (b) any other person to whom a copy of the notice has been given under clause 37(8),may request the Safety Authority or an OHS inspector for an inspection of the matter to be conducted.
- (2) On the request being made, the operation of the notice is suspended pending the determination of the matter by an OHS inspector.

- (3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement and the OHS inspector conducting the inspection must:
  - (a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under clause 37(8) accordingly; and
  - (b) make decisions, and exercise powers, under Part 4 as the OHS inspector considers necessary in relation to the work.
- (4) If the OHS inspector varies a notice, the notice as so varied has effect:
  - (a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation – as if the notice as so varied resumed effect on the day of the variation; and
  - (b) so far as the notice concerns new obligations imposed by virtue of the variation – as if the notice as so varied were a new notice issued on the day of the variation.
- (5) If the notice is issued to a responsible person, the responsible person must:
  - (a) notify each group member who is affected by the notice of the fact of the issue of the notice; and
  - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.
- (6) The notice ceases to have effect if:
  - (a) it is cancelled by an OHS inspector or the health and safety representative; or
  - (b) the responsible person:
    - (i) takes the action specified in the notice; or
    - (ii) if no action is so specified – takes the action necessary to prevent the further contravention, or likely contravention, concerned.

- (7) The responsible person:
  - (a) must ensure, to the extent the notice relates to any matter over which the person has control, the notice is complied with; and
  - (b) must take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
- (8) For clause 65, if the OHS inspector confirms or varies the notice, the OHS inspector is taken to have decided, under clause 61, to issue an improvement notice in those terms.

### **Subdivision 3 Duties of the operator and other employers in relation to health and safety representatives**

#### **39 Duties of operator and other employers in relation to health and safety representatives**

- (1) The operator of a facility, in relation to which a designated work group having a health and safety representative has been established, must:
  - (a) on being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the group members perform work, being changes that may affect their health and safety;
  - (b) in relation to a workplace at which some or all of the group members perform work:
    - (i) permit the representative to make any inspection of the workplace that the representative is entitled to make in accordance with clause 33(1)(a)(i) and to accompany an OHS inspector during an inspection at the workplace by the OHS inspector; and
    - (ii) if there is no health and safety committee in respect of the members of the workforce – on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety of group members;
  - (c) permit the representative to be present at any interview at which the representative is entitled to be present under clause 33(1)(c);

- (d) provide to the representative access to any information to which the representative is entitled to obtain access under clause 33(1)(d)(i) or (ii) and to which access has been requested;
  - (e) permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to exercise the powers of a health and safety representative; and
  - (f) provide the representative with access to any facilities that are:
    - (i) prescribed by the regulations; or
    - (ii) necessary for exercising the powers of a health and safety representative.
- (2) Subclause (1)(d) has effect subject to subclauses (3) and (4).
- (3) The operator must not permit a health and safety representative in relation to a designated work group to have access to information that:
- (a) is of a confidential medical nature under the control of the operator; and
  - (b) relates to a person who is or was a group member,
- unless:
- (c) the person has delivered to the employer a written authority permitting the representative to have access to the information; or
  - (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (4) The operator is not required to give a health and safety representative access to any information in respect of which the operator is entitled to claim, and does claim, legal professional privilege.
- (5) The duties imposed by this clause on the operator in relation to the health and safety representative for a designated work group apply equally, to the extent that the matters to which the duties relate are within the control of a work group employer or of a supervisor of particular work, to that employer and to that supervisor.

**Division 4 Health and safety committees**

**40 Health and safety committees**

- (1) A health and safety committee must be established in relation to the members of the workforce at a facility if:
  - (a) the number of those members normally present at the facility is not less than 50 (whether or not those members are all at work at the facility at the same time);
  - (b) the members of the workforce are included in one or more designated work groups; and
  - (c) the operator is requested to establish the committee by the health and safety representative for the designated work group or for one of the designated work groups.
- (2) The health and safety committee consists of:
  - (a) the number of members specified in an agreement reached between the operator and the members of the workforce; or
  - (b) if there is no such agreement, an equal number of:
    - (i) members, chosen by the members of the workforce, to represent the interests of members of the workforce; and
    - (ii) members, chosen by the operator, to represent the interests of the operator and the employer (other than the operator) of members of the workforce.
- (3) The agreement mentioned in subclause (2)(a) may:
  - (a) specify the persons who are to be members to represent the interests of the operator and employers (other than the operator) of members of the workforce; and
  - (b) provide for the way in which persons who are to be members to represent the interests of members of the workforce are to be chosen.
- (4) If regulations made for this clause specify procedures for the selection of persons as members of health and safety committees to represent the interests of members of the workforce, an agreement mentioned in subclause (2)(a) must not provide for members to be chosen in a way inconsistent with the regulations.
- (5) A health and safety committee must hold a meeting at least once every 3 months.



- (6) The procedure at meetings of a health and safety committee must, except to the extent provided for by the regulations, be the procedure agreed on by the committee.
- (7) A health and safety committee must cause minutes of its meetings to be kept and must retain those minutes for not less than 3 years.
- (8) This clause does not prevent an operator from establishing, in consultation with registered unions or any other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the operator.

#### **41 Functions of health and safety committee**

- (1) A health and safety committee has the following functions:
  - (a) to assist the operator of the facility concerned:
    - (i) to develop and implement measures designed to protect; and
    - (ii) to review and update measures used to protect the health and safety at work of members of the workforce;
  - (b) to facilitate cooperation between the operator of the facility, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational health and safety matters;
  - (c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to health and safety at work;
  - (d) any functions prescribed by the regulations;
  - (e) any other functions that are agreed between the operator and the health and safety committee.
- (2) A health and safety committee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (3) This Schedule does not:
  - (a) impose an obligation on a person to do any act, because the person is a member of a health and safety committee, in connection with the performance of a function conferred on the committee; or

- (b) render such a person liable in a civil proceeding because of:
  - (i) a failure to do such an act; or
  - (ii) the manner in which such an act was done.

**42 Duties of the operator and other employers in relation to health and safety committees**

- (1) If there is a health and safety committee, the operator and any employer (other than the operator) of a member of the workforce must:
  - (a) make available to the committee any information possessed by the operator or that employer relating to risks to health and safety to members of the workforce; and
  - (b) permit any member of the committee who is a member of the workforce to take time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.
- (2) Subclause (1)(a) has effect subject to subclauses (3) and (4).
- (3) The operator or any employer (other than the operator) of a member of the workforce must not make available to a health and safety committee information of a confidential nature relating to a person who is or was a member of the workforce unless:
  - (a) the person has authorised the information to be made available to the committee; or
  - (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (4) The operator or any employer (other than the operator) of a member of the workforce is not required to make available to a health and safety committee any information in respect of which the operator or employer is entitled to claim, and does claim, legal professional privilege.

## Division 5 Emergency procedures

### 43 Action by health and safety representatives

- (1) If a health and safety representative for a designated work group has reasonable cause to believe there is an imminent and serious danger to the health or safety of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must:
  - (a) inform a person (a *supervisor*) supervising the group member or group members in the performance of the work of the danger; or
  - (b) if no supervisor can be contacted immediately:
    - (i) direct the group member or group members to cease, in a safe manner, to perform the work; and
    - (ii) as soon as practicable, inform a supervisor that the direction has been given.
- (2) If a supervisor is informed under subclause (1)(a) of a danger to the health or safety of any person at or near the facility, the supervisor must take the action he or she thinks appropriate to remove the danger, including directing a group member or group members to cease, in a safe manner, to perform the work.
- (3) If:
  - (a) a health and safety representative has informed a supervisor under subclause (1)(a) of a danger; and
  - (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the health or safety of any person at or near the facility unless the group member or group members cease to perform particular work,the representative must:
  - (c) direct the group member or group members to cease, in a safe manner, to perform the work; and
  - (d) as soon as practicable, inform the supervisor that the direction has been given.

(4) If:

- (a) a health and safety representative gives a direction under subclause (1)(b), but is unable to agree with a supervisor whom the representative has informed under that subclause that there is a need for a direction under that subclause; or
- (b) a health and safety representative gives a direction under subclause (3)(c),

the representative or supervisor may request the Safety Authority or an OHS inspector that an inspection be conducted of the work the subject of the direction.

- (5) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the direction and the OHS inspector conducting the inspection must make decisions, and exercise powers, under Part 4 as the OHS inspector considers necessary in relation to the work.
- (6) This clause does not limit the power of a health and safety representative under clause 33(1)(a)(iii) to request an OHS inspector or the Safety Authority that an inspection be conducted at the workplace.

#### **44 Directions to perform other work**

If:

- (a) a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under clause 43(1)(b) or (3)(c); and
- (b) the cessation of work does not continue after:
  - (i) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or
  - (ii) an OHS inspector has, under clause 43(5), made a decision to the effect that the employee should perform the work,

the employer may direct the employee to perform suitable alternative work, and the employee is taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

## **Division 6 Exemptions**

### **45 Safety Authority may exempt persons**

- (1) The Safety Authority may, in accordance with the regulations, make a written order exempting a specified person or class of person from any or all of the provisions of this Part (other than this clause).
- (2) The Safety Authority must not make an order under subclause (1) unless it is satisfied on reasonable grounds it is impracticable for the person to comply with the provision or provisions.

## **Part 4 Inspections**

### **Division 1 Introduction**

#### **46 Simplified outline**

- (1) This clause sets out a simplified outline of this Part.
- (2) An OHS inspector may conduct an inspection:
  - (a) to ascertain whether a listed OHS law is being complied with;
  - (b) concerning a contravention or possible contravention of a listed OHS law; or
  - (c) concerning an accident or dangerous occurrence that has happened at or near a facility.
- (3) An OHS inspector may issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health and safety of any person.
- (4) An OHS inspector may issue an improvement notice specifying action that is to be taken to prevent contravention of a listed OHS law.
- (5) An OHS inspector must prepare a report about an inspection and give the report to the Safety Authority.

#### **47 Powers, functions and duties of OHS inspectors**

- (1) An OHS inspector has the powers, functions and duties conferred or imposed by the listed OHS laws.

- (2) The Safety Authority may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on OHS inspectors by a listed OHS law must be exercised.
- (3) If it does so, the powers of OHS inspectors must be exercised in accordance with the directions.
- (4) The Safety Authority may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular OHS inspector by a listed OHS law.
- (5) If it does so, the powers of the OHS inspector are taken to have been restricted accordingly.

## **Division 2            Inspections**

### **48            Inspections**

- (1) An OHS inspector may, at any time, conduct an inspection:
  - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with;
  - (b) concerning a contravention or possible contravention of a listed OHS law; or
  - (c) concerning an accident or dangerous occurrence that has happened at a facility.
- (2) The Safety Authority may direct an OHS inspector to conduct an inspection:
  - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with;
  - (b) concerning a contravention or possible contravention of a listed OHS law; or
  - (c) concerning an accident or dangerous occurrence that has happened at a facility.
- (3) The OHS inspector must, unless the Safety Authority revokes the direction, conduct an inspection accordingly.

**Division 3 Powers of OHS Inspectors in relation to conduct of inspections**

**Subdivision 1 General powers of entry and search**

**49 Powers of entry and search – facilities**

(1) An OHS inspector may, for the purposes of an inspection, at any reasonable time during the day or night:

(a) enter the facility to which the inspection relates and do all or any of the following:

(i) search the facility;

(ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace at the facility or any plant, substance or thing at the facility;

(iii) take photographs of, make video recordings of, or make sketches of, any workplace at the facility or any plant, substance or thing at the facility;

(iv) inspect, take extracts from, or make copies of, any documents at the facility that the OHS inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and

(b) inspect the seabed and subsoil in the vicinity of the facility to which the inspection relates.

(2) Immediately on entering a facility for the purposes of an inspection, an OHS inspector must take reasonable steps to notify the purpose of entering the facility to:

(a) the operator's representative at the facility; and

(b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection – that representative,

and must, on being requested to do so by the person mentioned in paragraph (a) or (b), produce for inspection by that person:

(c) the OHS inspector's identity card;

(d) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and

- (e) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 47(4).
- (3) If there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the OHS inspector must afford the health and safety representative a reasonable opportunity to consult on the matter the subject of the inspection.

**50 Powers of entry and search – regulated business premises (other than facilities)**

- (1) An OHS inspector may, for the purposes of an inspection:
  - (a) at any reasonable time, enter any regulated business premises (other than a facility) if the OHS inspector has reasonable grounds to believe there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
  - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.
- (2) Immediately on entering premises mentioned in subclause (1), an OHS inspector must take reasonable steps to notify the purpose of the entry to the occupier of those premises, and must, on being requested to do so by the occupier, produce for inspection by the occupier:
  - (a) the OHS inspector's identity card;
  - (b) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
  - (c) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 47(4).

**51 Powers of entry and search – premises (other than regulated business premises)**

- (1) An OHS inspector may, for the purposes of an inspection:
  - (a) enter any premises (other than regulated business premises) if the OHS inspector has reasonable grounds to believe there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
  - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.



- (2) An OHS inspector may exercise the powers mentioned in subclause (1) to enter premises only:
  - (a) if the premises are not a residence:
    - (i) in accordance with a warrant under clause 52; or
    - (ii) with the consent of the occupier of the premises; or
  - (b) if the premises are a residence – with the consent of the occupier of the premises.
- (3) Immediately on entering premises mentioned in subclause (1), an OHS inspector must:
  - (a) take reasonable steps to notify the purpose of the entry to the occupier of those premises;
  - (b) take reasonable steps to produce, for inspection by the occupier, the OHS inspector's identity card; and
  - (c) on being requested to do so by the occupier, produce, for inspection by the occupier:
    - (i) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
    - (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 47(4).
- (4) If:
  - (a) an OHS inspector enters premises in accordance with a warrant under clause 52; and
  - (b) the occupier of the premises is present at the premises,the OHS inspector must make a copy of the warrant available to the occupier.
- (5) Before obtaining the consent of a person as mentioned in subclause (2)(a) or (b), an OHS inspector must inform the person that:
  - (a) the person may refuse consent; and
  - (b) the consent may be withdrawn.
- (6) The consent of a person is not effective for subclause (2) unless the consent is voluntary.

**52 Warrant to enter premises (other than regulated business premises)**

- (1) An OHS inspector may apply to a magistrate for a warrant authorising the OHS inspector, with any assistance as the OHS inspector thinks necessary, to exercise the powers mentioned in clause 51(1) in relation to particular premises (other than a residence).
- (2) The application must be supported by evidence on oath (whether oral or by affidavit) that specifies the grounds on which the OHS inspector is applying for the warrant.
- (3) If the magistrate is satisfied there are reasonable grounds for issuing the warrant, the magistrate may issue the warrant.
- (4) A warrant issued under subclause (3) must state:
  - (a) the name of the OHS inspector;
  - (b) whether the inspection may be carried out at any time or only during specified hours of the day;
  - (c) the day on which the warrant ceases to have effect; and
  - (d) the purposes for which the warrant is issued.
- (5) The day specified under subclause (4)(c) must not be more than 30 days after the day on which the warrant is issued.
- (6) The purposes specified under subclause (4)(d) must include the identification of the premises in relation to which the warrant is issued.

**53 Obstructing or hindering OHS inspector**

A person must not, without reasonable excuse, obstruct or hinder an OHS inspector in the exercise of an OHS inspector's powers under clause 49, 50 or 51.

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

## Subdivision 2 Other powers

### 54 Power to require assistance and information

(1) An OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection, require:

- (a) the operator of a facility;
- (b) the person in charge of operations at a workplace in relation to a facility;
- (c) a member of the workforce at a facility; or
- (d) any person representing a person mentioned in paragraph (a) or (b),

to provide the OHS inspector with reasonable assistance and facilities:

- (e) that is or are reasonably connected with the conduct of the inspection at or near the facility; or
- (f) for the effective exercise of the OHS inspector's powers under this Schedule in connection with the conduct of the inspection at or near the facility.

(2) The reasonable assistance mentioned in subclause (1) includes, so far as the operator of the facility is concerned:

- (a) appropriate transport to or from the facility for the OHS inspector and for any equipment required by the OHS inspector, and any article of which the OHS inspector has taken possession; and
- (b) reasonable accommodation and means of subsistence while the OHS inspector is at the facility.

(3) A person must not fail, without reasonable excuse, to comply with a requirement under this clause.

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

**55 Power to require answering of questions and production of documents or articles**

(1) If:

- (a) an OHS inspector believes on reasonable grounds a person is capable of answering a question that is reasonably connected with the conduct of an inspection; and
- (b) the person is:
  - (i) the operator of a facility;
  - (ii) the person in charge of operations at a workplace in relation to a facility;
  - (iii) a member of the workforce at a facility; or
  - (iv) representing a person mentioned in subparagraph (i) or (ii),

the OHS inspector may, to the extent it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the OHS inspector.

(2) If, at the time when a requirement under subclause (1) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:

- (a) is in writing;
- (b) specifies the day on or before which the question is to be answered (being at least 14 days after the day on which the requirement is imposed); and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(3) If:

- (a) an OHS inspector believes on reasonable grounds a person is capable of producing a document or article that is reasonably connected with the conduct of an inspection; and
- (b) the person is:
  - (i) the operator of a facility;
  - (ii) the person in charge of operations at a workplace in relation to a facility;

- (iii) a member of the workforce at a facility; or
- (iv) representing a person mentioned in subparagraph (i) or (ii),

the OHS inspector may, to the extent it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.

- (4) If, at the time when a requirement under subclause (3) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:

- (a) is in writing;
- (b) specifies the day on or before which the document or article is to be produced (being at least 14 days after the day on which the requirement is imposed); and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

- (5) A person must not:

- (a) fail, without reasonable excuse, to comply with a requirement under this clause; or
- (b) in purported compliance with a requirement under this clause, give information that is false or misleading in a material particular.

Penalty: If the offender is a natural person – 30 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 150 penalty units.

## **56 Privilege against self-incrimination**

- (1) A person is not excused from answering a question or producing a document or article when required to do so under clause 55 on the ground that the answer to the question, or the production of the document or article, may tend to incriminate the person or make the person liable to a penalty.

- (2) However:

- (a) the answer given or document or article produced;

- (b) answering the question or producing the document or article;  
or
- (c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or article,

is not admissible in evidence against the person in any civil proceeding or any criminal proceeding other than a proceeding for an offence against clause 55.

**57 Power to take possession of plant, take samples of substances etc.**

- (1) In conducting an inspection, an OHS inspector may, to the extent it is reasonably necessary for the purposes of inspecting, examining, taking measurements of or conducting tests concerning any plant, substance or thing at a facility in connection with the inspection:
  - (a) take possession of the plant, substance or thing and remove it from the facility; or
  - (b) take a sample of the substance or thing and remove that sample from the facility.
- (2) On taking possession of plant, a substance or thing, or taking a sample of a substance or thing, the OHS inspector must, by notice in writing, inform:
  - (a) the operator of the facility;
  - (b) if the plant, substance or thing is used for the performance of work by an employer of a member or members of the workforce at the facility other than the operator of the facility – that employer;
  - (c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b) – that person; and
  - (d) if there is a health and safety representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates – that representative,

of the taking of possession or the taking of the sample and the reasons for it.

- (3) If the OHS inspector gives the notice to the operator of the facility to which the inspection relates, the operator's representative at the facility must cause the notice to be displayed in a prominent place at the workplace from which the plant, substance or thing was removed.
- (4) If the OHS inspector takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of or conducting tests concerning, the plant, substance or thing, the OHS inspector must:
  - (a) ensure the inspection, examination, measuring or testing is conducted as soon as practicable; and
  - (b) return it to the workplace as soon as practicable afterwards.
- (5) As soon as practicable after completing any such inspection, examination, measurement or testing, the investigator must give a written statement specifying the results to each person whom the investigator is required to notify under subclause (2).

**58 Power to direct that workplace etc. not be disturbed**

- (1) An OHS inspector may give a direction under subclause (2) if, in conducting an inspection, the OHS inspector has reasonable grounds to believe it is reasonably necessary to do so in order to:
  - (a) remove an immediate threat to the health or safety of any person; or
  - (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility.
- (2) If subclause (1) applies, the OHS inspector may direct, by written notice given to the operator's representative at the facility, that the operator must ensure:
  - (a) a particular workplace; or
  - (b) particular plant, or a particular substance or thing, not be disturbed for a period specified in the direction.
- (3) The period specified in the direction must be a period that the OHS inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.
- (4) The direction may be renewed by another direction in the same terms.

- (5) If an OHS inspector gives a notice to the operator's representative under subclause (2), the operator's representative must cause the notice to be displayed in a prominent place at the workplace:
- (a) that is to be left undisturbed; or
  - (b) where the plant, substance or thing that is to be left undisturbed is located.
- (6) As soon as practicable after giving the direction, the OHS inspector must take reasonable steps to give notice of the direction and the reasons for giving it to:
- (a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility – that person; and
  - (b) if there is a health and safety representative for a designated work group that includes a group member performing work:
    - (i) at a workplace; or
    - (ii) involving the plant, substance or thing, to which the direction relates – that representative.
- (7) The operator of a facility to which a direction concerning a workplace, plant, substance or thing relates must ensure the direction is complied with.

Penalty: If the offender is a natural person – 250 penalty units.  
If the offender is a body corporate – 1 250 penalty units.

- (8) A direction under subclause (2) must be accompanied by a statement specifying the reasons for the direction.

## **59 Power to issue prohibition notices**

- (1) If, having conducted an inspection, an OHS inspector is satisfied on reasonable grounds it is reasonably necessary to issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health or safety of any person, the OHS inspector may issue a prohibition notice, in writing, to the operator.
- (2) The notice must be issued to the operator by giving it to the operator's representative at the facility.



- (3) The notice must:
  - (a) specify the activity in respect of which, in the OHS inspector's opinion, the threat to health or safety has arisen, and specify the reasons for that opinion; and
  - (b) either:
    - (i) direct the operator to ensure the activity is not engaged in; or
    - (ii) direct the operator to ensure the activity is not engaged in in a specified manner.
- (4) A specified manner may relate to one or more of the following:
  - (a) any workplace, or part of a workplace, at which the activity is not to be engaged in;
  - (b) any plant or substance that is not to be used in connection with the activity;
  - (c) any procedure that is not to be followed in connection with the activity.
- (5) The notice may specify action that may be taken to satisfy an OHS inspector that adequate action has been taken to remove the threat to health and safety.
- (6) The operator's representative at the facility must:
  - (a) give a copy of the notice to each health and safety representative (if any) for any designated work group having group members performing work that is affected by the notice; and
  - (b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which that work is performed.
- (7) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the OHS inspector must, on issuing the notice, give a copy of the notice to that person.

## 60 Compliance with prohibition notice

- (1) An operator must ensure a prohibition notice issued to the operator is complied with.

Penalty: If the offender is a natural person – 250 penalty units.

If the offender is a body corporate – 1 250 penalty units.

- (2) If an OHS inspector is satisfied action taken by the operator to remove the threat to health and safety in respect of which the notice was issued is not adequate, the OHS inspector must inform the operator accordingly.
- (3) A prohibition notice ceases to have effect when an OHS inspector notifies the operator that the OHS inspector is satisfied the operator has taken adequate action to remove the threat to health or safety.
- (4) In making a decision under subclause (2), an OHS inspector may exercise any of the powers of an OHS inspector conducting an inspection the OHS inspector considers necessary for making the decision.

## 61 Power to issue improvement notices

- (1) If, in conducting an inspection, an OHS inspector believes on reasonable grounds a person:

- (a) is contravening a provision of a listed OHS law; or
- (b) has contravened a provision of a listed OHS law and is likely to contravene that provision again,

the OHS inspector may issue an improvement notice, in writing, to the person (the *responsible person*).

- (2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
- (3) If the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to that employer:
- (a) the improvement notice may be issued to the employer by giving it to the operator's representative at the facility; and

- (b) if the notice is so issued – the operator must ensure a copy of the notice is given to the employer as soon as practicable afterwards.
- (4) The notice:
  - (a) must specify the contravention that the OHS inspector believes is occurring or is likely to occur, and specify the reasons for that belief;
  - (b) must specify a reasonable period within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention; and
  - (c) may specify action the responsible person must take during the period specified in the notice.
- (5) If the OHS inspector believes on reasonable grounds that it is appropriate to do so, the OHS inspector may, in writing and before the end of the period, extend the period specified in the notice.
- (6) If an improvement notice is issued to an employer (other than the operator) of members of the workforce in circumstances other than the circumstance mentioned in subclause (3), the employer must immediately ensure a copy of the notice is given to the operator's representative at the facility.
- (7) If a notice is issued to the operator or to an employer (other than the operator) of members of the workforce, the operator's representative at the facility must:
  - (a) give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice; and
  - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.
- (8) On issuing a notice, the OHS inspector must give a copy of the notice to:
  - (a) if the notice is:
    - (i) given to a member of the workforce who is an employee; and
    - (ii) in connection with work performed by the employee, the employer of the employee;

- (b) if the notice relates to any workplace, plant, substance or thing that is owned by a person other than:
  - (i) a responsible person; or
  - (ii) a person who is an employer mentioned in paragraph (a),the owner; and
- (c) if the notice is issued to a person who owns any workplace, plant, substance or thing because of which a contravention of a listed OHS law has occurred or is likely to occur:
  - (i) the operator of the facility; and
  - (ii) if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator – the employer.

## **62 Compliance with improvement notice**

A person to whom an improvement notice is issued must comply with it to the extent the notice relates to any matter over which the person has control.

Penalty: If the offender is a natural person – 100 penalty units.  
If the offender is a body corporate – 500 penalty units.

## **63 Notices not to be tampered with or removed**

- (1) A person must not, without reasonable excuse, tamper with any notice that has been displayed under clause 57(3), 58(5), 59(6) or 61(7) while that notice is so displayed.

Penalty: If the offender is a natural person – 100 penalty units.  
If the offender is a body corporate – 500 penalty units.

- (2) If a notice has been displayed under clause 57(3), a person must not, without reasonable excuse, remove the notice until the plant or thing to which the notice relates is returned to the workplace from which it was removed.

Penalty: If the offender is a natural person – 100 penalty units.  
If the offender is a body corporate – 500 penalty units.

- (3) If a notice has been displayed under clause 58(5), 59(6) or 61(7), a person must not, without reasonable excuse, remove the notice before it has ceased to have effect.

Penalty:       If the offender is a natural person – 100 penalty units.  
                  If the offender is a body corporate – 500 penalty units.

## **Division 4           Reports on inspections**

### **64           Reports on inspections**

- (1) If an OHS inspector has conducted an inspection, the OHS inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Safety Authority.
- (2) The report must include:
- (a) the OHS inspector's conclusions from conducting the inspection and the reasons for the conclusions;
  - (b) any recommendations that the OHS inspector wishes to make arising from the inspection; and
  - (c) any other matters prescribed by the regulations.
- (3) As soon as practicable after receiving the report, the Safety Authority must give a copy of the report, together with any written comments that it wishes to make:
- (a) to the operator of the facility to which the report relates;
  - (b) if the report relates to activities performed by an employee of another person – that other person; and
  - (c) if the report relates to any plant, substance or thing owned by another person – that other person.
- (4) The Safety Authority may, in writing, request the operator or another person to whom the report is given to provide to the Safety Authority, within a reasonable period specified in the request, details of:
- (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and
  - (b) if a notice has been issued under clause 59 or 61 in relation to work being performed for the operator or that other person – any action taken, or proposed to be taken, in respect of that notice,

and the operator or that other person must comply with the request.

- (5) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Safety Authority on the report:
- (a) if there is at least one health and safety committee in relation to some or all of the members of the workforce – to each such committee; and
  - (b) if there is no such committee in relation to some or all of the members of the workforce, but some or all of those members (in respect of which there is no such committee) are in at least one designated work group for which there is a health and safety representative – to each such health and safety representative.

## **Division 5 Appeals**

### **65 Appeals**

- (1) If an OHS inspector, in conducting an inspection or having conducted an inspection:
- (a) decides, under clause 38, to confirm or vary a provisional improvement notice;
  - (b) decides, under clause 57, to take possession of plant, a substance or a thing at a workplace;
  - (c) decides, under clause 58, to direct a workplace, a part of a workplace, plant, a substance or a thing not be disturbed;
  - (d) decides, under clause 59, to issue a prohibition notice;
  - (e) decides, under clause 60, the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or
  - (f) decides, under clause 61, to issue an improvement notice,

a person mentioned in subclause (2) may appeal to the reviewing authority against the decision, by giving notice in writing to the reviewing authority.

- (2) The following persons may appeal:
- (a) the operator of the facility or any employer (other than the operator) who is affected by the decision;

- (b) a person to whom a notice has been issued under clause 37(2) or 61(1);
  - (c) the health and safety representative for a designated work group having a group member affected by the decision;
  - (d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal;
  - (e) if there is no such designated work group and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal – that workforce representative;
  - (f) a person who owns any workplace, plant, substance or thing to which the decision mentioned in subclause (1)(a), (b), (c) or (f) relates.
- (3) If an OHS inspector, having conducted an inspection:
- (a) decides, under clause 38, to cancel a provisional improvement notice; or
  - (b) decides, under clause 60, the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued,
- an appeal against a decision may be made, by notice in writing, to the reviewing authority by:
- (c) the health and safety representative for a designated work group having a group member affected by the decision;
  - (d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
  - (e) if there is no such designated work group and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal – that workforce representative.
- (4) Subject to this clause, giving notice of an appeal does not affect the operation of the decision appealed against or prevent the taking of action to implement that decision except to the extent the reviewing authority makes an order to the contrary.

- (5) If the decision appealed against is a decision under clause 61 to issue an improvement notice, the operation of the decision is suspended pending determination of the appeal except to the extent the reviewing authority makes an order to the contrary.
- (6) If the decision appealed against is a decision of an OHS inspector under clause 38 to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the appeal except to the extent the reviewing authority makes an order to the contrary.

## **66 Powers of reviewing authority on appeal**

- (1) On an appeal, the reviewing authority may:
  - (a) affirm or revoke the decision appealed against; and
  - (b) if it revokes the decision – substitute any other decision of the kind appealed against that it considers appropriate.
- (2) If the decision is:
  - (a) varied;
  - (b) revoked; or
  - (c) revoked with the substitution of another decision,the decision is taken to have effect, and always to have had effect, accordingly.
- (3) If:
  - (a) the decision appealed against is a decision under clause 57 to take possession of any plant, substance or thing at a workplace; and
  - (b) the decision is not affirmed,the OHS inspector who made the decision must ensure, to the extent the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.



## **Part 5 General**

### **67 Notifying and reporting accidents and dangerous occurrences**

- (1) If, at or near a facility, there is:
- (a) an accident that causes the death of, or serious personal injury to, any person;
  - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed by the regulations for this paragraph; or
  - (c) a dangerous occurrence,

the operator must, in accordance with the regulations, give the Safety Authority notice of, and a report about, the accident or dangerous occurrence.

- (2) Without limiting subclause (1), regulations made for subclause (1) may prescribe:
- (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence must be given, and the form of the notice; and
  - (b) the time within which, and the manner in which, a report of an accident or dangerous occurrence must be given, and the form of the report.

### **68 Records of accidents and dangerous occurrences to be kept**

- (1) The operator of a facility must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the operator is required by clause 67 to notify the Safety Authority.
- (2) Without limiting subclause (1), regulations made for subclause (1) may prescribe:
- (a) the nature of the contents of a record maintained under this clause; and
  - (b) the period for which the record must be retained.

### **69 Codes of practice**

- (1) The regulations may prescribe codes of practice for providing practical guidance to operators of facilities and employers (other than operators) of members of the workforce at facilities.

- (2) A person is not liable to any civil or criminal proceeding for contravening a code of practice.

#### **70 Use of codes of practice in proceedings**

- (1) This clause applies if, in a proceeding for an offence against a listed OHS law, it is alleged that a person contravened a provision of a listed OHS law in relation to which a code of practice was in effect at the time of the alleged contravention.
- (2) The code of practice is admissible in evidence in the proceeding.
- (3) If the court is satisfied, in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention:
- (a) any provision of the code of practice is relevant to that matter; and
  - (b) the person failed at any material time to comply with that provision of the code of practice,

that matter is treated as proved unless the court is satisfied in relation to that matter the person complied with that provision of a listed OHS law otherwise than by complying with the code of practice.

#### **71 Interference etc. with protective equipment and safety devices**

A person must not, without reasonable excuse, do anything that results in the interference with, or the rendering ineffective of, any protective equipment or safety device provided for the occupational health and safety or welfare of members of the workforce at a facility if the person knew (or ought reasonably to have known) the equipment or device was protective equipment or a safety device.

Penalty: If the offender is a natural person – 500 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 500 penalty units.

#### **72 Members of workforce not to be levied**

The operator of a facility or an employer (other than the operator) of members of the workforce at a facility must not levy, or permit to be levied, on a member of the workforce any charge in relation to anything done or provided in accordance with a listed OHS law in order to ensure the occupational health and safety or welfare of

persons at or near the facility.

Penalty: If the offender is a natural person – 250 penalty units.

If the offender is a body corporate – 1 250 penalty units.

### **73 Victimization**

(1) An employer (whether the operator or another person) must not:

- (a) dismiss an employee;
- (b) perform an act that results in injury to an employee in his or her employment;
- (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
- (d) threaten to do any of those things,

because the employee:

- (e) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work;
- (f) has assisted or proposes to assist, by giving information or otherwise, the conduct of an inspection; or
- (g) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under clause 43(1)(b) or (3)(c), and the cessation or proposed cessation does not continue after:
  - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or
  - (ii) an OHS inspector has, under clause 43(5), made a decision that has the effect that the employee should perform the work.

Penalty: If the offender is a natural person – 250 penalty units.

If the offender is a body corporate – 1 250 penalty units.

- (2) In a proceeding for an offence against subclause (1), if all the relevant facts and circumstances (other than the reason for an action alleged in the charge) are proved, the defendant has the onus of establishing the action was not taken for that reason.

#### **74 Institution of prosecutions**

- (1) A proceeding for an offence against a listed OHS law may be instituted by the Safety Authority or by an OHS inspector.
- (2) A health and safety representative for a designated work group may request the Safety Authority to institute a proceeding for an offence against a listed OHS law in relation to the occurrence of an act or omission if:
- (a) a period of 6 months has elapsed since the act or omission occurred;
  - (b) the health and safety representative considers the occurrence of the act or omission constitutes an offence against a listed OHS law; and
  - (c) a proceeding for the offence has not been instituted.
- (3) A workforce representative in relation to a designated work group may request the Safety Authority to institute a proceeding for an offence against a listed OHS law in relation to the occurrence of an act or omission if:
- (a) a period of 6 months has elapsed since the act or omission occurred;
  - (b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law;
  - (c) a proceeding for the offence has not been instituted; and
  - (d) a group member included in the group requests the workforce representative to request the Safety Authority to institute the proceeding.
- (4) A request under subclause (2) or (3) must be in writing.
- (5) The Safety Authority must, within 3 months after receiving the request, advise the health and safety representative or the workforce representative whether a proceeding under subclause (1) has been or will be instituted, and, if not, give reasons why not.

**75 Role of Commonwealth DPP**

The Commonwealth Director of Public Prosecutions has the same functions and powers in relation to an offence against a listed OHS law as the Director would have if the offence were an offence against a law of the Commonwealth, including the power to institute and carry on an appeal arising out of a prosecution for the offence.

**76 Conduct of directors, employees and agents**

- (1) This clause has effect for a proceeding for an offence against a listed OHS law.
- (2) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
  - (a) the conduct was engaged in by a director, employee or agent of the body corporate within the scope of actual or apparent authority; and
  - (b) the director, employee or agent had the state of mind.
- (3) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes it took reasonable precautions and exercised due diligence to avoid the conduct.
- (4) If it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show:
  - (a) the conduct was engaged in by an employee or agent of the natural person within the scope of actual or apparent authority; and
  - (b) the employee or agent had the state of mind.
- (5) Any conduct engaged in on behalf of a natural person by an employee or agent of the natural person within the scope of actual or apparent authority is taken to have been engaged in also by the natural person unless the natural person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.
- (6) If:
  - (a) a natural person is found guilty of an offence; and
  - (b) the person would not have been found guilty of the offence if subclauses (4) and (5) had not been enacted,

the person is not liable to be punished by imprisonment for the offence.

- (7) A reference in subclause (2) or (4) to the state of mind of a person includes a reference to:
- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.

**77 Act not to give rise to other liabilities etc.**

This Schedule does not:

- (a) confer a right of action in any civil proceeding in relation to any contravention of a provision of a listed OHS law; or
- (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

**78 Regulations – general**

- (1) The regulations may prescribe the following:
- (a) procedures for the selection of persons, under clause 40, as members of health and safety committees, to represent the interests of members of the workforce at a facility;
  - (b) procedures to be followed at meetings of health and safety committees;
  - (c) the manner in which notices are to be served under this Schedule or the regulations;
  - (d) forms for this Schedule or the regulations.
- (2) If the Minister is satisfied:
- (a) a power, function or duty is conferred or imposed on a person under a law of the Territory or the Commonwealth; and
  - (b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule,

regulations made for this subclause may declare this Schedule or the provision does not apply to the person or does not apply to the person in the circumstances specified in the regulations.

(3) Regulations made for subclause (2) do not remain in force for longer than 5 years after they commence, but this subclause does not prevent the making of further regulations of the same substance.

(4) In subclause (2):

*this Schedule* includes regulations made for this Schedule.

---

**ENDNOTES**
**1 KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

**2 LIST OF LEGISLATION*****Petroleum (Submerged Lands) Act 1981 (Act No. 50, 1982)***

Assent date 20 August 1983  
Commenced 14 February 1983 (Cth *Gaz* 1983, No. S29, p 1)

***Petroleum (Submerged Lands) Amendment Act 1985 (Act No. 23, 1985)***

Assent date 24 May 1985  
Commenced 1 July 1985 (s 2)

***Petroleum (Submerged Lands) Amendment Act 1986 (Act No. 6, 1986)***

Assent date 19 May 1986  
Commenced 3 September 1986 (*Gaz* G35, 3 September 1986, p 6)

***Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)***

Assent date 30 June 1986  
Commenced 1 July 1986 (s 2)

***Statute Law Revision Act 1986 (Act No. 64, 1986)***

Assent date 19 December 1986  
Commenced 19 December 1986

***Petroleum (Submerged Lands) Amendment Act 1989 (Act No. 19, 1989)***

Assent date 15 June 1989  
Commenced 2 August 1989 (*Gaz* G30, 2 August 1989, p 5)

***Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)***

Assent date 14 December 1990  
Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz* S76, 21 December 1990)

***Petroleum (Submerged Lands) Amendment Act 1991 (Act No. 51, 1991)***

Assent date 26 September 1991  
Commenced 18 December 1991 (*Gaz* G50, 18 December 1991, p 3)



---

***Petroleum (Submerged Lands) Amendment Act 1994 (Act No. 69, 1994)***

Assent date 15 December 1994  
Commenced 15 December 1994

***Petroleum (Submerged Lands) Amendment Act 1995 (Act No. 40, 1995)***

Assent date 29 September 1995  
Commenced 19 December 1995 (*Gaz S43*, 19 December 1995)

***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date 19 April 1996  
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

***Petroleum (Submerged Lands) Amendment Act 1998 (Act No. 54, 1998)***

Assent date 28 August 1998  
Commenced 1 October 1998 (*Gaz S37*, 1 October 1998)

***Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998)***

Assent date 11 December 1998  
Commenced 11 December 1998

***Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)***

Assent date 23 December 1998  
Commenced 1 October 1998 (s 2)

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date 18 June 1999  
Commenced 18 June 1999

***Law of Property (Consequential Amendments) Act 2000 (Act No. 46, 2000)***

Assent date 12 September 2000  
Commenced 1 December 2000 (s 2, s 2 *Law of Property Act 2000* (Act No. 1, 2000) and *Gaz G38*, 27 September 2000, p 2)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date 29 June 2001  
Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth *Gaz S285*, 13 July 2001)

***Petroleum (Submerged Lands) Amendment Act 2002 (Act No. 75, 2002)***

Assent date 11 December 2002  
Commenced 1 May 2003 (*Gaz G17*, 30 April 2003, p 3)

***Petroleum (Submerged Lands) Amendment Act 2004 (Act No. 62, 2004)***

Assent date 3 December 2004  
Commenced 1 January 2005 (s 2)

***Petroleum (Submerged lands) Amendment Act 2005 (Act No. 43, 2005)***

Assent date 14 December 2005  
Commenced 7 February 2007 (s 2 and item 1 of sch 1 to Cth Act No. 47, 2004)

***National Gas (Northern Territory) Act 2008 (Act No. 16, 2008)***

Assent date 24 June 2008  
Commenced 1 July 2008 (*Gaz S32*, 1 July 2008)

***Financial Management Amendment Act 2009 (Act No. 15, 2009)***

Assent date 18 June 2009  
Commenced 18 June 2009

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

Assent date 1 September 2009  
Commenced 16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

***Statute Law Revision Act 2010 (Act No. 29, 2010)***

Assent date 9 September 2010  
Commenced 13 October 2010 (*Gaz* G41, 13 October 2010, p 2)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

ss 15 and 17 *Petroleum (Submerged Lands) Amendment Act 1986* (Act No. 6, 1986)  
s 8 *Petroleum (Submerged Lands) Amendment Act 1989* (Act No. 19, 1989)  
s 40 *Petroleum (Submerged Lands) Amendment Act 1995* (Act No. 40, 1995)  
s 52 *Petroleum (Submerged Lands) Amendment Act 2002* (Act No. 75, 2002)

**4 LIST OF AMENDMENTS**

Preamble	amd No. 40, 1995, s 4
ss 2 – 3	rep No. 75, 2002, s 4
s 4	amd No. 23, 1985, s 4; No. 6, 1986, ss 4 and 34; No. 40, 1995, s 5; No. 54, 1998, s 4; No. 93, 1998, s 260; No. 75, 2002, s 5; No. 62, 2004, s 4; No. 29, 2010, s 7
s 6A	ins No. 62, 2004, s 5
s 7	amd No. 6, 1986, s 34
ss 8 – 9	rep No. 75, 2002, s 6
pt I	
div 2 hdg	sub No. 43, 2005, s 4
s 10	sub No. 75, 2002, s 7 amd No. 43, 2005, s 5
s 13	amd No. 43, 2005, s 6
s 14	amd No. 43, 2005, s 7
s 15	amd No. 43, 2005, s 8
pt 1	
div 3 hdg	ins No. 54, 1998, s 5
ss 15A – 15C	ins No. 54, 1998, s 5
s 18	amd No. 6, 1986, s 34
s 18A	ins No. 69, 1994, s 2
s 19	amd No. 40, 1995, s 6; No. 75, 2002, s 8
s 20	amd No. 19, 1989, s 4
s 21	amd No. 51, 1991, s 4
s 22	amd No. 40, 1995, s 7
s 23	amd No. 6, 1986, s 34; No. 19, 1989, s 5
s 24	amd No. 51, 1991, s 5
s 25	amd No. 40, 1995, s 8
s 26	amd No. 40, 1995, s 9
s 27	amd No. 40, 1995, s 10
s 29	amd No. 23, 1985, s 5
s 30	amd No. 51, 1991, s 6
s 32	amd No. 51, 1991, s 7; No. 40, 1995, s 11
s 34	amd No. 75, 2002, s 9

## ENDNOTES

---

s 35	amd No. 75, 2002, s 10
s 36	amd No. 6, 1986, s 34 sub No. 19, 1989, s 6
s 37	amd No. 23, 1985, s 6 sub No. 19, 1989, s 6
s 38	amd No. 19, 1989, s 11
pt II	
div 2A hdg	ins No. 6, 1986, s 5
s 38A	ins No. 6, 1986, s 5 amd No. 51, 1991, s 8
s 38B	ins No. 6, 1986, s 5 amd No. 40, 1995, s 12
s 38BA	ins No. 51, 1991, s 9
ss 38C – 38E	ins No. 6, 1986, s 5
s 38F	ins No. 6, 1986, s 5 amd No. 51, 1991, s 10
s 38G	ins No. 6, 1986, s 5 amd No. 51, 1991, s 11; No. 40, 1995, s 13
s 38H	ins No. 6, 1986, s 5
s 38J	ins No. 6, 1986, s 5 amd No. 75, 2002, s 11
s 38K	ins No. 6, 1986, s 5 amd No. 75, 2002, s 12
s 39	amd No. 75, 2002, s 13
s 40	amd No. 6, 1986, s 6; No. 19, 1989, s 11; No. 51, 1991, s 12
s 40A	ins No. 6, 1986, s 7 amd No. 51, 1991, s 13
s 41	amd No. 6, 1986, s 8; No. 51, 1991, s 14
s 43	amd No. 6, 1986, s 9; No. 40, 1995, s 14
s 44	amd No. 23, 1985, s 7; No. 6, 1986, s 34; No. 40, 1995, s 15
s 44A	ins No. 51, 1991, s 15
s 45	amd No. 23, 1985, s 8
s 46	amd No. 23, 1985, s 9; No. 6, 1986, ss 10 and 34; No. 19, 1989, s 11
s 47	amd No. 6, 1986, s 34; No. 19, 1989, s 7
s 48	amd No. 19, 1989, s 11; No. 51, 1991, s 16
s 49	amd No. 19, 1989, s 11; No. 40, 1995, s 16
s 50	amd No. 40, 1995, s 17
s 51	amd No. 23, 1985, s 10; No. 51, 1991, s 17; No. 40, 1995, s 18
s 53	amd No. 23, 1985, s 11
s 54	amd No. 23, 1985, s 12; No. 51, 1991, s 18
s 55	amd No. 51, 1991, s 19; No. 40, 1995, s 19
s 57	rep No. 51, 1991, s 20
s 58	amd No. 23, 1985, s 13
s 59	amd No. 23, 1985, s 14; No. 6, 1986, s 11; No. 75, 2002, s 14
s 60	amd No. 75, 2002, s 15
s 64	amd No. 51, 1991, s 21; No. 75, 2002, s 16
s 65	amd No. 51, 1991, s 22; No. 40, 1995, s 20; No. 75, 2002, s 17
s 67	amd No. 23, 1985, s 15; No. 75, 2002, s 18
s 68	amd No. 23, 1985, s 16; No. 51, 1991, s 23 rep No. 75, 2002, s 19
s 69	amd No. 51, 1991, s 24; No. 40, 1995, s 21 rep No. 75, 2002, s 19
s 70	amd No. 75, 2002, s 20
s 71	amd No. 51, 1991, s 25
s 72	amd No. 75, 2002, s 21
s 73	amd No. 92, 1998, s 14; No. 16, 2008, s 17
s 74	amd No. 75, 2002, s 22
s 74AA	ins No. 75, 2002, s 23

---

s 74A	ins No. 6, 1986, s 12
s 75	amd No. 6, 1986, s 13
s 75A	ins No. 46, 2000, s 8
s 76	amd No. 23, 1985, s 17; No. 6, 1986, ss 14 and 34
s 77	amd No. 6, 1986, s 34
s 78	sub No. 6, 1986, s 15 amd No. 19, 1989, s 11; No. 40, 1995, s 22
s 79	amd No. 6, 1986, s 16; No. 51, 1991, s 26
s 80	rep No. 6, 1986, s 17
s 81	sub No. 6, 1986, s 17 amd No. 19, 1989, ss 8 and 11; No. 25, 2009, s 10
s 81A	ins No. 6, 1986, s 17
s 82	amd No. 6, 1986, s 18; No. 17, 1996, s 6; No. 75, 2002, s 24
s 83	amd No. 6, 1986, s 19
s 84	amd No. 6, 1986, s 20; No. 40, 1995, s 23; No. 75, 2002, s 25
s 85	amd No. 6, 1986, s 21; No. 75, 2002, s 26
s 86	amd No. 6, 1986, s 22; No. 19, 1989, s 9; No. 51, 1991, s 27
s 87	amd No. 51, 1991, s 28
s 87A	ins No. 6, 1986, s 23
s 90	amd No. 75, 2002, s 27
s 92	sub No. 6, 1986, s 24 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 51, 1991, s 29; No. 17, 2001, s 21
s 94	amd No. 6, 1986, s 34; No. 75, 2002, s 28
s 95	amd No. 23, 1985, s 18; No. 6, 1986, s 34
s 96	amd No. 23, 1985, s 19; No. 6, 1986, s 34; No. 75, 2002, s 29
s 97	amd No. 6, 1986, s 34; No. 40, 1995, s 24; No. 75, 2002, s 30
s 97A	ins No. 40, 1995, s 25
s 98	amd No. 6, 1986, s 34; No. 75, 2002, s 31
s 100	amd No. 6, 1986, s 34; No. 75, 2002, s 32
s 101	amd No. 23, 1985, s 20; No. 6, 1986, s 25; No. 17, 1996, s 6; No. 75, 2002, s 33; No. 62, 2004, s 9
s 102	amd No. 6, 1986, s 26
s 103	amd No. 6, 1986, s 34; No. 75, 2002, s 34
ss 104 – 105	amd No. 6, 1986, s 34
s 106	amd No. 6, 1986, s 34; No. 17, 1996, s 6
s 107	amd No. 6, 1986, s 34; No. 75, 2002, s 35
s 108	amd No. 6, 1986, s 34; No. 75, 2002, s 36
s 111	amd No. 23, 1985, s 21; No. 6, 1986, s 27; No. 51, 1991, s 30; No. 75, 2002, s 37
s 112	amd No. 23, 1985, s 22; No. 6, 1986, ss 28 and 34; No. 19, 1989, s 11; No. 51, 1991, s 31; No. 40, 1995, s 26; No. 75, 2002, s 38
s 113	amd No. 6, 1986, s 34
s 114	amd No. 6, 1986, s 34; No. 51, 1991, s 32 rep No. 40, 1995, s 27
s 117	amd No. 75, 2002, s 39
s 118	amd No. 23, 1985, s 23; No. 6, 1986, ss 29 and 34; No. 64, 1986, s 4; No. 19, 1989, ss 10 and 11; No. 51, 1991, s 33; No. 40, 1995, s 28
s 119	rep No. 23, 1985, s 24
s 120	amd No. 6, 1986, s 34; No. 75, 2002, s 40
s 121	amd No. 6, 1986, s 34; No. 75, 2002, s 41
s 122	amd No. 6, 1986, s 34; No. 75, 2002, s 42
s 124	amd No. 6, 1986, s 34; No. 54, 1998, s 6; No. 75, 2002, s 43
s 125	amd No. 75, 2002, s 44
s 126	amd No. 75, 2002, s 45
s 127	amd No. 6, 1986, s 34 sub No. 40, 1995, s 29
s 129	amd No. 6, 1986, s 34; No. 27, 1999, s 15; No. 15, 2009, s 16

## ENDNOTES

---

s 131	amd No. 17, 1996, s 6; No. 62, 2004, s 9
s 132	sub No. 23, 1985, s 25 rep No. 40, 1995, s 30
s 133	amd No. 40, 1995, s 31; No. 17, 1996, s 6
s 135	amd No. 40, 1995, s 32
s 137AA	ins No. 6, 1986, s 30
s 137AB	ins No. 40, 1995, s 33
pt II	
div 6A hdg	ins No. 23, 1985, s 26
s 137A	ins No. 23, 1985, s 26
s 137B	ins No. 23, 1985, s 26 amd No. 75, 2002, s 46
s 137C	ins No. 23, 1985, s 26 amd No. 75, 2002, s 47
ss 137D –	
137E	ins No. 23, 1985, s 26
s 138	amd No. 51, 1991, s 34 sub No. 40, 1995, s 34 amd No. 75, 2002, s 48
s 138A	ins No. 6, 1986, s 31 amd No. 51, 1991, s 35 rep No. 40, 1995, s 35
s 139	amd No. 51, 1991, s 36 rep No. 40, 1995, s 35
s 140	amd No. 51, 1991, s 37 rep No. 40, 1995, s 35
s 141	amd No. 6, 1986, s 32; No. 40, 1995, s 36; No. 75, 2002, s 49
s 142	amd No. 6, 1986, s 34
ss 144 – 147	amd No. 6, 1986, s 34
s 149	amd No. 6, 1986, s 34; No. 40, 1995, s 37
ss 149A –	
149B	ins No. 40, 1995, s 38
s 150	amd No. 6, 1986, s 34
pt IIA hdg	ins No. 75, 2002, s 50
ss 150A –	
150I	ins No. 75, 2002, s 50
s 150J	ins No. 75, 2002, s 50 rep No. 62, 2004, s 6
pt III hdg	sub No. 62, 2004, s 7
pt III	
div 1 hdg	ins No. 62, 2004, s 7
s 151	amd No. 6, 1986, ss 33 and 34; No. 64, 1986 s 4 sub No. 62, 2004, s 7
ss 152 – 154	ins No. 62, 2004, s 7
pt III	
div 2 hdg	ins No. 62, 2004, s 7
ss 155 – 157	ins No. 62, 2004, s 7
pt III	
div 3 hdg	ins No. 62, 2004, s 7
ss 158 – 160	ins No. 62, 2004, s 7
pt III	
div 4 hdg	ins No. 62, 2004, s 7
ss 161 – 164	ins No. 62, 2004, s 7
pt III	
div 5 hdg	ins No. 62, 2004, s 7
ss 165 – 168	ins No. 62, 2004, s 7
pt IV hdg	ins No. 62, 2004, s 7
s 169	ins No. 62, 2004, s 7

## ENDNOTES

---

s 170  
schs 1 – 2  
sch 4

amd No. 29, 2010, s7  
ins No. 62, 2004, s 7  
rep No. 75, 2002, s 51  
rep No. 40, 1995, s 39  
ins No. 62, 2004, s 8