

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM ACT

As in force at 8 March 2007

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ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 8 March 2007

PETROLEUM ACT

An Act to regulate the exploration for, and the production of, petroleum

Part I Preliminary

1 Short title

This Act may be cited as the *Petroleum Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Objective

- (1) The objective of this Act is to provide a legal framework within which persons are encouraged to undertake effective exploration for petroleum and to develop petroleum production so that the optimum value of the resource is returned to the Territory.
- (2) The legal framework provides for the following:
 - (a) the granting of petroleum interests to persons for exploration, production and ancillary activities associated with exploiting petroleum, and the renewal or transfer of those interests;
 - (b) clear statements about the role of government following the grant of petroleum interests;
 - (c) the promotion of active exploration for petroleum, and of the development of petroleum production if commercially viable, by persons granted petroleum interests;
 - (d) the assessment of proposed technical works programmes for the exploration, appraisal, recovery or production of petroleum and of the financial capacity of persons proposing to carry out those programmes;

- (e) the reduction of risks, so far as is reasonable and practicable, to the health and safety of persons involved in petroleum exploration or production;
- (f) the reduction of risks, so far as is reasonable and practicable, of harm to the environment during activities associated with exploration for or production of petroleum;
- (g) the collection of information about petroleum exploration and production and the dissemination of that information;
- (h) the efficient administration of this Act and collection of royalties;
- (i) other matters in connection with exploration for and production of petroleum.

4 Application

- (1) This Act does not bind the Crown.
- (2) This Act extends to Aboriginal land and applies to and in relation to that land to the extent that it is capable of so applying.

5 Interpretation

- (1) In this Act, unless the contrary intention appears:

Aboriginal land has the same meaning as in the Land Rights Act.

access authority means an access authority granted or renewed under this Act.

access authority area means the area constituted by the blocks that are the subject of an access authority.

affected land means land comprised in, or proposed to be comprised in, a petroleum interest.

alternative provision area has the meaning given in section 43A(2) of the Native Title Act.

applicant, in relation to an application for an exploration permit or licence, means a person who has applied for the exploration permit or licence.

application area, in relation to an application for an exploration permit or licence, means the area the subject of the application.

approved means approved, in writing, by the Minister.

approved determination of native title has the meaning given in section 253 of the Native Title Act.

block means so much of a graticular section as is within the jurisdiction of the Territory and includes a part of a block.

by notice means by notice in writing.

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

designated number, in relation to a block, means the identifying number assigned under section 8(2) to the graticular section or part of the graticular section which constitutes the block.

document means:

- (a) any paper, parchment or other material used for writing or printing, marked with matter capable of being read;
- (b) a photograph, or photographic negative, plate, slide, film, microfilm or microfiche, or a photostatic negative;
- (c) a disc, tape, wire, sound track, card or other material or device in or on which information, sound or other data is recorded, stored or embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom; or
- (d) any material derived, whether directly or by means of equipment, from information recorded or stored or processed by a device used for recording or storing or processing information.

exploration permit means:

- (a) an exploration permit granted or renewed under Part II, Division 2; or
- (b) a permit granted or renewed under Part II, Division 2 of this Act as in force before the commencement of the *Petroleum Amendment Act 2002*.

exploration permit area means the area constituted by the blocks that are the subject of an exploration permit.

future act has the meaning given in section 233 of the Native Title Act.

geographic co-ordinate includes:

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

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.

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

graticular section means a section referred to in section 8(1).

inspector means a person appointed as an inspector under section 87.

land means land within the jurisdictional limits of the Territory and includes waters within those limits other than waters to which the *Petroleum (Submerged Lands) Act* applies.

Land Council has the same meaning as in the Land Rights Act.

Land Rights Act means the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

licence means a retention licence or a production licence.

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

licensee means a production licensee or a retention licensee.

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.

native title objection means an objection to a prescribed petroleum act so far as it affects the registered native title rights and interests of a registered native title claimant or registered native title body corporate that is lodged in accordance with section 19 or 57F by that claimant or body.

Native Title Registrar has the meaning given in section 253 of the Native Title Act.

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

owner, in relation to land, means the owner of an estate or interest in the land, but does not include a person whose interest or claimed interest in the land cannot be identified by or as a result of an examination of the Register kept by the Registrar-General under Part 3 of the Land Title 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 Act.

permit means an exploration permit.

permit area means an exploration permit area.

permittee means a person who is registered under Part IV as a holder of an exploration permit.

petroleum means:

- (a) a naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) a naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) a naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, with hydrogen sulphide, nitrogen, helium or carbon dioxide or any combination of them,

and includes a hydrocarbon as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir, but does not include a substance which, in its naturally occurring state, is not recoverable from a well by conventional means.

petroleum interest means an exploration permit, retention licence, production licence or access authority.

petroleum pool means a naturally occurring discrete accumulation of petroleum.

prescribed petroleum act has the meaning given in section 57B.

previous exclusive possession act has the meaning given in section 3A of the *Validation (Native Title) Act*.

private land means land that is:

- (a) alienated from the Crown for an estate of freehold;
- (b) the subject of a conditional purchase agreement; or
- (c) the subject of a lease or concession, with or without a right of acquiring the fee simple, other than a lease or concession for pastoral or timber purposes,

but does not include:

- (d) Aboriginal land;
- (e) land held for an estate in fee simple, or in a lease from the Crown, by the Conservation Land Corporation established by section 27 of the *Parks and Wildlife Commission Act*; or
- (f) land held or occupied for purposes under the *Mining Act*, this Act or the repealed Act.

production licence means a production licence granted or renewed under Division 4 of Part II.

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

production licensee means a person who is registered under Part IV as the holder of a production licence.

Register means the Register kept in pursuance of section 90(2).

Register of Native Title Claims means the Register of Native Title Claims established and maintained in accordance with Part 7 of the Native Title Act.

registered native title body corporate has the meaning given in section 253 of the Native Title Act.

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; 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.

Registrar means the person appointed under section 90(1) as Registrar.

repealed Act means the Acts repealed by section 3, as in force immediately before that repeal.

representative Aboriginal/Torres Strait Islander body has the meaning given in section 253 of the Native Title Act.

restricted area means an area which is the subject of a declaration under section 57.

retention licence means a retention licence granted or renewed under Division 3 of Part II.

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

retention licensee means a person who is registered under Part IV as a holder of a retention licence.

this Act includes the Regulations.

Tribunal means the Lands, Planning and Mining Tribunal established by the *Lands, Planning and Mining Tribunal Act*.

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

wilderness zone means a wilderness zone declared under section 12 of the *Territory Parks and Wildlife Conservation Act*.

- (2) In this Act, a reference to the term of an exploration permit or licence is a reference to the period during which the permit or licence remains in force and a reference to the date of expiration of an exploration permit or licence is a reference to the day on the

expiration of which the permit or licence ceases to have effect.

- (3) In this Act, a reference to a year of the term of an exploration permit or licence is a reference to a period of one year commencing on the date from and including which the permit or licence has effect or on any anniversary of that date.
- (4) In this Act, a reference to the renewal of an exploration permit is a reference to the renewal, under section 25, of the permit in relation to 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 upon a previous renewal of the first-mentioned permit.
- (5) In this Act, a reference to the renewal of a licence in respect of the blocks specified in the licence is a reference to the renewal:
 - (a) in the case of a retention licence, under section 38; and
 - (b) in the case of a production licence, under section 52,of the licence in respect of some or all 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 upon a previous renewal of the first-mentioned licence.
- (6) In this Act, a reference to an exploration permit or licence is a reference to the permit or licence as varied from time to time under this Act.
- (7) For the avoidance of doubt, an exploration permit, licence or other document or instrument granted or issued under this Act is an ***instrument of a legislative or administrative character*** for the purposes of the *Interpretation Act*.

6 Petroleum property of Crown

- (1) Notwithstanding anything to the contrary contained in an Act or in any grant, lease or other instrument of title, whether made or issued before or after the commencement of this Act, but subject to subsection (2), all petroleum on or below the surface of land within the Territory, whether that land is alienated in fee simple or not so alienated from the Crown, is and shall be deemed always to have been the property of the Crown.
- (2) The property in petroleum produced from a well in a production licence area passes to the production licensee at the wellhead.

Part II Exploring and mining for petroleum

Division 1 Preliminary

7 Delegation

- (1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

8 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) The Minister shall assign to each graticular section all or part of which is within the jurisdiction of the Territory an identifying number for the purposes of this Act and the number so assigned shall also identify the block which, or part of which, constitutes the graticular section.

9 Reservation of blocks

- (1) The Minister may, by notice in the *Gazette*, declare that a block specified in the notice (not being a block in relation to which an exploration permit or licence is in force) shall not be the subject of a grant of an exploration permit or licence.

- (2) Subject to section 10, while a declaration under subsection (1) remains in force in relation to a block, the Minister may not grant an exploration permit or licence in relation to the block.

10 Dealings in reserved blocks

- (1) The Minister may, by notice in the *Gazette*, indicate his willingness to revoke or vary a notice under section 9(1) so that an exploration permit or licence may be granted in respect of the block to which the notice under section 9(1) relates.
- (2) A notice under subsection (1) in relation to a block must specify:
- (a) the class of persons who may apply for the grant of an exploration permit or licence in relation to the block;
 - (b) the conditions on which applications may be made; and
 - (c) the time within which applications may be made.
- (3) An exploration permit or licence in relation to a block to which a notice under subsection (1) relates may be granted only to a person who has complied with the conditions specified in the notice.

11 Land subject of exploration permit or licence

Subject to this Act, an exploration permit or licence may be granted in relation to any land within the Territory.

12 Grant of mining interest

Subject to this Act and the Land Rights Act, a corporation or a person who has attained the age of 15 years, may apply for and be granted an exploration permit or licence, being a mining interest as defined in the Land Rights Act, in relation to Aboriginal land.

13 No negotiations without consent of Minister

- (1) A person shall not enter into negotiations with a Land Council for the consent of the Council to the grant to him of an exploration permit in relation to Aboriginal land:
- (a) unless he has first lodged with the Minister an application for an exploration permit in relation to that land; and
 - (b) except with the consent of the Minister and in accordance with any conditions imposed by the Minister.
- (2) As soon as practicable after he receives an application referred to in subsection (1), the Minister shall, unless he has already

consented to another applicant entering into negotiations with it in relation to the same land, give written notice to the relevant Land Council that the application has been received.

- (3) Where the Minister consents to an applicant referred to in subsection (1) entering into negotiations referred to in that subsection, the Minister shall not consent to any other applicant entering into negotiations referred to in that subsection, unless he is satisfied that:
 - (a) negotiations between the first-mentioned applicant and the Land Council and the Commonwealth Minister have taken place; and
 - (b) the consent of that Land Council or the Commonwealth Minister to the grant has been reasonably withheld.
- (4) Nothing in this section shall be construed as requiring the Minister to give his consent under subsection (1) to the applicant who first lodged with the Minister an application for the grant to him of an exploration permit in relation to the land the subject of the application.
- (5) In this section:

Commonwealth Minister means the Commonwealth Minister primarily responsible for the administration of the Land Rights Act.

negotiations includes the placing before the Land Council or the Commonwealth Minister of proposals referred to in section 41(1) of the Land Rights Act.

14 Applicant for licence to hold exploration permit

- (1) Subject to subsection (2), a person shall not apply for or be granted a licence in relation to Aboriginal land unless, at the time of the application for that licence, he was the holder of an exploration permit in relation to that land.
- (2) Subsection (1) shall not apply to or in relation to a person who:
 - (a) is, in relation to that land, a traditional Aboriginal owner within the meaning of the Land Rights Act;
 - (b) had made an application for a licence over the land before it became Aboriginal land; or

- (c) made an application under the repealed Act for a lease in respect of Aboriginal land which application, by virtue of section 119, is deemed to be an application for a licence under this Act.

15 Environmental consideration relating to certain parks and reserves

- (1) In respect of land comprising the whole or a part of a park or reserve, the Minister shall not grant:
- (a) subject to subsection (2), an exploration permit or retention licence, unless he has considered the opinions of the minister administering the *Territory Parks and Wildlife Conservation Act* in relation to the proposed grant; or
 - (b) a production licence, except in accordance with the conditions, if any, specified by the minister administering the *Territory Parks and Wildlife Conservation Act*.
- (2) Notwithstanding subsection (1)(a), the Minister shall not grant an exploration permit or retention licence in respect of land comprising the whole or part of a wilderness zone except in accordance with the conditions, if any, specified by the minister administering the *Territory Parks and Wildlife Conservation Act*.
- (3) A permittee or retention licensee shall not carry out his technical works programme, or any other exploration, which may cause substantial disturbance to the surface of land 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 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

15A Definitions

In this Division:

competing applicants means the applicants who have lodged competing applications.

competing applications means 2 or more applications, lodged under section 16, for an exploration permit in respect of the same or some of the same blocks.

eligible applicant means a competing applicant determined by the Minister under section 21(3)(a) to be eligible for the grant of an exploration permit.

ineligible applicant means a competing applicant whose application the Minister has determined under section 21(3)(b) to refuse.

negotiated agreement means an agreement between competing applicants, including the following:

- (a) a sharing arrangement;
- (b) a joint venture.

review means a review under Division 6 of the Minister's determination to refuse to grant or renew an exploration permit.

unsuccessful eligible applicant means an eligible applicant whose application for an exploration permit is unsuccessful due to the operation of section 21B.

16 Application for exploration permit

- (1) Subject to this Act, including Parts IIA and IIB as applicable, a person may apply for an exploration permit by lodging with the Minister:
 - (a) a statement containing the name and address of the applicant;
 - (b) a statement containing the designated number of each block the subject of the application;
 - (c) a map clearly delineating the application area and the boundaries of existing exploration permit or licence areas in the immediate vicinity of the application area;
 - (d) a proposed technical works programme for exploration of the blocks during each year of the term of the proposed exploration permit;
 - (e) evidence of the technical and financial capacity of the applicant to carry out the proposed technical works programme and to comply with this Act;

- (f) where the application is made by 2 or more persons, the proposed sharing arrangements between the applicants;
 - (g) the name of the designated operator and evidence of the technical capacity of the operator to carry out the proposed technical works programme;
 - (j) the prescribed application fee; and
 - (k) such other information in support of the application as the applicant thinks fit.
- (2) Where the Minister has received an application for an exploration permit, the Minister may, by notice served on the applicant, request further information in relation to the applicant or the application.
- (3) A person shall not apply for an exploration permit in relation to an area which is the subject of another exploration permit or a licence.
- (4) A person may apply for one or more exploration permits.

17 Size of exploration permit area

A person shall not apply for an exploration permit in respect of an area which is constituted by more than 200 blocks.

18 Notice of application for exploration permit

- (1) As soon as practicable after an application for an exploration permit has been lodged with the Minister, the Minister must cause to be published, at the expense of the applicant, in a newspaper circulating in the part of the Territory in which the application area is situated, or in any other publication that the Minister thinks fit, a notice containing:
- (c) the name of the applicant;
 - (d) a description of the application area sufficient to enable it reasonably to be identified or a map upon which the proposed boundaries of the application area are indicated by reference to named geographical features; and
 - (e) a statement to the effect that a person who has an estate or interest in relation to land comprised in, or land contiguous with land comprised in, an application area may, within 2 months after the notice is published in the newspaper or other publication, lodge in writing with the Minister an objection to the grant.

- (1A) If Part IIA or IIB applies, the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice in accordance with section 57F or 57T, as the case requires.
- (2) The Minister may direct an applicant to serve a copy of a notice under subsection (1) on a person named in the direction.
- (3) A person who does not have an estate or interest in relation to land comprised in, or land contiguous with land comprised in, an application area is not entitled to lodge an objection to the granting of an exploration permit in respect of the application area.

19 Objections

- (1) Subject to section 18(3), objections to the grant of an exploration permit may be lodged in response to a notice published under section 18(1) in accordance with the statement referred to in section 18(1)(e).
- (2) The Minister must give to the applicant copies of the objections (if any) lodged under subsection (1), together with a notice to the effect that, within 30 days after the date of the notice, the applicant may lodge with the Minister replies to or other comments about the objections.
- (3) Any native title objection lodged in accordance with this section by a registered native title claimant or registered native title body corporate is to be dealt with under Parts IIA or IIB as applicable.

20 Determination of application for exploration permit

- (1) This section does not apply in relation to competing applications other than those referred to in section 21(4).
- (2) After the date specified in the notice given under section 19(2), the Minister must consider the following:
 - (a) the application;
 - (b) any objections to the grant of the exploration permit;
 - (c) any replies or other comments of the applicant;
 - (d) any other information supplied to the Minister as requested under section 16(2);
 - (e) any other matter the Minister considers relevant to the application.

- (3) The Minister must then, subject to section 57L, determine whether to grant the exploration permit in respect of some or all of the blocks to which the application relates or refuse to grant the exploration permit.
- (4) If the Minister determines to grant the exploration permit, the Minister must give the applicant a notice stating the following:
 - (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
 - (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions.
- (5) If the Minister receives the applicant's written acceptance of the conditions within the specified time, the Minister must grant the applicant the exploration permit subject to those conditions.
- (6) If the Minister determines to refuse to grant the exploration permit, section 21D(1) applies.

21 Determination of competing applications for exploration permit

- (1) This section applies only in relation to competing applications.
- (2) After the date specified in the latest notice given under section 19(2), the Minister must consider the following:
 - (a) the competing applications;
 - (b) any objections to the grant of the exploration permit;
 - (c) any replies or other comments of the competing applicants;
 - (d) any other information supplied to the Minister as requested under section 16(2);
 - (e) any other matter the Minister considers relevant to the competing applications.
- (3) The Minister must then, subject to section 57L, determine whether:
 - (a) any of the competing applicants are eligible for the grant of the exploration permit in respect of some or all of the blocks to which the applications relate; and
 - (b) to refuse to grant any of the competing applicants the exploration permit.

- (4) If all of the competing applicants have reached a negotiated agreement and the Minister determines they are eligible for the grant of one exploration permit, section 20(4) and (5) applies (with the necessary changes) in relation to the grant of the exploration permit.
- (5) If only one of the competing applicants is the eligible applicant, section 21A applies in relation to the grant of the exploration permit.
- (6) If 2 or more of the competing applicants are eligible applicants (whether or not some of those applicants are able to reach a negotiated agreement), section 21B applies in relation to the grant of the exploration permit.
- (7) If all of the competing applicants are ineligible applicants, section 21D(2) applies.

21A Grant of exploration permit if one eligible applicant

- (1) For section 21(5), the Minister must give the eligible applicant a notice stating the following:
 - (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
 - (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions;
 - (c) if the applicant accepts the conditions, the grant of the exploration permit is provisional on the outcome of any review.
- (2) If the Minister receives the eligible applicant's written acceptance of the conditions within the specified time, the Minister must provisionally grant the applicant the exploration permit subject to those conditions and the outcome of any review.
- (3) Section 21D(3) applies in relation to the ineligible applicants.
- (4) If the Minister has provisionally granted the exploration permit, the Minister must give the eligible applicant written confirmation of the grant of the exploration permit if either of the following circumstances applies:
 - (a) no review is requested by an ineligible applicant within the time permitted for the review;
 - (b) a review confirms all determinations refusing to grant the exploration permit.

- (5) The eligible applicant does not have the right to explore for petroleum, carry on any operations or execute any works under the exploration permit unless the Minister confirms the grant of the permit.

21B Grant of exploration permit if 2 or more eligible applicants

- (1) For section 21(6), the Minister must give the first eligible applicant a notice stating the following:
- (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
 - (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions;
 - (c) if the applicant accepts the conditions, the grant of the exploration permit is provisional on the outcome of any review.
- (2) If the Minister receives the first eligible applicant's written acceptance of the conditions within the specified time, the Minister must provisionally grant the applicant the exploration permit subject to those conditions and the outcome of any review.
- (3) If the application made by the first eligible applicant lapses in accordance with the notice, the Minister must then give notice, in accordance with subsection (1)(a), (b) and (c), to the eligible applicant who was the next to have lodged a competing application with the Minister.
- (4) Subsections (1), (2) and (3) apply (with the necessary changes) in relation to the eligible applicants, in the order in which they lodged the competing applications, until:
- (a) one of the competing applicants accepts the Minister's conditions; or
 - (b) all the competing applications lapse.
- (5) Section 21D(4) applies in relation to the ineligible applicants and unsuccessful eligible applicants.

- (6) If the Minister has provisionally granted the exploration permit, the Minister must give the eligible applicant written confirmation of the grant of the exploration permit if either of the following circumstances applies:
- (a) no review is requested by an ineligible applicant or unsuccessful competing applicant within the time permitted for the review;
 - (b) a review confirms all determinations refusing to grant the exploration permit.
- (7) The eligible applicant does not have the right to explore for petroleum, carry on any operations or execute any works under the exploration permit unless the Minister confirms the grant of the permit.
- (8) In this section:

first eligible applicant means the competing applicant who was the first of the competing applicants to lodge a competing application with the Minister.

21C No grant of exploration permit for area if permit etc. already granted

The Minister must not grant an exploration permit in relation to an area that is the subject of another exploration permit or a licence.

21D Refusals to grant exploration permits

- (1) If the Minister determines under section 20(3) to refuse to grant an exploration permit, the Minister must, as soon as practicable, serve the applicant with a notice of the determination.
- (2) If the Minister determines under section 21 that all of the competing applicants are ineligible applicants, the Minister must, as soon as practicable, serve each ineligible applicant with a notice of the determination.
- (3) For section 21A(3), the Minister must serve on each ineligible applicant a notice of the Minister's determination to refuse to grant the applicant an exploration permit as soon as practicable after:
- (a) the Minister has provisionally granted the exploration permit to the eligible applicant; or
 - (b) the application made by the eligible applicant has lapsed.

- (4) For section 21B(5), the Minister must serve on each ineligible applicant and each unsuccessful eligible applicant a notice of the Minister's determination to refuse to grant the applicant an exploration permit as soon as practicable after:
 - (a) the Minister has provisionally granted the exploration licence to one of the eligible applicants; or
 - (b) all applications made by eligible applicants have lapsed.
- (5) A notice of a determination to refuse to grant an exploration permit must state the following:
 - (a) the reasons for the determination;
 - (b) the person served with the notice may apply for a review.

21E Guidelines relating to determination of applications

- (1) The Minister must issue guidelines relating to the matters the Minister must consider when determining an application for the grant of an exploration permit.
- (2) The Minister must give notice in the *Gazette* of the issuing of guidelines and specify in the notice the place at which copies of the guidelines may be inspected during normal business hours.
- (3) The Minister must make the guidelines available for general inspection free of charge.

22 Term of exploration permit

- (1) Subject to sections 28(3), 30(3), 73 and 74, an exploration permit remains in force for 5 years commencing on the day on which it was granted or last renewed.
- (2) The Minister may not renew an exploration permit more than twice.

23 Application for renewal of exploration permit

- (1) Subject to section 24 and to Parts IIA and IIB as applicable, a permittee may apply to the Minister to renew the permittee's exploration permit in relation to the blocks specified in the application.
- (2) For the purposes of subsection (1), an application for the renewal of an exploration permit shall be:
 - (a) in an approved form;
 - (b) made in an approved manner;

- (c) accompanied by the prescribed fee; and
 - (d) accompanied by a report of the action taken by the permittee to restore and rehabilitate the land comprising the blocks that are part of the permittee's exploration permit area, but are not specified in the application, and the areas adjacent to that land which are or may be affected by the permittee's operations on those blocks.
- (3) In relation to an application for a renewal of an exploration permit, the Minister:
- (a) shall, where the application is received not earlier than 6 months before, but not later than 3 months before, the expiration of the exploration permit;
 - (b) may, where the application is received later than 3 months before the expiration of the exploration permit; and
 - (c) shall not, where the application is received after the expiration of the exploration permit,
- accept the application.

24 Application for renewal of exploration permit to be in relation to reduced area

- (1) Subject to subsection (3), the number of blocks in relation to which an application for the renewal of an exploration permit may be made shall not exceed:
- (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 not divisible by 2 without remainder – one-half of the number arrived at by increasing the number of blocks by one.
- (2) In an application for the renewal of an exploration permit:
- (a) the blocks specified in the application shall constitute a single area, or a number of discrete areas each comprised of 2 or more blocks; and
 - (b) each block, in a discrete area referred to in paragraph (a), shall have a side in common with at least one other block in the area.

- (3) Subject to subsection (4), where the number of blocks in respect of which an application for the renewal of an exploration permit may be made is 12 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 12 blocks.
- (4) The Minister may accept an application for the renewal of an exploration permit notwithstanding that it does not comply with subsection (3).
- (5) Where the maximum number of blocks in respect of which an application for the renewal of an exploration permit may be made is less than 12, the Minister may, by notice served on the permittee:
 - (a) inform the permittee that he will accept an application only in respect of the number of blocks, not exceeding 12, 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.

25 Grant or refusal of renewal of exploration permit

- (1) Where a permittee makes an application for the renewal of the permittee's exploration permit and the Minister accepts the application, subject to Parts IIA and IIB as applicable, the Minister:
 - (a) shall, where the permittee has complied with the conditions to which the exploration permit is subject, the directions, if any, lawfully given to the permittee by the Minister and with this Act; or
 - (b) may, where the permittee has not so complied and the Minister is satisfied that, although the permittee has not so complied, circumstances exist that justify the renewal of the exploration permit,

by notice, inform the permittee that:
 - (c) the Minister is prepared to renew the exploration permit on the permittee lodging a security for compliance with the conditions to which the permit will from time to time be subject, the directions, if any, lawfully given to the permittee by the Minister and with this Act.
- (2) Where a permittee has not complied with the conditions to which the permittee's exploration permit is subject, the directions, if any, lawfully given to the permittee by the Minister or with this Act and the Minister is not satisfied that circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to

subsection (3), by notice served on the permittee, refuse to renew the permit.

- (2A) A notice of the Minister's refusal to renew an exploration permit must include the reasons for the refusal and a statement that the permittee may request a review.
- (3) The Minister shall not refuse to renew an exploration permit unless the Minister has:
- (a) by notice served on the permittee, given not less than 28 days notice of the Minister's intention to refuse to renew the exploration permit;
 - (b) in the notice:
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the permittee may, by notice served on the Minister, submit any matters that the permittee wishes the Minister to consider; and
 - (c) considered any matter so submitted by the permittee to the Minister on or before the specified date.
- (4) A notice under subsection (1) shall contain:
- (a) a statement of the conditions to which the exploration permit on its renewal is to be subject; and
 - (b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5) and lodge with the Minister the security referred to in the notice.
- (5) A permittee who has been served with a notice under subsection (1) may, within 28 days after the date of service of that notice on the permittee or any other longer period agreed to by the Minister:
- (a) by notice served on the Minister, request the Minister to renew the exploration permit; and
 - (b) lodge with the Minister the security referred to in the notice served under subsection (1).
- (6) Where a permittee who has been served with a notice under subsection (1) has:
- (a) made a request under subsection (5); and

- (b) lodged with the Minister the security referred to in the notice, within the period referred to in subsection (5), the Minister shall renew the exploration permit.
- (10) Where a permittee has been served with a notice under subsection (1) and has not, within the period referred to in subsection (5), made the request and lodged with the Minister the security referred to in that subsection, the application lapses on the expiration of that period.
- (11) Where:
- (a) an application for the renewal of an exploration permit has been accepted; and
 - (b) the exploration permit expires before:
 - (i) the Minister renews, or refuses to renew, the permit; or
 - (ii) the application lapses as provided by subsection (10),the permit shall be deemed to continue in force in all respects until:
 - (c) the Minister renews or refuses to renew the permit; or
 - (d) the application so lapses,as the case may be.

26 Annual fee

- (1) The annual fee payable in relation to an exploration permit is:
- (a) the prescribed amount per block per annum; or
 - (b) the prescribed annual amount,
- whichever is greater.
- (2) Subject to section 63, the annual fee for an exploration permit:
- (a) is payable in advance; and
 - (b) is calculated on the number of blocks held,
- by the permittee on the anniversary of the commencement of the permittee's exploration permit or its last renewal.

27 Conditions of exploration permit

Subject to this Part and to Parts IIA and IIB as applicable, an exploration permit may be granted or renewed subject to such conditions as the Minister thinks fit and specifies in the permit document.

28 Variation etc. of condition of exploration permit

- (1) Subject to Parts IIA and IIB as applicable, a permittee may apply to the Minister to vary, suspend or waive a condition of the permittee's exploration permit.
- (2) Subject to Parts IIA and IIB as applicable, on receiving an application under subsection (1), the Minister may, by notice served on the permittee, vary, suspend or waive a condition of the exploration permit, in accordance with the application.
- (3) Where a condition of an exploration permit which places an obligation on the permittee is suspended under subsection (2), the Minister may, in the notice of suspension or by a later instrument served on the permittee, extend the term of the permit by a period not exceeding the period of the suspension.
- (4) Where an extension under subsection (3) of the term of an exploration permit is expressed to have effect from a date earlier than the date on which the notice by which it is extended is signed, it shall have and be deemed to have had effect as if the notice had been signed on that earlier date.

29 Rights conferred by exploration permit

- (1) An exploration permit, while it remains in force, gives the permittee, subject to this Act and in accordance with the conditions to which the permit is subject and the directions, if any, lawfully given by the Minister, the exclusive right to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the exploration permit area.
- (2) Without limiting the generality of subsection (1) but subject to this Act and any condition or direction referred to in that subsection, a permittee or, if there is more than one, the permittees jointly and his agents and employees may:
 - (a) at any time, enter and remain in the exploration permit area with such vehicles, vessels, machinery and equipment as are necessary or convenient for carrying out the technical works programme or other exploration of the permit area;

- (b) carry out the technical works programme and other exploration for petroleum in the exploration permit area;
 - (c) extract, remove or allow the release from the exploration permit area for sampling and testing, an amount of material reasonably necessary for the purpose of establishing the presence of petroleum, or such greater amount as is approved; and
 - (d) subject to any prior lawful activity and to the directions, if any, of the Minister, use the water resources of the exploration permit area for his domestic use and for any purpose in connection with his approved technical works programme and other exploration.
- (3) Where a permittee has:
- (a) complied with the conditions to which the permittee's exploration permit is subject, the directions, if any, lawfully given to him by the Minister and with this Act;
 - (b) discovered a commercially exploitable accumulation of petroleum within the permittee's exploration permit area; and
 - (c) under section 45, applied for a production licence in relation to the blocks where the accumulation occurs,

the Minister shall, subject to Division 4, to Parts IIA and IIB (as applicable) and to such conditions as the Minister may think fit, grant to him a production licence.

30 Notice to apply for production licence

- (1) Subject to subsection (6), where the Minister is satisfied that a commercially exploitable accumulation of petroleum may occur in an exploration permit area, the Minister may, by notice served on the permittee, require the permittee to show cause why the permittee should not apply for a production licence in relation to the blocks where the accumulation may occur and specify a date, being not earlier than 6 months after the date of the notice, before which the permittee should show cause.
- (2) Subject to subsection (5), where a permittee has been served with a notice under subsection (1) and he fails to show cause to the satisfaction of the Minister, before the date specified in the notice, the Minister may, by notice served on the permittee, direct him to apply for a production licence and specify a date, being not earlier than 6 months after the date of the notice under this subsection, before which he shall apply for the production licence.

- (3) Subject to subsection (5), where, under subsection (2), a permittee has been directed to apply for a production licence before the date specified in the notice and he has failed to so apply, the Minister may, by notice served on the permittee, cancel the exploration permit in relation to the blocks specified in the notice under subsection (1).
- (4) The Minister may, by notice served on the permittee, vary the date in a notice under subsection (1) or (2) so as to allow a longer period for the permittee to show cause or apply for the production licence as required by the notice under subsection (1) or (2), as the case may be.
- (5) Where a notice under subsection (1) or (2) has been served on a permittee and he has made an application to the Minister for a retention licence in relation to the blocks to which such a notice relates, the Minister may not exercise his powers under this section until the application for a retention licence has been determined.
- (6) The Minister may not exercise his powers under this section:
 - (a) during the first term of the exploration permit; or
 - (b) if the blocks where the commercially exploitable accumulation of petroleum may occur are, in whole or part, Aboriginal land and no agreement has been reached under the *Land Rights Act* either between the permittee and the Land Council or as otherwise permitted under that Act, in relation to the production of petroleum in that area.

Division 3 Retention licences

31 Entitlement to apply for retention licence

Where a permittee has:

- (a) by drilling operations in the permittee's exploration permit area, established the presence of petroleum;
- (b) given notice, under section 64, to the Minister of the presence of the petroleum in the permittee's exploration permit area; and
- (c) satisfied the Minister that the petroleum present in the permittee's exploration permit area is potentially of a commercial quality and quantity,

the permittee may apply for one or more retention licences in relation to the whole or part of the permit area.

32 Application for retention licence

- (1) Subject to this Act, including Part IIA if applicable, a permittee may apply for a retention licence by lodging with the Minister:
- (a) a statement containing the name and address of the applicant;
 - (b) a statement containing the designated number of each block the subject of the application;
 - (c) a map clearly delineating the application area and the boundaries of the existing exploration permit area from which the application area is to be excised;
 - (d) evidence, satisfactory to the Minister, that:
 - (i) the applicant is the permittee of the application area;
 - (ii) the applicant has established the presence of petroleum within the application area and notified, under section 64, the Minister of the presence of petroleum; and
 - (iii) although the petroleum present is potentially of a commercial quality and quantity, production from the application area is not, at the present time, commercially viable;
 - (e) a proposed technical works programme for the exploration, appraisal and development of petroleum within the application area, including an economic appraisal in relation to the presence of petroleum, during the period of the proposed licence;
 - (f) evidence of the technical and financial capacity of the applicant to carry out the proposed technical works programme and to comply with this Act;
 - (g) where the application is made by 2 or more persons, the proposed sharing arrangements between the applicants;
 - (j) the prescribed application fee;
 - (k) a statement of the reasons why the applicant:
 - (i) believes that an appraisal of the application area cannot be carried out during the unexpired term of the exploration permit; and

- (ii) has not applied for a production licence in relation to the application area; and
 - (m) such other information in support of the application as the applicant thinks fit.
- (2) Where the Minister has received an application for a retention licence, the Minister may, by notice served on the applicant, request further information in relation to the applicant or the application.

33 Size of retention licence area

- (1) A permittee shall not apply for a retention licence in respect of an area which is constituted by more than 12 blocks.
- (2) A permittee shall not apply for a retention licence in respect of an area which is constituted by more than one block unless the blocks form a discrete area which conforms to an approved shape.

34 Grant or refusal of retention licence

- (1) Where the Minister:
 - (a) has received an application under section 32;
 - (b) is satisfied that the applicant has complied with the requirements of this Act relating to an application for a retention licence; and
 - (c) is satisfied that the applicant, as a permittee, complied with the provisions of this Act relating to the exploration permit and the exploration permit area and the lawful directions, if any, given to him by the Minister,

subject to Parts IIA and IIB as applicable, the Minister may determine to grant the retention licence, subject to such conditions as he thinks fit, or refuse to grant it.

- (2) Where the Minister determines under subsection (1) to grant a retention licence, he shall give notice to the applicant of:
 - (a) the conditions subject to which he is prepared to grant it; and
 - (b) the date, not being earlier than 28 days after the date of the notice, upon which the application shall lapse unless the Minister has received from him an acceptance of the conditions specified in the notice.

- (3) Where the Minister receives from an applicant, within the time specified, a written acceptance of the conditions specified in a notice under subsection (2), he shall grant to the applicant a retention licence, subject to those conditions.
- (4) Where the Minister determines not to grant a retention licence he shall, as soon as practicable after he has so determined, serve notice of his refusal on the applicant.
- (5) A notice of the Minister's refusal to grant a retention licence must include the reasons for the refusal and a statement that the applicant may request a review of the determination under Division 6.

35 Exploration permit not affected

The term and area of an exploration permit are not affected by:

- (a) an application for a retention licence; or
- (b) the determination of the Minister not to grant a retention licence.

36 Term of retention licence

Subject to sections 43(3), 73 and 74, a retention licence remains in force for a period of 5 years commencing on the date on which it was granted or last renewed.

37 Application for renewal of retention licence

- (1) Subject to Part IIA if applicable, a retention licensee may apply to the Minister to renew his retention licence.
- (2) For the purposes of subsection (1), an application for the renewal of a retention licence shall be:
 - (a) in an approved form;
 - (b) made in an approved manner; and
 - (c) accompanied by the prescribed fee.
- (3) In relation to an application for a renewal of a retention licence, the Minister:
 - (a) shall, where an application for the renewal of a retention licence is received not earlier than 6 months, but not later than 3 months, before the expiration of the licence;

- (b) may, where the application is received later than 3 months before the expiration of the licence; and
- (c) shall not, where the application is received after the expiration of the licence,

accept the application.

38 Grant or refusal of renewal of retention licence

(1) Where, under section 37, the Minister accepts an application by a retention licensee for the first renewal of the licensee's retention licence, the Minister:

- (a) shall, where the retention licensee has complied with the conditions to which the licence is subject, the lawful directions, if any, given to the licensee by the Minister and with this Act; or
- (b) may, where the retention licensee has not so complied and the Minister is satisfied that, although the licensee has not so complied, circumstances exist that justify the renewal of the licence,

by notice in writing, inform the licensee that, subject to Parts IIA and IIB as applicable, the Minister is prepared to renew the licence.

(2) Where, under section 37, the Minister accepts an application by a retention licensee for the renewal of the licensee's retention licence, other than the first renewal of the retention licence, the Minister may inform the licensee, by notice served on the licensee, that the Minister is prepared to renew the retention licence and, if the retention licence is so renewed, it is renewed for a term of 5 years.

(3) Where, under section 37, the Minister accepts an application by a retention licensee for the renewal of the licensee's retention licence but the retention licensee has not complied with the conditions to which the licence is subject, the lawful directions, if any, given to the licensee by the Minister and this Act and, in the case of an application for the first renewal of the retention licence, the Minister is not satisfied that circumstances exist that justify the renewal of the licence, the Minister shall, subject to subsection (5), by notice served on the retention licensee, refuse to renew the licence.

(3A) A notice of the Minister's refusal to renew a retention licence must include the reasons for the refusal and a statement that the retention licensee may request a review of the determination under Division 6.

- (4) Before exercising his or her powers under subsection (1), (2) or (3), the Minister may, by notice served on the applicant, require the applicant to lodge with the Minister, before the date specified in the notice:
- (a) an analysis of the work undertaken and expenditure incurred during the term of the licence and details of the results of the work;
 - (b) a statement of the reasons why the applicant has not applied for a production licence in relation to the licence area;
 - (c) a technical works programme for the term of the proposed renewal; and
 - (d) such other information as the Minister thinks fit.
- (5) The Minister shall not refuse to renew a retention licence unless the Minister has:
- (a) by notice served on the retention licensee, given not less than 28 days notice of the Minister's intention to refuse to renew the licence;
 - (b) in the notice:
 - (i) given particulars of the reasons for the Minister's intention to refuse to renew the licence; and
 - (ii) specified a date on or before which the retention licensee may, by notice served on the Minister, submit any matters that the licensee wishes the Minister to consider; and
 - (c) taken into account any matters so submitted to the Minister on or before the specified date by the retention licensee.
- (6) Notices under subsections (1) and (2) shall contain:
- (a) a statement of the conditions to which the retention licence on its renewal is to be subject; and
 - (b) a statement to the effect that the application will lapse if the retention licensee does not make a request under subsection (7).

- (7) A retention licensee who has been served with a notice under subsection (1) or (2) may, within 28 days after the date of service of that notice on the retention licensee or any other longer period agreed to by the Minister:
- (a) by notice served on the Minister, request the Minister to renew the retention licence; and
 - (b) lodge with the Minister the security referred to in the notice served under subsection (1) or (2).
- (8) Where a retention licensee has been served with a notice under subsection (1) or (2) and has, within the period referred to in subsection (7), made the request and lodged with the Minister the security referred to in that subsection, the Minister shall renew the retention licence subject to the conditions specified in the notice under subsection (1) or (2), as the case may be.
- (12) Where a retention licensee has been served with a notice under subsection (1) or (2) but has not made the request and lodged with the Minister the security referred to in subsection (7) within the period referred to in that subsection, the application lapses on the expiration of that period.
- (13) Where:
- (a) an application for the renewal of a retention licence has been accepted; and
 - (b) the retention licence would, but for this subsection, expire before:
 - (i) the Minister renews, or refuses to renew, the retention licence; or
 - (ii) the application lapses as provided by subsection (12),
- the retention licence shall be deemed to continue in force in all respects until:
- (c) the Minister renews, or refuses to renew, the retention licence; or
 - (d) the application so lapses,
- as the case may be.

39 Annual fee

- (1) The annual fee payable in relation to a retention licence is the prescribed amount per block per annum.
- (2) Other than in relation to the first year of the retention licence after it is granted or renewed for the purposes of subsection (1), the annual fee:
 - (a) is payable in advance; and
 - (b) is calculated on the number of blocks held,by the licensee on the anniversary of the commencement of his licence or its last renewal.

40 Conditions of retention licence

Subject to this Part and to Parts IIA and IIB as applicable, a retention licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence document.

41 Variation, &c., of conditions of retention licence

- (1) Subject to Part IIA if applicable, a retention licensee may apply to the Minister to vary, suspend or waive a condition of his licence.
- (2) Subject to Parts IIA and IIB as applicable, on receiving an application under subsection (1), the Minister may, by notice served on the licensee, vary, suspend or waive a condition of the licence, in accordance with the application.
- (3) Where a retention licensee has applied under subsection (1) to vary, suspend or waive a condition of his licence which relates to the technical works programme, the Minister may, after consultation with the retention licensee, appoint a person to evaluate the proposed variation, suspension or waiver and report his findings to the Minister.
- (4) Where the Minister appoints a person under subsection (3), the cost of the person's services shall be a debt due and payable by the retention licensee to the Territory.

42 Rights conferred by retention licence

- (1) A retention licence, while it remains in force, gives the retention licensee or, if there is more than one, the retention licensees jointly, subject to this Act and in accordance with the conditions to which the licence is subject and the directions, if any, lawfully given by the Minister, the exclusive right to carry on in the licence area such

geological, geophysical and geochemical programmes and other operations and works, including appraisal drilling, as are reasonably necessary to evaluate the development potential of the petroleum believed to be present in the licence area.

- (2) Where a retention licensee has:
- (a) complied with the conditions of the retention licensee's licence, the lawful directions (if any) of the Minister and this Act;
 - (b) applied, in accordance with Division 4, for a production licence in relation to the whole or part of the licensee's retention licence area; and
 - (c) discovered a commercially exploitable accumulation of petroleum within the licensee's retention licence area,

the Minister shall, subject to Division 4, to Parts IIA and IIB (as applicable) and to such conditions as the Minister thinks fit, grant to the licensee a production licence.

43 Notice to apply for production licence

- (1) Subject to subsection (5), where the Minister is satisfied that commercial production of petroleum should commence in a retention licence area, he may, by notice served on the retention licensee, require him to show cause why he should not apply for a production licence in relation to the blocks where the commercially exploitable accumulation of petroleum occurs and specify a date, being not earlier than 6 months after the date of the notice, by which the licensee should show cause.
- (2) Where a retention licensee has been served with a notice under subsection (1) and he fails to show cause to the satisfaction of the Minister, within the time specified in the notice, the Minister may, by notice served on the retention licensee, direct him to apply for a production licence and specify a date, being not earlier than 3 months after the date of the notice, by which the licensee should apply for the production licence.
- (3) Where, under subsection (2), a retention licensee has been directed to apply for a production licence before a date specified in the direction and the licensee has failed to so apply, the Minister may, by notice served on the licensee, cancel his licence.
- (4) The Minister may, by notice served on a retention licensee, vary the date in a notice under subsection (1) or (2) so as to allow a longer period for the retention licensee to show cause or apply for a production licence.

- (5) The Minister may not exercise his powers under this section if the blocks where the commercially exploitable accumulation of petroleum occurs are, in whole or part, Aboriginal land and no agreement in relation to the production of petroleum in that area has been reached under the *Land Rights Act* between the retention licensee and the Land Council or as otherwise permitted under that Act.

Division 4 Production licences

44 Applicant

A person who is:

- (a) a permittee; or
- (b) a retention licensee,

may apply for a production licence in relation to the whole or part of his or her exploration permit or licence area.

45 Application for production licence

- (1) Subject to this Act, including Part IIA if applicable, a permittee or licensee may apply for a production licence by lodging with the Minister:
- (a) a statement containing the name and address of the applicant;
 - (b) a statement containing the designated number of each block the subject of the application;
 - (c) a map clearly delineating the application area and the boundaries of the existing exploration permit or retention licence area in which the application is comprised;
 - (d) a proposed technical works programme specifying the proposals for exploration, appraisal and production of petroleum from within the proposed licence area;
 - (e) evidence of the technical and financial capacity of the applicant to carry out the proposed technical works programme and to comply with this Act;
 - (f) proposals for the protection of the environment, including proposed measures to be undertaken by the applicant for the rehabilitation of the licence area or other affected areas;
 - (g) where the application is made by 2 or more persons, the proposed sharing arrangements between the applicants;

- (j) the prescribed application fee; and
 - (k) such other information in support of the application as the applicant thinks fit.
- (1A) If Part IIA applies, the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.
- (2) Where the Minister has received an application for a production licence, the Minister may, by notice served on the applicant, request further information in relation to the applicant or the application.
- (3) A permittee or licensee may apply for one or more production licences.

46 Size of production licence

- (1) A person shall not apply for a production licence in respect of an area which is constituted by more than 12 blocks.
- (2) A person shall not apply for a production licence in respect of an area which is constituted by more than one block unless the blocks form a discrete area which conforms to an approved shape.
- (3) The Minister may grant a production licence in respect of:
- (a) an area of less than one block; or
 - (b) blocks which form more than one discrete area,
- where he is of the opinion that circumstances justify his doing so or it is in the public interest to do so.

47 Grant of production licence

- (1) Where the Minister:
- (a) has received an application under section 45;
 - (b) is satisfied that the applicant has complied with the requirements of this Act relating to an application for a production licence; and
 - (c) is satisfied that he or she is required under section 29(3) or 42(2) to grant to the applicant a production licence in relation to specific blocks,

subject to section 57L if applicable, the Minister must determine to grant to the applicant the production licence subject to conditions.

(2) Where the Minister:

- (a) has received an application under section 45; and
- (b) is satisfied that, although the applicant has not complied with the conditions under which the applicant's exploration permit or licence was granted, the lawful directions, if any, given to the applicant by the Minister or this Act, circumstances exist that justify the granting of the production licence,

subject to section 57L if applicable, the Minister may determine to grant to the applicant the production licence subject to conditions or refuse to grant it.

(3) Where the Minister exercises his or her power under subsection (1) or (2) and determines to grant to an applicant a licence, the Minister shall grant a licence only in relation to the minimum number of blocks which, in his or her opinion, is reasonably necessary for the applicant to fully exploit the commercially exploitable accumulation of petroleum which occurs in the application area.

(4) Where the Minister determines under subsection (1) or (2) to grant a production licence, he or she shall give notice to the applicant of:

- (a) the conditions subject to which he or she is prepared to grant it; and
- (b) the date, not being earlier than 28 days after the date of the notice, after which the application is to lapse unless the Minister has received from the applicant a written acceptance of the conditions specified in the notice.

(5) If the Minister receives from an applicant within the time specified in subsection (4)(b) a written acceptance of the conditions specified in the notice referred to in subsection (4), the Minister must grant to the applicant the production licence subject to those conditions.

(6) If the Minister does not receive a written acceptance of the conditions specified in the notice referred to in subsection (4) from an applicant within the time specified in subsection (4)(b):

- (a) the Minister must not grant the applicant the production licence; and
- (b) the applicant's application lapses on the expiry of the time specified in subsection (4)(b).

48 Refusal to grant production licence

- (1) Where the Minister determines to refuse to grant a production licence he shall, as soon as practicable after he has so determined, serve notice of his determination on the applicant.
- (1A) The notice of determination must include the reasons for the refusal to grant a production licence and a statement that the applicant may apply for a review of the determination under Division 6.
- (2) The Minister may not determine to refuse to grant a licence, unless he has:
 - (a) by notice served on the applicant, given not less than 28 days notice of his intention to refuse to grant the licence;
 - (b) in the notice, specified:
 - (i) the reasons for his intended refusal; and
 - (ii) a date on or before which the applicant may, by notice served on the Minister, submit any matters he wishes the Minister to consider; and
 - (c) taken into account any matters so submitted to him on or before the specified date by the applicant.

49 Exploration permit or licence not affected

The term and area of an exploration permit or retention licence are not affected by:

- (a) an application for a production licence; or
- (b) the determination of the Minister not to grant a production licence.

50 Term of production licence

Subject to sections 73 and 74, a production licence remains in force for either 21 or 25 years as determined by the Minister commencing on the date on which it was granted or, in respect of the renewal of a production licence, the date on which it was last renewed, notwithstanding that it is renewed before the date on which it would otherwise have expired.

51 Application for renewal of production licence

- (1) Subject to Part IIA if applicable, a production licensee may apply to the Minister to renew his production licence.

- (2) For the purposes of subsection (1), an application for the renewal of a production licence shall be:
- (a) in an approved form;
 - (b) made in an approved manner; and
 - (c) accompanied by the prescribed fee.
- (3) In relation to an application for the renewal of a production licence, the Minister:
- (a) shall, where an application is received not earlier than 6 months before, but not later than 3 months before, the expiration of the production licence;
 - (b) may, where the application is received later than 3 months before the expiration of the licence; and
 - (c) shall not, where the application is received after the expiration of the licence,
- accept the application.
- (4) In addition to subsection (3), the Minister may, where he is satisfied that there are commercial reasons that justify an application for the renewal of a production licence being made, accept the application being made at a time earlier than that specified in subsection (3)(a).

52 Grant or refusal of renewal of production licence

- (1) Where, under section 51, the Minister accepts an application by a production licensee for the first renewal of his production licence, the Minister:
- (a) shall, where the production licensee has complied with the conditions to which the licence is subject, the lawful directions, if any, given to him by the Minister and this Act; or
 - (b) may, where the production licensee has not so complied and the Minister is satisfied that, although the licensee has not so complied, circumstances exist that justify the renewal of the licence,
- by notice in writing, inform the licensee that, subject to Parts IIA and IIB as applicable, the Minister is prepared to renew the licence.
- (2) Where, under section 51, the Minister accepts an application by a production licensee for the renewal of his production licence, other than the first renewal of the licence, the Minister may, by notice

served on him, inform the production licensee that he is prepared to renew the production licence and, if the production licence is so renewed, it is renewed for such term, not exceeding 25 years, as is specified in the notice.

(3) Where, under section 51, the Minister accepts an application by a production licensee for the renewal of his production licence but the production licensee has not complied with the conditions to which his licence is subject, the lawful directions, if any, of the Minister and this Act and, in the case of an application for the first renewal of the production licence, the Minister is not satisfied that circumstances exist that justify the renewal of the licence, the Minister shall, subject to subsection (4), by notice served on the production licensee, refuse to renew the licence.

(3A) A notice of the Minister's refusal to renew a production licence must include the reasons for the refusal and a statement that the production licensee may request a review of the determination under Division 6.

(4) The Minister shall not refuse to renew a production licence unless he has:

(a) by notice served on the production licensee, given not less than 28 days notice of his intention to refuse to renew the licence;

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

(c) in the notice:

(i) given particulars of the reasons for his intention to refuse to renew the licence; and

(ii) specified a date on or before which the production licensee may, by notice served on the Minister, submit any matters that he wishes the Minister to consider; and

(d) taken into account any matters so submitted to him on or before the specified date by the production licensee or by a person on whom a copy of the notice has been served under paragraph (b).

(5) Notices under subsections (1) and (2) shall contain:

(a) a statement of the conditions to which the production licence, on its renewal is to be subject; and

- (b) a statement to the effect that the application will lapse if the production licensee does not make a request under subsection (6).
- (6) Where a production licensee has been served with a notice under subsection (1) or (2), he may, within 28 days after the date of service of the notice on him, by notice served on the Minister, request the Minister to:
 - (a) renew the production licence; or
 - (b) amend the conditions contained in the notice under that subsection or the amount of the security to be lodged.
- (7) Where a production licensee has been served with a notice under subsection (1) or (2) and has made a request under subsection (6)(a), within the period referred to in subsection (6), the Minister shall renew the production licence subject to the conditions specified in the notice under subsection (1) or (2), as the case may be, and subject to the conditions imposed in pursuance of section 57L if applicable.
- (8) Where a production licensee has been served with a notice under subsection (1) or (2) and has made a request under subsection (6)(b), the Minister shall:
 - (a) consider the request; and
 - (b) by notice served on the licensee, inform him of the conditions to which the licence, on its renewal, is to be subject and the amount of the security to be lodged.
- (9) Where a production licensee has been served with a notice under subsection (8)(b), he may, within 28 days after the date of service of the notice on him, by notice served on the Minister, request the Minister to renew the licence subject to the conditions specified in the notice under subsection (8)(b).
- (10) Where a production licensee has served a notice under subsection (9), within the period referred to in that subsection, the Minister shall renew the licence.
- (11) Where a production licensee has been served with a notice under subsection (1) or (2) but has not made a request under subsection (6), within the period referred to in subsection (6), the application lapses on the expiration of that period.

(12) Where:

- (a) an application for the renewal of a production licence has been accepted; and
- (b) the production licence would, but for this subsection, expire before:
 - (i) the Minister renews, or refuses to renew, the production licence; or
 - (ii) the application lapses as provided by subsection (11),

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

- (c) the Minister renews, or refuses to renew, the production licence; or
 - (d) the application lapses,
- as the case may be.

53 Annual fee

- (1) The annual fee payable in relation to a production licence is the prescribed amount per block or part of a block per annum.
- (2) Other than in relation to the first year of a production licence after it is granted or renewed, for the purposes of subsection (1), the annual fee:
 - (a) is payable in advance; and
 - (b) is calculated on the number of blocks held,by the production licensee on the anniversary of the commencement of his licence or its last renewal.

54 Conditions of production licence

- (1) Subject to this Part and to Parts IIA and IIB as applicable, a production licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence document.
- (2) Without limiting the generality of subsection (1), but subject to section 55, each production licence is subject to the condition that the production licensee:
 - (a) shall use the licence area continuously and exclusively for the purposes for which it is granted;

- (b) shall not produce petroleum obtained from the licence area until the Minister authorises the commencement of production operations;
- (c) shall pay royalties under this Act on petroleum produced; and
- (f) shall, during such period of the term of the licence as is specified in the licence document, maintain an approved insurance policy, for:
 - (i) well redrilling and well recompletion expenses; and
 - (ii) damages arising out of damage to property or the environment, including by pollution, seepage or contamination.

55 Variation, &c., of conditions of production licence

- (1) Subject to Part IIA if applicable, a production licensee may apply to the Minister to vary, suspend or waive a condition of his licence.
- (2) Subject to Parts IIA and IIB as applicable, on receiving an application under subsection (1), the Minister may, by notice served on the licensee, vary, suspend or waive a condition of the licence, in accordance with the application.
- (3) Where a production licensee has applied under subsection (1) to vary, suspend or waive a condition of his licence which relates to the technical works programme, the Minister may, after consultation with the production licensee, appoint a person to evaluate the proposed variation, suspension or waiver and report his findings to the Minister.
- (4) Where the Minister appoints a person under subsection (3), the cost of the person's services shall be a debt due and payable by the production licensee to the Territory.

56 Rights conferred by production licence

A production licence, while it remains in force, gives the production licensee or, if there is more than one, the production licensees jointly, subject to this Act and in accordance with the conditions to which the licence is subject and the directions, if any, lawfully given by the Minister, the exclusive right:

- (a) to explore for petroleum and recover it from the licence area; and

- (b) to carry out such operations and execute such works in the licence area as are necessary for the exploration for and recovery of petroleum.

57 Declaration of restricted area

- (1) A production licensee may, by notice in the *Gazette* and a newspaper circulating in that part of the Territory in which his production licence area is situated, declare his production licence area or part of that area to be a restricted area.
- (2) Where a production licensee has, under subsection (1), declared a restricted area, he shall, within 3 months of the date of the notice in the *Gazette* fence the area.
- (3) Where a production licensee fails to fence a restricted area within 3 months after the date of the notice in the *Gazette*, the declaration has no force or effect after the expiration of the 3 month period.
- (4) The Minister may, by notice in the *Gazette*, repeal or vary a declaration under subsection (1).
- (5) The production licensee has all the powers, in relation to the restricted area, of a person in lawful occupation of that area.

Division 5 Access authorities

57A Access authorities

- (1) In this section, ***petroleum title*** means an authority, however described, under the *Petroleum (Submerged Lands) Act* or a law of a State to explore for or to recover petroleum.
- (2) Subject to Part IIA if applicable, a permittee, licensee or the lessee of a lease granted under the repealed Act, or the holder of a petroleum title granted outside the Territory, may apply for the grant of an access authority by lodging with the Minister:
 - (a) an application in the approved form and approved manner;
 - (b) a statement containing the designated number of each block the subject of the application;
 - (c) a statement specifying the operations that the applicant proposes to carry on under the access authority; and
 - (d) a statement setting out any other matters that the applicant wishes the Minister to consider.

- (3) Subject to this section and to Parts IIA and IIB as applicable, on receiving an application under subsection (2), the Minister may grant or refuse to grant the access authority.
- (4) An access authority is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and specifies in the authority.
- (5) Subject to Parts IIA and IIB as applicable, the Minister may, at any time by written notice served on the holder of an access authority, vary the access authority area or a condition to which the access authority is subject.
- (6) The Minister shall not grant an access authority, or vary an access authority, in respect of an area that is the subject of an exploration permit, licence or lease of which the applicant or holder is not the permittee, licensee or lessee, as the case may be, unless the Minister has served:
 - (a) a notice in accordance with subsection (7) on the permittee, licensee or lessee; and
 - (b) a copy of the notice on such other persons, if any, as the Minister thinks fit.
- (7) A notice under subsection (6) shall:
 - (a) give particulars of the access authority proposed to be granted or of the variation proposed to be made; and
 - (b) specify a date, not being earlier than 28 days after the date of the notice, on or before which a person on whom the notice or a copy is served may submit any matters that the person wishes the Minister to consider.
- (8) In considering an application under this section, the Minister shall take into account any matters submitted on or before the date specified in the notice under subsection (7).
- (9) An access authority authorises the holder, subject to this Act and the conditions to which it is subject, to carry on in the access authority area exploration for petroleum or operations relating to the recovery of petroleum in or from the exploration permit, licence, lease or petroleum title in respect of which the application under subsection (2) was made and any other operations specified in the access authority.

- (10) Subject to Parts IIA and IIB as applicable, an access authority remains in force for such period as is specified by the Minister but may be renewed by the Minister for a further specified period.
- (11) An access authority may be:
- (a) surrendered by the holder by written notice served on the Minister; or
 - (b) cancelled by the Minister by written notice served on the holder and a person in whose exploration permit area, licence area or lease area operations may be carried on in pursuance of the access authority.
- (12) Where an access authority has been cancelled or surrendered, or has expired, the Minister may direct the person who was the holder of the access authority to do one or more of the following things:
- (a) remove or cause to be removed from the area to which the access authority applied anything brought into the area by any person engaged or concerned in the operations authorised by the access authority or to make arrangements that are satisfactory to the Minister with respect to those things;
 - (b) subject to this Act, make good, to the satisfaction of the Minister, the rehabilitation of the environment in the area to which the access authority applied and any other area that has been damaged by any person engaged or concerned in the operations authorised by the access authority.
- (13) A person to whom a direction is given under subsection (12) shall comply with and not contravene the direction.

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

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

- (14) Where an access authority is in force in respect of an area that consists of, or includes, an exploration permit area, licence area, lease area or the area over which a petroleum title is granted and the holder of the access authority is not the permittee, licensee, lessee or the holder of the petroleum title, the holder of the access authority shall, not later than 28 days after the end of each month during which the access authority is in force in respect of the permit area, licence area, lease area or the area over which the petroleum title is granted, provide the permittee, licensee, lessee or the holder of the petroleum title with a full report, in writing, of the operations carried on in the permit area, licence area, lease area or the area over which the petroleum title is granted 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.

- (15) Nothing in subsection (14) shall be construed as requiring a report under that subsection to contain conclusions drawn from or opinions based on, in whole or in part, the facts contained in the report.

Division 6 Review of determinations

57AA Definitions

In this Division:

aggrieved person means an applicant, permittee or licensee who is dissatisfied with a determination.

competing applications has the meaning in section 15A.

determination means a determination referred to in section 57AB(1).

panel, in relation to a determination, means the panel appointed under section 57AC(1) to review the determination.

57AB Application for review of determination

- (1) An aggrieved person may by notice request a review of any of the following:
- (a) a determination notified under Division 2 refusing to grant or renew an exploration permit;
 - (b) a determination notified under Division 3 refusing to grant or renew a retention licence;
 - (c) a determination notified under Division 4 refusing to grant or renew a production licence.
- (2) The request must include the aggrieved person's reasons for requesting the review.
- (3) The aggrieved person must lodge the request with the Minister not later than 14 days after the date on which the aggrieved person was served with the notice of the determination.

57AC Appointment of panel to conduct review

- (1) The Minister must appoint in writing a panel of 2 or more persons to conduct a review of a determination.
- (2) The Minister may appoint to the panel the Chief Executive Officer of the Agency administering this Act.
- (3) If the determination was made by a delegate of the Minister, the Minister must not appoint the delegate to the panel.

57AD Review procedure

- (1) The panel must review the determination on its merits.
- (2) Subject to subsection (3), the procedures for conducting the review are to be decided by the panel.
- (3) If 2 or more requests for reviews are made in relation to determinations of competing applications, the reviews of those determinations must be conducted together.
- (4) The panel may inform itself about the determination in any manner it considers appropriate, including by written or oral submissions.
- (5) The Minister must provide the panel with all information relevant to the determination.
- (6) No person is entitled to legal representation when appearing before the panel.
- (7) The aggrieved person must bear the person's costs in connection with the review irrespective of the outcome of the review.

57AE Decision following review

- (1) A panel must, within 28 days after the date of lodgment of a request for a review of a determination, decide the review and give the Minister a written recommendation.
- (2) If 2 or more requests for reviews are made in relation to determinations of competing applications, the combined review of all those determinations is to be decided within 28 days of the lodgment of the latest of those requests.
- (3) The panel must make one of the following recommendations, stating the reasons for the recommendation:
 - (a) that the Minister confirm the determination;

- (b) that the Minister revoke the determination and substitute the panel's decision as specified in the recommendation.
- (4) Within 7 days of receiving the panel's recommendation, the Minister must:
 - (a) decide whether to accept or reject the recommendation; and
 - (b) give notice of the Minister's decision to the aggrieved person and all other persons affected by the decision, stating the reasons for the decision.

Part IIA Prescribed petroleum acts above highwater mark or for infrastructure facilities

57B Prescribed petroleum acts

- (1) For the purposes of this Act, subject to subsection (2), the following acts are prescribed petroleum acts:
 - (a) the grant, renewal or variation of an exploration permit under Division 2 of Part II;
 - (b) the grant, renewal or variation of a retention licence under Division 3 of Part II;
 - (c) the grant, renewal or variation of a production licence under Division 4 of Part II;
 - (d) the grant, renewal or variation of an access authority under Division 5 of Part II;
 - (e) the variation of the area of a licence under section 69.
- (2) A variation, renewal, re-grant, re-making or extension of term to which, by virtue of section 26D(1) of the Native Title Act, Subdivision P of Division 3 of Part 2 of that Act does not apply is not a prescribed petroleum act.
- (3) Where a determination is in force under section 26A of the Native Title Act in respect of a prescribed petroleum act, the Minister may, by notice in the *Gazette*, declare that this Part does not apply in relation to that prescribed petroleum act and the declaration has effect according to its tenor.

57C Application

- (1) Subject to subsections (1A), (1C) and (1D), this Part applies in relation to a prescribed petroleum act that affects native title rights and interests:
- (a) where it is an act to which the consequences of section 24MD(6B) of the Native Title Act apply; or
 - (b) where:
 - (i) the act:
 - (A) is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act would have otherwise applied; and
 - (B) relates, to any extent, to an area of land that is an alternative provision area; and
 - (ii) there is a determination in force under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act.
- (1A) Where, in relation to a prescribed petroleum act:
- (a) this Part would, but for this subsection, apply because the act is to be done in part on an onshore place on the landward side of the mean highwater mark of the sea; and
 - (b) Part IIB would, but for this subsection, apply because the act is to be done in part on an onshore place on the seaward side of the mean highwater mark of the sea,
- the prescribed petroleum act is to be taken to consist of 2 separate acts as follows:
- (c) a prescribed petroleum act on the landward side of the mean highwater mark of the sea;
 - (d) a prescribed petroleum act on the seaward side of the mean highwater mark of the sea.
- (1B) A prescribed petroleum act referred to in subsection (1A)(d) may be done at the same time as a prescribed petroleum act referred to in subsection (1A)(c) but, before any activity is undertaken in the area to which the prescribed petroleum act referred to in subsection (1A)(d) relates, the procedures under Part IIB must have been complied with.

- (1C) This Part does not apply in relation to a prescribed petroleum act that affects native title rights and interests and relates to an alternative provision area if, in respect of the act, a notice under section 29 of the Native Title Act is given on or after 30 September 1998 but before a determination under section 43A(1)(b) of that Act in respect of the relevant provisions of this Act comes into force.
- (1D) Subject to Subdivision P of Division 3 of Part 2 of the Native Title Act, the Minister may do a prescribed petroleum act to which, by virtue of subsection (1C), this Part does not apply after having complied with the procedures in that Subdivision.
- (2) Subject to subsections (3) and (5), the requirements of this Part are in addition to and not in derogation of the other requirements under this Act.
- (3) In the event of an inconsistency between this Part and another provision of this Act, this Part prevails.
- (4) For the purposes of subsection (3), this Part is consistent with another provision of this Act if it is capable of operating concurrently with that other provision.

57D Act valid if procedures complied with

An act to which this Part applies is only valid to the extent that it affects native title if in relation to the doing of the act the procedures of this Part are complied with, and it is invalid if they are not.

57DA Prescribed petroleum acts covering both alternative provision area and other area

- (1) Where, in relation to a prescribed petroleum act:
- (a) this Part applies because the act is to be done in part in an alternative provision area; and
- (b) Subdivision P of Division 3 of Part 2 of the Native Title Act applies because the act is to be done in part in an area that is not an alternative provision area (in this subsection called **the other area**),
- then:
- (c) the prescribed petroleum act is to be taken to consist of 2 separate acts as follows:
- (i) a prescribed petroleum act in the alternative provision area;

- (ii) a prescribed petroleum act in the other area; and
 - (d) the prescribed petroleum act referred to in paragraph (c)(ii) may be done at the same time as the prescribed petroleum act referred to in paragraph (c)(i) but, before any activity is undertaken in the area to which the prescribed petroleum act referred to in paragraph (c)(ii) relates, the procedures under Subdivision P of Division 3 of Part 2 of the Native Title Act must have been complied with.
- (2) If:
- (a) a prescribed petroleum act is done in an area that, at the time the act is done, appears to be an alternative provision area (in this subsection called ***the inadvertent act***); and
 - (b) after the inadvertent act is done, it becomes apparent:
 - (i) that the act was done in part in an area that is not an alternative provision area (in this subsection called ***the other area***);
 - (ii) that the act should have consisted of 2 separate acts as described in subsection (1)(c)(i) and (ii) to which this Part and Subdivision P of Division 3 of Part 2 of the Native Title Act, respectively, should have been applied; and
 - (iii) that, therefore, the act is invalid in so far as the other area is concerned,

then:

- (c) the invalidity does not affect the inadvertent act in so far as the alternative provision area is concerned; and
- (d) the inadvertent act has effect as if it had been done only in relation to the alternative provision area.

57E Form of application

In addition to any other requirements of this Act relating to the form of an application, an application for a prescribed petroleum act is to contain:

- (a) a list of registered native title claimants (if any) in relation to any of the affected land;
- (b) a list of registered native title bodies corporate (if any) in relation to any of the affected land; and

- (c) the name or names of the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land.

57F Notification of native title holders etc.

- (1) Within 14 days after the notification event or within the further time allowed in writing by the Minister:
 - (a) if the prescribed petroleum act is an act to which section 24MD(6B) of the Native Title Act applies – the Minister must serve written notice of the making of the application on the persons referred to in section 57E(a), (b) and (c) and on the Native Title Registrar; or
 - (b) if the prescribed petroleum act is an act to which section 57C(1)(b) refers – the applicant must serve written notice of the making of the application on the persons referred to in section 57E(a), (b) and (c) and on the Native Title Registrar.
- (2) Within 14 days after the applicant serves notice in writing of the application under subsection (1)(b) or within the further time allowed in writing by the Minister, the applicant must provide the Minister with the evidence of service of the notice and the method of service that the Minister requires.
- (3) A notice under subsection (1) is to contain the prescribed information and a statement to the effect that:
 - (a) registered native title claimants and registered native title bodies corporate in relation to any of the affected land may lodge, in writing with the Minister within 2 months after the date specified in the notice (being 21 days after the notification event) or, in the case of a person to whom subsection (6) applies, within the further time allowed under that subsection:
 - (i) if the prescribed petroleum act is an act to which section 24MD(6B) of the Native Title Act applies – an objection to the prescribed petroleum act so far as it affects their registered native title rights and interests; or
 - (ii) if the prescribed petroleum act is an act to which section 57C(1)(b) refers – an objection to the prescribed petroleum act so far as it affects their registered native title rights and interests;

- (b) an objection to the prescribed petroleum act so far as it affects registered native title rights and interests is to contain particulars of the effect that the doing of the act would be likely to have on those registered native title rights and interests.
- (3A) An objection may be lodged in accordance with the statement referred to in subsection (3) and, if lodged, is to be lodged in duplicate.
- (3B) Other than where Part IIB applies, if an objection lodged under subsection (3A) or section 19(1) is a native title objection to:
- (a) a prescribed petroleum act to which section 24MD(6B) of the Native Title Act applies; or
 - (b) a prescribed petroleum act to which section 57C(1)(b) of this Act refers,
- this Part applies in relation to the objection.
- (4) A notice under subsection (1) may relate to more than one prescribed petroleum act.
- (5) An objection may be lodged under subsection (3A) in relation to all of the prescribed petroleum acts specified in a notice under subsection (1) together or one or more of those acts separately.
- (6) If, within 3 months after the date specified in the notice served on the representative Aboriginal/Torres Strait Islander body or bodies under subsection (1) (being 21 days after the notification event), a person (other than a person served under subsection (1)) advises the Minister in writing that the person has made an application to the Federal Court for a determination of native title in respect of any of the affected land, the person may, within 4 months after the date so specified, lodge an objection to the prescribed petroleum act.
- (6A) An objection lodged under subsection (6) is to be taken not to have been lodged if, by the end of 4 months from the date so specified in the notice served on the representative Aboriginal/Torres Strait Islander body or bodies under subsection (1), the Native Title Registrar:
- (a) has not accepted the claim for registration; or
 - (b) has not yet decided whether or not to accept the claim for registration.

(7) In this section:

notification event means the lodgement of the application for the prescribed petroleum act.

prescribed information means:

- (a) the name of the applicant for the prescribed petroleum act;
- (b) the prescribed petroleum act applied for;
- (c) if relevant – the period in respect of which the relevant petroleum interest is sought;
- (d) either:
 - (i) a description of the land in respect of which the application is made sufficient to enable an interested person to determine its location; or
 - (ii) a map that indicates that land by reference to the boundaries of existing landholdings or geographical features;
- (da) a program of proposed works to be engaged in on the land under the relevant petroleum interest, including a description of how those works are to be carried out; and
- (e) the information (if any) prescribed by the regulations.

57G Response to objections

- (1) As soon as practicable after a native title objection is lodged, the Minister must advise the applicant for the prescribed petroleum act in writing of the objection and give the applicant a copy of the objection.
- (2) Within 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 19 or 57F) to lodge a native title objection to the prescribed petroleum act, an applicant must, by notice in writing, invite the registered native title claimant or registered native title body corporate who lodged the objection to consult with the applicant in accordance with section 57H(1).

- (3) The regulations may make provision in relation to the procedures to be observed during consultation under subsection (2), including in relation to:
- (a) meetings (whether scheduled by the applicant or the Minister under section 57K) for the purposes of section 57H;
 - (b) mediation under section 57H(4); and
 - (c) the costs relating to the holding of those meetings or the conduct of that mediation.

57GA Agreement is anticipated and strongly encouraged

It is anticipated that the parties concerned will only have recourse to the provisions of this Act relating to the procedure for dealing with native title objections or determining compensation payable for the effect of a prescribed petroleum act on native title if they are unable to resolve those objections by agreement or to reach an agreement about that compensation, and the parties concerned are strongly encouraged to resolve objections by agreement and to reach agreement about compensation; it being noted that the parties may enter into one or more agreements relating to the resolution of objections, compensation or both and that agreement may be reached, in the case of objections, at any time before the Minister decides to do the prescribed petroleum act and, in the case of compensation, at any time before compensation is paid and, in either case, as a result of discussions held at any time and whether as part of the consultations under section 57H or otherwise than under this Act.

57H Consultation and mediation

- (1) An applicant for a prescribed petroleum act must consult with any registered native title claimants or registered native title bodies corporate who lodge a native title objection about ways of minimising:
- (a) the impact of the prescribed petroleum act; and
 - (b) if the prescribed petroleum act will entitle the applicant to a production licence (whether that entitlement is subject to conditions or otherwise) – the impact of the grant of the production licence, on registered native title rights and interests in relation to the affected land,

including:

- (c) if the prescribed petroleum act is an act to which section 24MD(6B) of the Native Title Act applies and it is

relevant to do so – about any access to that land or the way in which anything authorised by the prescribed petroleum act or the grant of the licence might be done; or

- (d) if the prescribed petroleum act is an act to which section 57C(1)(b) refers – about any access to that land or the way in which anything authorised by the prescribed petroleum act or the grant of the licence might be done,

in this section called ***impact minimisation***.

- (2) For the purposes of subsection (1), consultation is to take place over a period of 3 months commencing at the end of 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 19 or 57F) to lodge a native title objection to the prescribed petroleum act.
- (4) If the prescribed petroleum act is an act to which section 57C(1)(b) refers, subject to section 57J, either the applicant or the claimant or body corporate may, after inquiring in writing of the other party as to that party's attitude towards mediation, refer the matter of impact minimisation to mediation at any time within the consultation period referred to in subsection (2).
- (5) For the purposes of subsection (4):
- (a) the parties may agree on the appointment of a mediator; or
- (b) if the parties cannot agree on the mediator – either party may apply to the Tribunal for the appointment of a mediator under section 36 of the *Lands, Planning and Mining Tribunal Act*.
- (6) Nothing in this section is to be taken to prevent the parties from commencing consultations before the period referred to in subsection (2) commences.
- (7) The parties are encouraged to consult with a view to resolving objections and nothing in this section is to be taken to prevent the parties from doing so.

57J Application to Tribunal

At any time after:

- (a) the end of the consultation period referred to in section 57H(2); or
- (b) if a matter was referred to mediation under section 57H(4) and the parties have agreed to the mediation being conducted or

continuing to be conducted during a further period of 30 days after the relevant consultation period referred to in section 57H(2) – the end of that further period,

either the applicant for the prescribed petroleum act or the registered native title claimant or registered native title body corporate objecting to the prescribed petroleum act may apply to the Tribunal to have the objection to the prescribed petroleum act heard.

57K Inquiry by Minister

After half of the consultation period referred to in section 57H(2) has expired, the Minister may inquire of the parties to the consultations for the prescribed petroleum act as to the progress of the consultations and if:

- (a) the matter has not been referred to mediation under section 57H(4); and
- (b) the Minister is not satisfied that sufficient progress has been made,

the Minister may direct the parties to attend a meeting or meetings scheduled by the Minister.

57KA Referral of objections to Tribunal by Minister

- (1) At any time after the end of 30 days after the consultation period referred to in section 57H(2):
 - (a) if a native title objection to the prescribed petroleum act has not been resolved; and
 - (b) whether or not the matter has been referred to mediation under section 57H(4),

the Minister may, in the prescribed form accompanied by the prescribed documents, refer the objection to the Tribunal for hearing.

- (2) In deciding whether to exercise his or her discretion under subsection (1), without limiting the relevant matters that the Minister may take into account, the Minister must inquire of the parties as to the progress of the consultations or mediation (as the case may be) and must take the responses received (if any) into account.

57KB Criteria for making recommendation

- (1) In making a recommendation in relation to a prescribed petroleum act, the Tribunal must take into account all matters that the Tribunal considers relevant, including:
 - (a) all objections in relation to the effect that the prescribed petroleum act will have or is likely to have on registered native title rights and interests that were referred to the Tribunal and all submissions made to the Tribunal about those objections, which may include objections and submissions about those objections as to the effect of the act on any of the following:
 - (i) the enjoyment by the native title claim group of those registered native title rights and interests;
 - (ii) the way of life, culture and traditions of the native title claim group;
 - (iii) the development of the social, cultural and economic structures of the native title claim group;
 - (iv) the freedom of access by the native title claim group to the land or waters concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land or waters in accordance with their traditions;
 - (v) any area or site, on the land or waters concerned, of particular significance to the native title claim group in accordance with their traditions;
 - (b) ways of minimising the impact of the prescribed petroleum act on registered native title rights and interests, including in relation to:
 - (i) access to the land or waters on which it is proposed to do the act; and
 - (ii) ways in which the act might be done;
 - (c) the economic or other significance of the prescribed petroleum act to the Territory and to the region in which the land or waters on which it is proposed to do the act are located, including the Aboriginal peoples who live in that region; and
 - (d) the public interest in the doing of the prescribed petroleum act.

- (2) Before making a recommendation in relation to a prescribed petroleum act:
 - (a) the Tribunal must inquire of the parties to the proceeding whether there are any issues relevant to its recommendation in relation to which the parties have reached agreement; and
 - (b) if such an agreement has been reached and the parties consent to the Tribunal doing so, the Tribunal must (if relevant) take the agreement into account.
- (3) In subsection (1)(a), ***native title claim group***, in relation to registered native title rights and interests, means:
 - (a) the registered native title claimants and the persons on whose behalf the claim in respect of those native title rights and interests is made; or
 - (b) the persons in respect of whom there is an approved determination of native title to the effect that those persons hold native title, including the members of a registered native title body corporate.

57L Compliance with recommendations of Tribunal

- (1) Where, in relation to a prescribed petroleum act, the Tribunal recommends that the prescribed petroleum act must not be done, the Minister must comply with the recommendation unless the conditions specified in subsection (1B) are satisfied.
- (1A) Where, in relation to a prescribed petroleum act:
 - (a) the Tribunal recommends that the prescribed petroleum act may be done, whether or not subject to specified conditions; and
 - (b) the Minister wishes to do the act,the Minister must comply with the recommendation unless the conditions specified in subsection (1B) are satisfied.
- (1B) The Minister must comply with a recommendation of the Tribunal referred to in subsection (1) or (1A) unless:
 - (a) the Minister has consulted with the Minister responsible for indigenous affairs (being the Minister to whom responsibility for Aboriginal development is allotted under an Administrative Arrangements Order) about the proposal by the Minister to reject or accept the recommendation and any proposal to reject, vary, substitute or add to the conditions in the

recommendation;

- (b) the Minister has taken that consultation into account; and
- (c) it is in the interests of the Territory not to comply with the recommendation.

(1C) Prior to consultations under subsection (1B)(a):

- (a) the Minister must ensure that the submissions (if any) made to the Tribunal by the registered native title claimant or registered native title body corporate objecting to the doing of the prescribed petroleum act, the Tribunal's recommendation and the Tribunal's reasons for making the recommendation are provided to the Minister responsible for indigenous affairs; and
- (b) the Minister responsible for indigenous affairs must ensure that he or she is aware of the content of the submissions, recommendation and reasons.

(2) Where:

- (a) the Minister has complied with subsections (1B)(a) and (b) and (1C); and
- (b) subsection (1B)(c) applies,

the Minister may:

- (c) reject the recommendation that the prescribed petroleum act must not be done and determine to do the act subject to the conditions (if any) imposed by the Minister;
- (d) accept the recommendation that the prescribed petroleum act may be done and:
 - (i) reject any of the conditions in the recommendation, with or without imposing his or her own conditions;
 - (ii) vary any of the conditions in the recommendation;
 - (iii) substitute his or her own conditions for any of the conditions in the recommendation; or
 - (iv) add his or her own conditions to the recommendation, and, subject to this Act, do the prescribed petroleum act accordingly.

(2A) Within 28 days after being notified under section 70A of the decision to do a prescribed petroleum act that is in accordance with

a decision of the Minister of a kind referred to in subsection (2)(c) or (d), any of the following persons may in writing request the Minister for reasons for that decision:

- (a) a registered native title claimant or registered native title body corporate who lodged a native title objection;
- (b) a registered native title body corporate that is registered on the National Native Title Register maintained under the Native Title Act and holds native title on trust for a person who lodged a native title objection in his or her capacity as a registered native title claimant;
- (c) a person who lodged a native title objection in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made;
- (d) a person who under section 66B of the Native Title Act replaced a registered native title claimant who lodged a native title objection,

unless the objection was subsequently withdrawn.

- (2B) Within 28 days after receiving a request in accordance with subsection (2A), the Minister must provide written reasons for the decision to the person who requested them.
- (2C) Nothing in this section is to be taken to affect the Minister's discretion to decide not to do a prescribed petroleum act, including where that discretion is exercised as a result of consultations with the Minister responsible for indigenous affairs.
- (3) In subsection (1), ***in the interests of the Territory*** includes:
 - (a) for the social or economic benefit of the Territory (including of Aboriginal peoples and Torres Strait Islanders); and
 - (b) in the interests of the relevant region or locality in the Territory.

57M Judicial review

- (1) A person aggrieved by a decision of the Minister under this Act to do a prescribed petroleum act that affects registered native title rights and interests may apply to the Supreme Court for judicial review of the decision.
- (2) On receipt of an application under subsection (1), the Supreme Court may review the Minister's decision.

- (2A) To avoid doubt, judicial review under subsection (2) does not extend to a review of the decision on its merits.
- (2B) Where the decision being reviewed complies in whole or in part with a recommendation of the Tribunal, the recommendation, that part of the decision of the Tribunal to make the recommendation and the Tribunal's reasons for that part of its decision are all to be taken to form part of both the decision being reviewed and the record of the decision being reviewed.
- (2C) Where in pursuance of section 57L(2B) the Minister has provided reasons for the decision being reviewed, those reasons are to be taken to form part of both that decision and the record of that decision.
- (3) In this section, ***person aggrieved*** means any of the following persons whose registered native title rights and interests are affected by the prescribed petroleum act:
- (a) a registered native title claimant or registered native title body corporate who lodged a native title objection;
 - (b) a registered native title body corporate that is registered on the National Native Title Register maintained under the Native Title Act and holds native title on trust for a person who lodged a native title objection in his or her capacity as a registered native title claimant;
 - (c) a person who lodged a native title objection in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made;
 - (d) a person who under section 66B of the Native Title Act replaced a registered native title claimant who lodged a native title objection,

unless the objection was subsequently withdrawn.

57N Procedure if no objections lodged, objections withdrawn, etc.

- (1) A native title objection may be withdrawn at any time by notice in writing given to the Minister, whether by agreement or otherwise.
- (2) If:
- (a) at the end of the last day on which any registered native title claimant or registered native title body corporate is entitled (whether under section 19 or 57F) to lodge a native title

objection to a prescribed petroleum act, no such objections have been lodged; or

- (b) after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 19 or 57F) to lodge a native title objection to a prescribed petroleum act but immediately before the determination that the prescribed petroleum act is to be done, in respect of each native title objection lodged, either:
 - (i) the objection has been withdrawn; or
 - (ii) if the objection was lodged by a registered native title claimant – the claimant has been removed from the Register of Native Title Claims for a reason other than because either an approved determination of native title that the claimant holds native title in the affected land has been made or the claimant has been replaced under section 66B of the Native Title Act,

the Minister may proceed to determine the application for the prescribed petroleum act.

- (3) If the circumstances in subsection (2)(b)(i) or (ii) occur in relation to a prescribed petroleum act after the Tribunal has made a recommendation in relation to that act, section 57L does not apply and the Minister may proceed to determine the application for the prescribed petroleum act.
- (4) Where a native title objection was not lodged, or is withdrawn, because the parties have reached an agreement:
 - (a) the parties may advise the Minister that they have reached an agreement and what the terms of that agreement are; and
 - (b) if so advised, the Minister:
 - (i) must take into account any terms of the agreement about minimising the impact of the prescribed petroleum act on registered native title rights and interests; and
 - (ii) may take into account any other terms of the agreement, when making a decision whether or not to do the prescribed petroleum act and, if he or she decides to do the act, when making a decision as to the conditions to which the doing of the act is to be subject.

57NA Consultations may continue

Nothing in this Part is to be taken to affect the ability of the parties to continue efforts to resolve an objection to a prescribed petroleum act until such time as the Minister decides whether or not to do the act, including while the objection is before the Tribunal.

57P Compensation

- (1) Compensation for the effect of a prescribed petroleum act on native title:
 - (a) is payable to the native title holder by the holder of the petroleum interest to which the prescribed petroleum act relates; and
 - (b) includes compensation for the effect on native title of activities done under that petroleum interest as a result of the prescribed petroleum act.
- (2) A person who intends to claim compensation under this section for the effect of a prescribed petroleum act on their native title rights and interests must lodge the claim in writing with the holder of the relevant petroleum interest within 3 years after the prescribed petroleum act is done or within the further time the Tribunal allows.
- (2A) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (3) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
- (4) In the event of a dispute about compensation payable under subsection (1):
 - (a) the holder of the relevant petroleum interest; or
 - (b) the person to whom compensation is payable, being:
 - (i) the registered native title body corporate; or
 - (ii) if there is an approved determination of native title that a person holds native title in the affected land but there has been no determination under either section 56 or sections 56 and 57 of the Native Title Act – that person,

may refer the dispute to the Tribunal.

- (5) To avoid doubt:
- (a) compensation is payable to a person under subsection (1); and
 - (b) a claim for compensation may be made by a person under subsection (2),

whether or not the person lodged a native title objection.

- (5A) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.
- (6) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.

Part IIB Acts below highwater mark

57R Interpretation

In this Part, a reference to an act below highwater mark is to be read as a reference to an act to which this Part applies by virtue of section 57S.

57S Application

- (1) Subject to subsection (2), this Part applies in relation to:
- (a) the notification of an application for, and the consideration of objections to and comments on, the grant of an exploration permit; and
 - (b) compensation for the grant, renewal and variation of a petroleum interest,

on an onshore place on the seaward side of the mean highwater mark, other than an act of the type referred to in section 57C(1)(a).

- (2) Any requirement of this Part relating to the service of a notice on a representative Aboriginal/Torres Strait Islander body does not apply if the act is not a future act.

- (3) Where the grant, renewal or variation of a petroleum interest is an act of the type referred to in section 57C(1)(a), Part IIA applies.
- (4) Where there is an existing petroleum interest (in this subsection called ***the earlier right***) and that interest is renewed, re-granted, re-made or extended (in this subsection called ***the new right***) and:
 - (a) under the new right the area to which the earlier right related is not extended;
 - (b) the term of the new right is not longer than the term of the earlier right; and
 - (c) no rights are created in connection with the new right that were not created in connection with the earlier right,

the procedures under this Part in respect of the notification of applications and the consideration of objections and comments do not apply in relation to the renewal, re-grant, re-making or extension.

57T Notification of application for exploration permit

- (1) An applicant for an act below highwater mark must, within 14 days after lodging the application or the further time that the Minister in writing allows, serve written notice of the making of the application on:
 - (a) the registered native title claimants (if any) in relation to any of the affected land;
 - (b) the registered native title bodies corporate (if any) in relation to any of the affected land; and
 - (c) the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land.
- (2) Within 14 days after the applicant serves notice under subsection (1) or within the further time allowed in writing by the Minister, the applicant must provide the Minister with the evidence of service of the notice and the method of service that the Minister requires.
- (2A) As soon as practicable after an application for the grant of an exploration permit has been lodged, the Minister must:
 - (a) cause to be published in the *Gazette*; and

- (b) cause to be published, at the expense of the applicant, in a newspaper circulating in the part of the Territory in which the application area is situated or in such other publication as the Minister thinks fit,
- notice of the making of the application.
- (3) A notice under subsection (1) or (2A) is to contain the prescribed information and a statement to the effect that:
- (a) a person who has an estate or interest in land comprised in, or land contiguous with land comprised in, an application area may, within 2 months after the date of publication of the notice or the further time allowed in writing by the Minister, lodge in writing with the Minister an objection to the grant;
 - (b) registered native title claimants and registered native title bodies corporate in relation to any of the affected land may, within 2 months after being served with the notice or within the further time allowed in writing by the Minister, lodge in writing with the Minister objections to the grant; and
 - (c) if there are no such registered native title claimants or registered native title bodies corporate in relation to any of the affected land, the representative Aboriginal/Torres Strait Islander body in relation to any of the affected land may, within 2 months after being served with the notice or within the further time allowed in writing by the Minister, lodge in writing with the Minister comments on the grant.
- (4) Objections and comments may be lodged in response to a notice served under subsection (1) or published under subsection (2A) in accordance with the statement referred to in subsection (3).
- (5) A notice under subsection (1) or (2A) may relate to the grant of one or more exploration permits.
- (5A) An objection or comment may be lodged under subsection (4) in relation to the grant of all of the exploration permits specified in a notice under subsection (1) or (2A) together or the grant of one or more of those permits separately.
- (6) In subsection (3), **prescribed information** means:
- (a) the name of the applicant;
 - (b) the period in respect of which the exploration permit is sought;

- (d) either:
 - (i) a description of the land in respect of which the application is made sufficient to enable an interested person to identify its location; or
 - (ii) a map that indicates that land by reference to the boundaries of existing landholdings or geographical features; and
- (e) the information (if any) prescribed by the Regulations.

57U Minister to have regard to objections and comments

The Minister must not grant an exploration permit below highwater mark unless the Minister has taken into account the objections and comments (if any) lodged under section 57T(4).

57V Compensation

- (1) Compensation for the effect of an act below highwater mark is payable by the holder of the relevant petroleum interest to:
 - (a) the owner or occupier of land comprised in the petroleum interest for the loss or damage in respect of that person's interest in the land because of the act; and
 - (b) any native title holder for the effect of the act on the holder's native title rights and interests in the land comprised in the petroleum interest.
- (2) A person who intends to claim compensation under this section must lodge the claim in writing with the holder of the relevant petroleum interest within 3 years after the act below highwater mark is done or within the further time the Tribunal allows.
- (3) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (4) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.

- (5) In the event of a dispute about compensation payable under subsection (1), the holder of the petroleum interest or the owner or occupier or registered native title body corporate to whom compensation may be payable may refer the dispute to the Tribunal.
- (6) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.
- (7) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.

Part III General provisions relating to exploration permits and licences

Division 1 Rights and duties of permittee or licensee

58 General conditions

An exploration permit or licence granted under this Act is subject to the conditions that the permittee or licensee shall:

- (a) comply with such provisions of this Act as are in force from time to time relating to the payment of annual fees and royalties;
- (b) conduct all operations in relation to the exploration permit or licence area, with reasonable diligence, in particular in accordance with:
 - (i) good oilfield practice; and
 - (ii) the approved technical works programme;
- (c) carry out the technical works programme and other activities in relation to the exploration permit or licence area in such a way as to cause as little disturbance as practicable to the environment and comply with such directions, if any, as the Minister, from time to time, gives for minimizing that disturbance, or restoring or rehabilitating the disturbed surface area, of the land;
- (d) not allow the escape or release from the exploration permit or licence area of any petroleum except in the interest of safety

or in accordance with good oilfield practice or the provisions of the relevant technical works programme, without the approval of the Minister but may allow the release or removal of such quantities of petroleum as is reasonably required for the purpose of sampling and testing;

- (e) conduct the technical works programme and other activities in relation to the exploration permit or licence area in such a way as to not interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs or energy pipelines or tailing pipelines or storage containers situated within the permit or licence area except in accordance with the approval of the Minister;
- (f) comply with lawful directions, if any, of the Minister in relation to the protection of the environment in or upon the exploration permit or licence area or adjacent areas which are or may be affected by his operations;
- (g) not erect a permanent structure or facility within the exploration permit or licence area unless the erection of the structure or facility has been approved;
- (h) where his or her exploration permit or licence area is wholly or partly comprised of Aboriginal land, inform his employees, agents and contractors working within the permit or licence area of:
 - (i) the relevant provisions of the *Land Rights Act* and other Acts relating to conduct upon Aboriginal land; and
 - (ii) the principal provisions of any agreement relevant to the activities of his agents, contractors and employees he has reached with the relevant Land Council in relation to the permit or licence area; and
- (j) conduct his operations and activities in relation to the exploration permit or licence area in such a way as to not interfere with the lawful rights or activities of any other person.

58A Where acts may be done subject to conditions

- (1) Where under this Act an act may be done in relation to land in respect of which native title rights and interests exist or may exist subject to conditions relating to those rights and interests being complied with by the parties, the conditions have effect and may be enforced as if they were terms of a contract among the parties.

- (2) If a person lodges a native title objection to the doing of the act, any other person in the native title claim group concerned is taken to be a party for the purposes of subsection (1).

59 Annual reports

- (1) Subject to section 62(2), a permittee or licensee shall, within 28 days after the expiration of each period of 12 months, or other longer approved period, of the permittee's exploration permit or the licensee's licence (as the case requires), lodge with the Minister a comprehensive report in a form satisfactory to the Minister on the exploration and other activities within the exploration permit or licence area during that period.
- (2) A report under subsection (1) shall include all:
- (a) geological, geochemical and geophysical survey reports;
 - (b) drilling and other work reports; and
 - (c) data, maps, logs and records in support of, or necessary to interpret, reports referred to in paragraphs (a) and (b),

which are completed or have become available in relation to the exploration and other activities of the permittee or licensee.

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

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

60 Core samples to be lodged

- (1) As soon as practicable after he recovers a drill core or cutting or a sample from an exploration permit or licence area, the permittee or licensee shall, by notice, inform the Minister that the core or cutting or the sample has been recovered and identify, to the satisfaction of the Minister, the place in the permit or licence area from which the core or cutting or the sample was taken.
- (2) A drill core or cutting or a sample referred to in subsection (1) shall not be disposed of by the permittee or licensee except in an approved manner.
- (3) The Minister may, by notice served on a permittee or licensee, direct the permittee or licensee to lodge with the Minister a drill core or cutting or a sample from the exploration permit or licence area.
- (4) A permittee or licensee shall comply with a direction under subsection (3).

61 Release of information

- (1) The Minister may, at any time, make available to another Minister:
- (a) information contained in a document to which this section applies that has been lodged with the Minister; and
 - (b) drill cores or cuttings recovered or samples taken from a block, or samples of petroleum recovered from a block, that have been received by the Minister.
- (2) The Minister may, at any time after the grant or renewal of, or the refusal to grant or renew, an exploration permit, licence or access authority:
- (a) make publicly known; or
 - (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person, information contained in or accompanying the application for the grant or renewal, but not including:
 - (c) information of a kind referred to in subsection (3) or (7); or
 - (d) particulars of:
 - (i) the technical qualifications of the applicant and employees of the applicant;
 - (ii) the technical advice available to the applicant; or
 - (iii) the financial resources available to the applicant.
- (3) The Minister may, at any time after the relevant day specified in subsection (5):
- (a) make publicly known; or
 - (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person, information contained in a document to which this section applies that has been received by 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 from or an opinion based on, in whole or in part, any such information.

(4) The Minister or another Minister may, at any time after the relevant day specified in subsection (5):

- (a) make publicly known particulars of; or
- (b) on request by a person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit the person to inspect,

drill cores or cuttings removed or samples taken from a block, or samples of petroleum recovered from a block, that have been received by the Minister or have been made available to that other Minister under subsection (1).

(5) For the purposes of subsections (3) and (4), the relevant day is:

(a) where:

- (i) an exploration permit or retention licence is in force in respect of the block; and
- (ii) the document, core, cutting or sample was received by the Minister during the period during which the exploration permit or licence was in force in respect of the block,

the day on which the period of 2 years, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires;

(b) where:

- (i) a production licence is in force in respect of the block; and
- (ii) the document, core, cutting or sample was received by the Minister during the period during which the production licence was in force in respect of the block,

the day on which the period of 12 months, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires;

(c) where the document, core, cutting or sample was received by the Minister during a period during which an exploration permit or licence was in force in respect of the block and:

- (i) the exploration permit or licence is surrendered, cancelled or determined as to the block; or

- (ii) the exploration permit or licence expires but is not renewed in respect of the block,

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

- (d) where the document, core, cutting or sample was received by the Minister during a period during which an exploration permit or licence was not in force in respect of the block, the day determined by the Minister, being a day earlier than the day on which the period of 2 years, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires.

(6) Where:

- (a) a document, core, cutting or sample was received by the Minister during or in respect of a period during which:

- (i) an exploration permit or licence was in force; or
- (ii) an access authority was in force in respect of the block but during which an exploration permit or licence was not in force in respect of the block; and

- (b) the permittee, licensee or the holder of the access authority or, if the exploration permit, licence or access authority has ceased to be in force, the person who was the holder of the permit, licence or access authority has made publicly known:

- (i) any information contained in the document or has consented in writing to any of the information being made publicly known; or
- (ii) any particulars of the core, cutting or sample or has consented in writing to any particulars of the core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection,

the Minister or another Minister to whom that information, core, cutting or sample has been made available under subsection (1) may, at any time after the 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 any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, make that information available to that other person; or
- (d) make publicly known those particulars or, on request by any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit that other person to inspect that core, cutting or sample,

as the case may be.

- (7) Subject to subsection (12), the Minister may, at any time after the expiration of 5 years after a document to which this section applies was received by the Minister:

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person,

information contained in the document, being information that relates 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 information contained in a document to which this section applies that has been received by the Minister.

- (8) Before the Minister makes available or publicly known information under subsection (7), the Minister shall:

- (a) cause a notice to be published in the *Gazette*:
 - (i) stating that the Minister proposes to make the information available or publicly known;
 - (ii) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, 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 published in the *Gazette* to be served on the person who lodged the document containing the information.

- (9) A notice objecting to information being made available or publicly known shall set out the person's reasons for making the objection.
- (10) A person may not object to information being made available or publicly known except on the ground to do so would disclose:
- (a) a trade secret; or
 - (b) other information the disclosure of which would, or could reasonably be expected to, adversely affect the person in respect of the lawful business, commercial or financial affairs of the person.
- (11) The Minister shall, not later than 45 days after receiving a notice of objection under this section, consider the objection and may disallow it or allow it, in whole or in part, and shall cause written notice of the decision to be served on the person who made the objection.
- (12) The Minister shall not make available or make publicly known information under subsection (7) if an objection in relation to the information has been allowed under subsection (11), but nothing in this section shall be taken to preclude a further invitation being made in relation to the information under subsection (8).
- (13) Except as provided by this section or for the purposes of the administration of this Act, the Minister or another Minister to whom information or a core, cutting or sample has been made available under subsection (1) shall not:
- (a) make publicly known, or make available to any person (not being a Minister), 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) to inspect a core, cutting or sample referred to in this section.
- (14) This section applies to:
- (a) an application made to the Minister under this Act or a document accompanying such an application; and
 - (b) a report, return or other document relating to a block that has been received by the Minister under this Act.
- (15) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.

(16) 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 received by the Minister not later than 28 days 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 received by the Minister not later than one year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.

62 Project reports

- (1) The Minister may direct that a retention licensee provide a report on a specified project or activity or all projects and activities within his licence area.
- (2) Where, under subsection (1), the Minister directs a retention licensee to provide a report, he may waive the requirements for an annual report to be lodged under section 59 by the licensee in relation to the licence area.

63 Payment of first year's annual fee in respect of exploration permit or licence

If:

- (a) the Minister determines to grant or renew an exploration permit or a licence and gives notice to the applicant of the conditions on which the Minister is prepared to grant or renew the permit or licence; and
- (b) the applicant gives to the Minister the applicant's written acceptance of the conditions specified in the notice within the time specified under this Act in respect of the exploration permit or licence concerned for accepting the conditions,

the applicant must, at the same time as accepting the conditions, pay to the Minister the annual fee for the first year for each block in respect of which the permit or licence is or will be granted or renewed.

64 Discovery of petroleum to be notified

- (1) Where petroleum is discovered within an exploration permit or licence area, the permittee or licensee shall:
 - (a) as soon as possible, notify the Minister of the discovery; and
 - (b) within 3 days after the discovery, provide the Minister with particulars, in writing, 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.

- (2) Where petroleum is discovered in an exploration permit or licence area, the Minister may, by notice served on the permittee or licensee, require the permittee or licensee, to furnish him, as soon as and so far as practicable, with the particulars requested in the notice.
- (3) A permittee or licensee upon whom a notice under subsection (2) is served shall comply with the notice.

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

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

65 Access

- (1) Subject to section 82, where a person is given the right to occupy land as a permittee or licensee, he shall have, for himself, his employees, agents and contractors, a right to construct a road or carry out other work to ensure access to the exploration permit or licence area by the shortest practicable route to a road, within the meaning of the *Control of Roads Act*, a railway line, the sea or a waterway.
- (2) For the purpose of constructing a road or carrying out work to ensure access to an exploration permit or licence area, the permittee or licensee as the case may be may enter land with such machinery, equipment and workmen as is or are necessary to mark out and construct the road or carry out the work.

- (3) A person shall not, except in accordance with a law in force in the Territory, interfere with a right, given under this section, to construct a road or carry out other work.

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.

66 Exploration permit held by 2 or more persons

- (1) Where an exploration permit is granted to 2 or more persons, it is held by them:

- (a) in the shares specified in the permit document; or
(b) where the permit document does not specify such shares, in equal shares.

- (2) Where a retention licence is granted, it is to be granted in the name or names of the holder or holders of the exploration permit from which the licence derives, but where the retention licence is granted to 2 or more persons, the retention licence may at the request of the applicants be granted in shares different from those in which the permit was held.

- (3) Where a production licence is granted, it is to be granted in the name or names of the holders of the exploration permit or, where a retention licence was held, the retention licence from which the production licence derives, but when the production licence is granted to 2 or more persons, it may at the request of the applicants be granted in shares different from those in which the permit or retention licence was held.

67 Drilling and seismic surveys

- (1) A permittee, licensee or the holder of an access authority shall not commence operations for the drilling of a well or for a seismic survey unless notice in accordance with this section is given to the Minister and the Minister's approval is obtained.

- (2) A notice under subsection (1) shall:

- (a) be served on the Minister not less than 28 days before the date on which the operations are to commence or such other period as the Minister may approve; and

- (b) contain details of:
 - (i) the geographic location of the proposed well or area of the seismic survey; and
 - (ii) measures that will be put in place to protect the environment (including reclamation and conservation planning) in the location of the proposed well or area of the seismic survey.

68 Fencing

The Minister may, by notice to a permittee or licensee, require the permittee or licensee to fence his or her exploration permit or licence area in accordance with the notice.

69 Unit development

- (1) Subject to Parts IIA and IIB as applicable, where, except in relation to Aboriginal land, the Minister is satisfied that a petroleum pool extends beyond a licence area and it is desirable, for the purpose of securing economy and efficiency and of avoiding wasteful and harmful development and practices, that the petroleum pool should be worked as one unit, the Minister may:
 - (a) vary the area of the licence by including in it any block, not comprising land to which paragraph (b) applies, to which the petroleum pool extends; or
 - (b) where the petroleum pool extends into an adjacent exploration permit or licence area held by another person, require the licensee and each permittee and licensee of the adjacent areas, by notice served on each of them, to prepare and furnish to him a scheme for registration under section 96 for the working and development of the petroleum pool as one unit.
- (1A) The Minister may only vary the area of a licence under subsection (1)(a) on the application of the licensee.
- (2) Additional land included in a licence under subsection (1) shall be:
 - (a) compact and limited by well-marked permanent physical boundaries; or
 - (b) substantially in the form of a rectangle.
- (3) A notice under subsection (1)(b) shall specify the land in relation to which, and the time within which, the Minister requires the scheme to be furnished.

- (4) Where a scheme is not furnished within the time specified in a notice under subsection (1), or where the Minister does not approve the scheme furnished to him, the Minister shall prepare a scheme and supply particulars of it to each permittee and licensee to whom notice was served under subsection (1).
- (5) A permittee and licensee to whom the Minister has supplied particulars of a scheme under subsection (4) shall perform and observe all the conditions of that scheme.
- (6) A licensee may enter into an agreement in writing for and in relation to the development of a petroleum pool as a unit but such an agreement does not have any force until it is registered under section 96.
- (7) For the purposes of subsection (6), an agreement includes a variation of a scheme prepared under subsection (1) or (4).

Division 2 Actions by Minister

70 Gazettal of instruments

The Minister shall cause to be published in the *Gazette*, with such particulars as he thinks fit, notice of:

- (a) an application for an exploration permit or licence;
- (b) the granting of an exploration permit or licence;
- (c) a surrender or cancellation of an exploration permit or licence in whole or in part;
- (d) the expiration of an exploration permit or licence; and
- (e) the renewal of an exploration permit or licence.

70A Notification of conditions relating to native title

Where the Minister decides to do a prescribed petroleum act to which Part IIA applies, the Minister must give notice in writing to the registered native title claimants and registered native title bodies corporate in relation to any of the of:

- (a) the decision to do the act; and
- (b) if the act is subject to conditions relating to native title rights and interests – those conditions,

and, if the Tribunal recommended that the act may be done subject to conditions different from the conditions referred to in paragraph (b), the notice is to include a statement to the effect that there is a difference.

71 Directions by Minister

- (1) The Minister may, by notice served on a permittee or licensee, give to him directions as to any matter in relation to which regulations may be made under this Act.
- (1A) A direction under subsection (1) may apply, adopt or incorporate a standard, code or other document as in force or existing at a particular time or as in force from time to time.
- (2) A direction under subsection (1) has effect and shall be complied with notwithstanding anything in the Regulations and, to the extent to which the Regulations are inconsistent with the direction, the permittee or licensee to whom the direction is given is not obliged to comply with the Regulations.
- (3) A permittee or licensee to whom a direction under subsection (1) is given shall comply with and not contravene the direction.

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

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

72 Compliance with directions

- (1) Where a person does not comply with a direction given to him under this Act, 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 and payable to the Territory by the person to whom the direction was given.
- (3) It is a defence to a prosecution for an offence of failing to comply with a direction given to him under this Act or for the recovery of a debt under subsection (2) if the person charged or against whom the recovery action is taken, as the case may be, proves that he took all reasonable steps to comply with the direction.

Division 3 Surrender, cancellation, &c.

73 Surrender

- (1) A permittee may apply to the Minister to surrender all or part of the permittee's exploration permit area.
- (1A) A licensee may apply to the Minister to surrender all or part of the licensee's licence area.
- (1B) An application under subsection (1) or (1A) is to be accompanied by:
- (a) a report of the action that the permittee or licensee has taken, is taking and will take to restore and rehabilitate the land comprising the permit area or licence area he or she is surrendering and the areas adjacent to that land which are or may be affected by the permittee's or licensee's operations on that land; and
 - (b) a written undertaking by the permittee or licensee that the permittee or licensee will complete the restoration and rehabilitation specified in the report within the time agreed to by the Minister.
- (1C) The Minister must not accept the application for surrender unless he or she is satisfied that the report referred to in subsection (1B)(a) specifies action that will restore and rehabilitate the land being surrendered and the adjacent areas affected by the permittee's or licensee's operations on that land.
- (2) After the expiration of 2 months from the date the Minister accepts an application made under subsection (1), the Minister shall accept the surrender, provided that the permittee or licensee has complied with, at the time of application for surrender and up to the date of surrender, in the case of:
- (a) a partial surrender:
 - (i) the conditions of the exploration permit or licence;
 - (ii) the provisions of this Act;
 - (iii) the directions, if any, lawfully given by the Minister; and
 - (iv) the permittee's or licensee's undertaking referred to in subsection (1B)(b),
- in relation to the whole exploration permit or licence area and the area or areas retained by the permittee or licensee form

discrete areas comprising not less than the minimum number of blocks allowed under this Act, and the shape or shapes conform to the approved shape or shapes; or

- (b) a complete surrender:
- (i) the conditions of the exploration permit or licence;
 - (ii) the provisions of this Act;
 - (iii) the directions, if any, lawfully given by the Minister during the life of the permit or licence; and
 - (iv) the permittee's or licensee's undertaking referred to in subsection (1B)(b),

and the permittee or licensee has lodged with the Minister a statutory declaration that the permittee or licensee has discharged the permittee's or licensee's obligations, financial and otherwise, to all of the permittee's or licensee's employees, agents and contractors in relation to the permit or licence.

- (3) For the purposes of subsection (2), the Minister may:
- (a) give such directions as the Minister thinks fit which must be complied with before the Minister will accept the surrender; or
 - (b) where the Minister is satisfied that circumstances justify the acceptance of a surrender, accept a partial surrender where the retained area is not one discrete area or is less than the minimum allowable size.
- (4) Where, during a permit or licence year, the exploration permit or licence is surrendered, the permittee or licensee shall pay the annual fee for the whole of a permit or licence year regardless of the time during the year that surrender takes place and, notwithstanding another section of this Act, the permittee or licensee is not entitled to a refund of the whole or a portion of the annual fee in relation to the surrender.

74 Cancellation

- (1) As an alternative to instituting a prosecution for an offence against this Act or taking proceedings for a debt due and payable under this Act and in addition to any other penalty which may be imposed for an offence against this Act, but subject to this section, the Minister may cancel an exploration permit or licence in relation to all or any of the blocks to which the permit or licence relates, where the permittee or licensee:

- (a) has not complied with a condition of the permit or licence;
 - (b) has not complied with a provision of this Act;
 - (c) has not complied with a direction lawfully given by the Minister;
 - (d) has not paid, within 3 months after the date on which it became due, an amount payable by him under this Act; or
 - (e) has been found guilty of an offence against this Act.
- (2) Where the Minister determines to cancel an exploration permit or licence, he shall, by notice served on the permittee or licensee, inform the permittee or licensee of his intention to cancel the permit or licence.
- (3) A notice under subsection (2) shall specify:
- (a) the reason for the Minister determining to cancel the exploration permit or licence; and
 - (b) a date, being not earlier than 28 days after the date of the notice, by which the permittee or licensee may submit reasons as to why the Minister should not cancel the exploration permit or licence.
- (4) After the date referred to in subsection (3)(b), the Minister shall consider the submissions, if any, of the permittee or licensee and in his discretion cancel the exploration permit or licence or repeal his notice.
- (5) Where an exploration permit or licence is cancelled in relation to the whole or part of an exploration permit or licence area, the permittee or licensee, may not apply for an exploration permit or licence in relation to that area within 2 years after the date of the cancellation.

75 Report on ceasing to hold exploration permit or licence area

- (1) A person who:
- (a) was a permittee or licensee; or
 - (b) is a permittee or licensee and:
 - (i) his or her exploration permit or licence area has been reduced; or
 - (ii) part of his or her exploration permit or licence area has been surrendered,

under this Act, shall, within 3 months, or a longer approved period, after:

- (c) in the case of a person referred to in paragraph (a) – he ceases to hold the exploration permit or licence;
- (d) in the case of a person referred to in paragraph (b)(i) – the exploration permit or licence area has been reduced; and
- (e) in the case of a person referred to in paragraph (b)(ii) – part of the exploration permit or licence area has been surrendered,

lodge with the Minister a comprehensive report in accordance with this section on the exploration and other activities carried out on:

- (f) in the case of a person referred to in paragraph (a) – the exploration permit or licence area, as comprised from time to time, during the period of that exploration permit or licence;
- (g) in the case of a person referred to in paragraph (b)(i) – the exploration permit or licence area which has not been retained; and
- (h) in the case of a person referred to in paragraph (b)(ii) – the exploration permit or licence area which has been surrendered.

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

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

- (2) A report under subsection (1) shall be in the same form, as far as possible, as a report under section 59.

76 Well completion report

- (1) Where the drilling or boring of a well on a permit or licence area ceases or is completed, the permittee or licensee shall, within 3 months after the cessation or completion, lodge with the Minister a report.
- (2) A report under subsection (1) shall include all details of the results of drilling, including the results of all logs and coring carried out, and a description of the strata penetrated.
- (3) Subject to section 61(5)(c), a well completion report lodged under subsection (1) remains confidential for 2 years after the date on which it was lodged.

77 Removal of property on surrender, expiry or cancellation

- (1) Where an exploration permit or licence has been surrendered or cancelled, in whole or in part, or has expired, the Minister may direct the person who is, or was, the permittee or licensee:
 - (a) to remove or cause to be removed from the former exploration permit or licence area, property brought into that area by any person engaged or concerned in operations authorised by the exploration permit or licence, or to make other arrangements in relation to the property satisfactory to the Minister;
 - (b) to plug or close off all wells drilled or bored in the former exploration permit or licence area; and
 - (c) to restore the surface of the former exploration permit or licence area, where disturbed, and take measures to rehabilitate the area, to the satisfaction of the Minister.
- (2) A person shall comply with a direction under subsection (1).

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

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

78 Sale of property

- (1) Where a person fails to comply with a direction under section 77, the Minister may remove and dispose of property on the former exploration permit or licence area, in such manner as he thinks fit.
- (2) Where under subsection (1) the Minister disposes of property by sale, he may deduct from the proceeds of the sale any costs and expenses incurred by him in relation to the direction and any fees and amounts due under the Act.
- (3) No action shall lie against the Minister by a person who fails to comply with a direction under section 77, or a person claiming through him, in relation to the removal, disposal or sale of property under subsection (1).

Division 4 Securities and compensation

79 Security for compliance with Act and conditions of petroleum interest

- (1) Before granting, renewing or varying a petroleum interest, the Minister may require the applicant for the grant, renewal or variation to lodge with the Minister a security in the form, for the amount and from the person the Minister thinks fit for a purpose specified in subsection (2).
- (2) Security may be required under subsection (1) for any of the following purposes:
 - (a) to secure the applicant's compliance with this Act;
 - (b) to secure the applicant's compliance with the conditions to which the grant, renewal or variation is made.
- (3) If the Minister has, in respect of the grant, renewal or variation of a production licence, required the lodgement of a security under subsection (1), the Minister may, as often as the Minister considers appropriate during the term of the production licence:
 - (a) vary the amount of the security; and
 - (b) if in varying the amount of the security the Minister increases the amount – require payment of the additional amount of security from the person, and within the time, the Minister considers appropriate.

80 Security for compensation that may be payable to native title holders

- (1) Before granting, renewing or varying a petroleum interest, the Minister may require the applicant for the grant, renewal or variation to lodge with the Minister a security in the form, for the amount and from the person the Minister thinks fit for the purpose of securing the payment by the applicant of compensation that may be payable for the effect of the grant, renewal or variation on native title rights and interests.
- (2) Instead of lodging a security in pursuance of a requirement under subsection (1), an applicant may pay into the Trust Fund an amount that the Minister thinks sufficient to cover payment (if any) of the compensation referred to in subsection (1).

- (3) The Territory is not liable to reimburse an applicant for any amount by which a security lodged or an amount paid under this section is insufficient to meet the applicant's liability to pay the compensation referred to in subsection (1).

81 Compensation to owners

- (1) The holder of a petroleum interest must pay to:
- (aa) the owner of land comprised in the petroleum interest; and
 - (ab) any occupier of land comprised in the petroleum interest who has a registered interest in the land,

in respect of the owner's and occupier's respective interests in the land, compensation for:

- (a) deprivation of use or enjoyment of the land, including improvements on the land; and
 - (b) damage, caused by the permittee or licensee, to the land or improvements on the land.
- (2) A permittee shall not commence his exploration operations unless he has given notice to:
- (a) the owner of land comprised in the exploration permit and any occupier of the land who has a registered interest in that land of the proposed date of commencement, nature and duration of the permittee's exploration operations and served those persons with a copy of this section; and
 - (b) the Minister that he has complied with paragraph (a).

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 a permittee or licensee and a person entitled under subsection (1) to compensation are unable to agree upon an amount or other benefit, by way of compensation, to which the person is entitled, either party may refer the dispute to the Tribunal.
- (6) No person is entitled under this section to compensation based on the known or potential occurrence of petroleum in or on the land.

- (7) An agreement in relation to compensation may include compensation for work undertaken under an exploration permit, retention licence or production licence or under all exploration permits and licences held by the permittee or licensee in relation to that land.
- (8) In this section and section 82, **registered interest**, in relation to land, means an interest registered on the Register kept by the Registrar-General under Part 3 of the *Land Title Act*.

82 Compensation for right of access

- (1) Where any land over which a right to construct a road or carry out other work to ensure access to an exploration permit or licence area is injured or diminished in value as a result of the exercise of that right, the owner of the land and any occupier of the land who has a registered interest in that land are entitled to compensation from the permittee or licensee for the loss or damage in respect of the owner's and occupier's respective interests in the land.
- (2) Compensation for the effect of the construction of a road or other work carried out to ensure access to an exploration permit or licence area on native title is payable to the native title holder by the permittee or licensee.
- (3) A person who intends to claim compensation under this section must lodge the claim in writing with the holder of the relevant petroleum interest within 3 years after the act giving rise to the claim is done or within the further time the Tribunal allows.
- (4) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (3) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (5) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
- (6) In the event that an agreement about compensation payable under subsection (1) or (2) is unable to be reached, the permittee or licensee or the owner, occupier or registered native title body corporate may refer the dispute for determination to the Tribunal.

83 Conditions about compensation for effect on native title

- (1) The Minister may do a prescribed petroleum act that is a future act to which Part IIA does not apply subject to conditions relating to the payment by the holder of the petroleum interest to which the

prescribed petroleum act relates of compensation for the effect of the prescribed petroleum act on native title.

- (2) The kinds of conditions that may be imposed under subsection (1) include but are not limited to the following:
 - (a) conditions about the payment of compensation to the native title holder;
 - (b) conditions about the payment of an amount in respect of compensation into the Petroleum Trust Fund established under section 117AA;
 - (c) conditions about compensation for the effect on native title of activities done under the petroleum interest as a result of the prescribed petroleum act.

Division 5 Royalties

84 Royalties

- (1) Subject to this section, a licensee shall pay to the Minister, at the time and in the manner prescribed, a royalty at the rate of 10% upon the gross value at the wellhead of all petroleum produced from his licence area.
- (2) For the purposes of this section, the gross value of the petroleum shall be the value, from time to time, agreed upon between the Minister and the licensee, or in default of agreement within such period as the Minister allows, is such amount as determined by the Minister as being that value.
- (3) For the purposes of subsection (2):
 - (a) in agreeing or determining the gross value of petroleum, the components of oil and gas may be considered separately; and
 - (b) an agreement or determination shall not have any force unless it is in writing.
- (4) For the purposes of calculating the amount of royalty payable, petroleum shall be deemed not to have been produced in the period to which the royalty calculation relates if, during that period, that petroleum is:
 - (a) unavoidably lost or is returned to the natural reservoir;
 - (b) flared or vented in accordance with good oilfield practice; or

- (c) used by the licensee for the purposes of approved mining operations or any incidental purposes (including the heating and lighting of the dwellings of employees engaged by the licensee in connection with the work of production and the heating and lighting of buildings maintained to provide social amenities for those employees, workmen and their families).
- (5) Petroleum shall, for the purpose of calculating the amount of royalty payable, be measured by the licensee by an approved measuring device or devices installed by him at the wellhead or other approved places within his licence area.
- (6) The amount of royalty payable under a licence in relation to a year is to be reduced by the amount of the annual fee paid in relation to that licence in relation to that year.
- (7) In calculating the gross value at the well-head of petroleum for the purposes of this section, subject to subsection (8), an amount or value that affects the calculation is to be taken to be the amount or value exclusive of the amount of GST (if any) payable in relation to a supply to which that amount or value relates.
- (8) Where an amount or value that affects the calculation referred to in subsection (7) is directly attributable to an acquisition that relates to a supply that is input taxed, the amount or value is to be taken to be the amount or value inclusive of the amount of GST (if any) payable in relation to the acquisition to which that amount or value relates.
- (9) In subsections (7) and (8), **acquisition**, **GST**, **input taxed** and **supply** have the same respective meanings as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

85 Late or non-payment of royalties

- (1) Subject to section 86(3), where a licensee fails to pay royalty due under this Act or within the time allowed for payment or makes a provisional payment less than the amount eventually assessed by the Minister, he shall pay to the Minister, in addition to the amount of royalty unpaid, an amount calculated at the rate of 0.33% per day upon the amount of royalty from time to time remaining unpaid, to be computed from the time such royalty became payable until it is paid.
- (2) Where:
 - (a) a licensee makes a provisional payment as a royalty payment due under this Act and it is an amount less than the amount eventually assessed by the Minister;

- (b) the licensee satisfies the Minister that the licensee held an honest and reasonable belief that the amount of the provisional payment was the correct amount payable; and
- (c) the licensee has paid the difference between the amount of the provisional payment and the amount assessed by the Minister as payable,

the Minister may, by notice to the licensee, waive all or part of an amount otherwise payable under subsection (1).

86 Suspension etc. of annual fee or royalty

- (1) A production licensee may apply to the Minister to waive, suspend or reduce an annual fee or royalty payable in relation to his licence.
- (2) Where the Minister receives an application under subsection (1), he may, by notice to the applicant, waive, suspend or reduce an annual fee or royalty payable in relation to the licence where he considers that such a waiver, suspension or reduction in the annual fee or royalty is necessary:
 - (a) for the purpose of the promotion of the development of the licence area;
 - (b) because the production licence cannot be successfully operated under the conditions provided for in the licence;
 - (c) to encourage the greatest ultimate recovery of the petroleum from the licence area; or
 - (d) to conserve natural resources.
- (3) Where, under subsection (2), the Minister waives, suspends or reduces a royalty, the licensee is not liable for an amount otherwise payable under section 85.

Division 6 Inspectors

87 Inspectors

- (1) The Minister may, by notice, appoint a person to be an inspector for the purposes of this Act.
- (2) The Minister shall furnish to an inspector a certificate stating that he or she is an inspector for the purposes of this Act.

- (3) Where the appointment of a person under subsection (1) expires or is revoked, the person shall as soon as possible surrender to the Minister the certificate furnished to him under subsection (2).

Penalty: 20 penalty units.

88 Powers of inspectors

- (1) For the purposes of this Act, an inspector may, at all reasonable times and, if requested, on production of the certificate furnished under section 87(2) to him or her:
- (a) enter and remain in an exploration permit or licence area and for the purpose use a road or other means of access provided under section 65;
 - (b) inspect and test equipment that, in his or her opinion, has been or is being used in an area in connection with operations for petroleum exploration or operations for the recovery of petroleum or incidental to such exploration and operations; and
 - (c) require a permittee or licensee to produce or provide him or her with access to documents in the permittee's or licensee's possession or control relating to the permittee's or licensee's operations and may inspect, take extracts from and obtain copies of any of those documents.
- (2) A person who is the occupier or person in charge of a building, structure or place shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his or her powers.
- (3) Where an inspector is satisfied that there are reasonable grounds for suspecting that an offence against this Act has been, is being or is about to be committed, he or she may, without warrant, and with such assistance as he or she thinks necessary, on an exploration permit or licence area or otherwise:
- (a) seize or secure any thing which he or she believes, on reasonable grounds has been, is being or is about to be used in connection with the commission of that offence or proposed offence; and
 - (b) take such other action as is reasonably necessary to prevent the commission of an offence against this Act.
- (4) As soon as practicable after an inspector seizes a thing under subsection (3), he or she shall make a report in writing to the Minister in a form approved by the Minister.

- (5) A person shall not, without reasonable excuse, obstruct or hinder an inspector or a person assisting an inspector in the exercise of his or her powers or, being a permittee or licensee, refuse or fail to provide the documents or provide the access referred to in subsection (1)(c).

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

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

89 No action against inspector or assistants

No action or proceeding, civil or criminal, lies against an inspector, or a person assisting an inspector, for or in relation to an act or thing done in good faith and in his capacity as an inspector or a person assisting an inspector, as the case may be.

Part IIIA Occupational health and safety

Division 1 Preliminary

89A Definitions

In this Part, unless the contrary intention appears:

act includes an omission.

Court means the Work Health Court.

employer means a person by whom a worker is engaged or for whom a worker works.

improvement notice means an improvement notice issued under section 89Q.

occupier, in relation to a workplace, means a person who has the management or control of the workplace.

owner, in relation to a building, structure or plant, means a person who has right or title to, and management of, or control over, the building, structure or plant, and includes a person who is exercising such management or control as an agent of the owner.

practicable, in relation to a hazard or risk, means practicable having regard to:

- (a) its severity;
- (b) the state of knowledge about the hazard or risk and the ways

of removing or mitigating it;

- (c) the availability and suitability of ways to remove or mitigate it; and
- (d) the cost of removing or mitigating it.

prohibition notice means a prohibition notice issued under section 89R.

substance means a natural or artificial substance, whether in solid, liquid, gas or vapour form.

worker means a natural person who, under a contract or agreement of any kind (whether expressed or implied, oral or in writing or under a law of the Territory or not), performs work or a service of any kind for another person.

workplace means a place where workers work, whether or not in a building or structure:

- (a) that is:
 - (i) in a block, including a block in an adjacent area within the meaning of the *Petroleum (Submerged Lands) Act*; and
 - (ii) where operations or programmes are being carried on or works are being executed for or in connection with the exploration for, or the recovery, production or exploitation of, petroleum; or
- (b) that the Minister declares, by notice in the *Gazette*, to be a workplace for the purposes of this Part.

89B Duties of employers

- (1) An employer must, so far as is practicable:
 - (a) provide and maintain a working environment at a workplace that is safe and without risk to the health or safety of the workers working at the workplace; and

- (b) ensure that the health and safety of any other person is not adversely affected as a result of the work in which the employer or any worker is engaged.

Penalty: If the offender is a natural person – 1 000 penalty units or imprisonment for 4 years.

If the offender is a body corporate – 5 000 penalty units.

- (2) Without limiting subsection (1), an employer contravenes that subsection if he or she fails to:

- (a) provide and maintain plant and systems of work that are, so far as is practicable, safe and without risk to health;

- (b) make arrangements for ensuring, so far as is practicable, safety and absence of risk to health in connection with the use, handling, storage and transporting of plant and substances;

- (c) maintain, so far as is practicable, a workplace under his or her control and management in a condition that is safe and without risk to health;

- (d) provide the information, instruction, training and supervision to a worker that is necessary to enable the worker to perform his or her work in a manner that is safe and without risk to health;
or

- (e) ensure that visitors to a workplace under his or her control and management are aware of the safety requirements relevant to such visitors and that they abide by those requirements or remove a visitor who refuses or fails to abide by those requirements.

- (3) The Regulations may provide that a prescribed employer or a member of a prescribed class of employers must:

- (a) monitor the health of his or her workers;

- (b) keep information and records relating to the health and safety of his or her workers;

- (c) employ or engage a person who, being suitably qualified in relation to occupational health and safety, is able to provide advice to the employer in relation to the health and safety of the employer's workers;

- (d) monitor conditions likely to affect the health and safety of his

or her workers at a workplace under his or her control and management; or

(e) prepare a written health and safety policy,

or any combination of those things, and the employer must, accordingly, do that thing or those things.

(4) An employer must:

(a) subject to subsection (5), if he or she is required under subsection (3) to monitor the health of his or her workers or conditions at a workplace under his or her control and management or keep information and records relating to the health and safety of his or her workers, at all reasonable times, at the request of a worker employed by him or her, make the results of that monitoring or the information, or those records, as the case may be, available to the worker or a person authorised in writing by the worker to receive or examine them or it;

(b) at the request of a worker employed by him or her, provide the worker with a copy of the health and safety policy of the employer, if it is reduced to writing;

(c) so far as is practicable, provide such other information as a worker employed by him or her requests relating to health and safety at the worker's workplace; and

(d) so far as is practicable, consult with the relevant workers about the development of measures to promote health and safety at workplaces under his or her control and management.

(5) Nothing in subsection (4)(a) is to be taken to require or authorise an employer to make available to or on behalf of a worker information or a record relating to the health of any other worker or whereby a worker other than the worker to or on whose behalf the information or record is made available can be readily identified, except with the permission in writing of that other worker.

89C Duties of occupiers of workplaces

An occupier of a workplace must ensure, as far as is practicable, that the workplace and the means of access to and egress from it are safe and without risk to health.

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.

89D Duties of self-employed persons

A self-employed person must, so far as is practicable:

- (a) take reasonable care to ensure that his or her health or safety at a workplace; and
- (b) ensure that the health and safety of any other person at a workplace,

is not adversely affected as a result of the work in which the self-employed person is engaged.

Penalty: 400 penalty units or imprisonment for 2 years.

89E Duties of manufacturers etc.

- (1) A person who designs, manufactures, imports or supplies any plant or substance for use at a workplace must, so far as is practicable:
 - (a) ensure that the design and construction of the plant, or the characteristics of the substance, are such that a person who properly uses the plant or substance is not exposed to hazards in doing so;
 - (b) test and examine, or arrange for the testing and examination of, the plant or substance to ensure that it complies with paragraph (a); and
 - (c) ensure that adequate information in respect of:
 - (i) any danger associated with the plant or substance;
 - (ii) the specifications of the plant or substance and the data obtained at the testing of the plant or substance under paragraph (b); and

- (iii) the conditions necessary to ensure that a person properly using the plant or substance is not exposed to hazards in doing so,

is provided when the plant or substance is supplied.

- (2) A person who erects or installs plant for use at a workplace must, so far as is practicable, ensure that it is erected or installed so that a person who properly uses the plant is not subjected to any hazard that arises from, or is increased by, the way in which the plant is erected or installed.
- (3) A person who manufactures, imports or supplies a substance for use at a workplace must, so far as is practicable, ensure that adequate toxicological data in respect of the substance and such other data as is relevant to the safe use, handling, processing, storage, transportation and disposal of the substance is provided when the substance is supplied and thereafter whenever requested.

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.

89F Duties of owners

The owner of:

- (a) a building or structure at or used as a workplace, including fixtures and fittings under his or her control; or
- (b) plant used at a workplace,

must ensure, so far as is practicable, that the health and safety of any person is not adversely affected as a result of its condition or use.

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.

89G Duties of workers

- (1) A worker while at his or her workplace must take appropriate care for his or her own health and safety and for the health and safety of all persons who may be affected by his or her acts at the workplace.

Penalty: 100 penalty units.

- (2) A worker must, as far as is practicable, follow all reasonable directions given to him or her by his or her employer or his or her employer's representative in relation to his or her own and any other person's health and safety at the worker's workplace and must use relevant safety equipment when provided or made available for his or her use.

Penalty: 100 penalty units.

- (3) A worker must not:
- (a) wilfully or recklessly interfere with or misuse anything provided in the interests of health and safety in pursuance of this Act; or
 - (b) wilfully place at risk the health or safety of a person at the worker's workplace.

Penalty: 100 penalty units or imprisonment for 6 months.

89H Immediate threat

- (1) If there is an immediate risk of severe injury to a worker at a workplace and that risk is not removed by the employer, the worker may cease work in the area in which the risk is present.
- (2) During a period during which a worker has, under subsection (1), ceased work, his or her employer may assign him or her to alternative work.
- (3) A dispute between a worker and his or her employer as to whether there is an immediate risk to the worker may be referred by either party to an inspector for a ruling.
- (4) The inspector must, immediately on receiving a request for a ruling under subsection (3), investigate the matter and if the inspector is satisfied that:
- (a) the risk exists, report to the Minister who must take action appropriate under section 89R; or

- (b) there is no such risk, advise the employer and the worker accordingly and the employer may require the worker to resume forthwith his or her usual work.

89J Compliance with Regulations is compliance with this Part

If the Regulations make provision for or in relation to a duty, obligation, act, matter or thing to which this Part applies, a person who complies with the Regulations in relation to that duty, obligation, act, matter or thing is to be taken to have complied with this Part in relation to it.

89K Civil liability not affected by this Part

Nothing in this Part is to be construed as:

- (a) conferring a right of action in a civil proceeding in respect of a contravention of this Part;
- (b) conferring a defence to an action in a civil proceeding or as otherwise affecting a right of action in a civil proceeding; or
- (c) affecting the extent, if any, to which a right of action arises or a civil proceeding may be taken in respect of a breach of duty imposed by the Regulations.

Division 2 Investigations

89L Investigations

- (1) An inspector must not conduct an investigation at a workplace until he or she has taken reasonable steps to notify the employer or the employer's representative of the inspector having entered the workplace.
- (2) On concluding an investigation at a workplace an inspector must give to the employer information about his or her observations and the steps, if any, he or she proposes to take as a result of that investigation.
- (3) If an inspector proposes to take and remove a sample from a workplace for the purposes of analysis, he or she must notify the employer and after having taken the sample he or she must:
 - (a) if practicable, divide the sample taken into as many parts as are reasonably necessary for the analysis and for the purposes of this section and mark and seal, or mark and fasten up, each part in such manner as its nature will permit;
 - (b) if such division is practicable, deliver one part to the employer

on being requested to do so by the employer; and

- (c) retain one part for future comparison.
- (4) If an inspector takes possession of a plant, substance or thing from a workplace, the occupier of or employer at the workplace may appeal to the Court against that action or the continued possession by the inspector of that plant, substance or thing.
- (5) No person is to be required under this Division to answer a question or give information tending to incriminate himself or herself.

89M Inspector may seek assistance etc.

An inspector may, for the purposes of performing a function or exercising a power under this Part, seek, whenever necessary, the assistance of any person and if the function or power requires the entry of the inspector to a workplace the occupier of or employer at the workplace must also permit that person access to the workplace.

89N Employer etc. to assist inspector

The owner or occupier of, or employer at, a workplace and his or her agents and employees must provide such reasonable assistance as an inspector requires for an entry, investigation, examination or inquiry, or for the exercise of the powers of the inspector, under this Part.

89P Offences in relation to investigations

- (1) A person who:
 - (a) refuses access to a workplace to an inspector;
 - (b) obstructs an inspector in the exercise of his or her powers under this Part or induces or attempts to induce a person to do so;
 - (c) fails to produce a document required under this Part to be produced to an inspector;
 - (d) conceals the location or existence of a person or any plant or substance from an inspector;
 - (e) prevents or attempts to prevent a person from assisting an inspector; or

- (f) in any other way, hinders, impedes or opposes an inspector in the performance of the inspector's functions or exercising of his or her powers under this Part,

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.

- (2) The occupier of, and employer at, a workplace at which an offence against subsection (1) occurs is guilty of the same offence and is subject to the same penalty unless he or she proves that the act constituting the offence took place without his or her knowledge and that he or she did not know and could not reasonably have known of the act.
- (3) In this section inspector includes a person assisting an inspector.

Division 3 Improvement and prohibition notices

89Q Minister may issue improvement notice

- (1) If the Minister is of the opinion that a person:
- (a) is contravening this Part; or
 - (b) has contravened this Part in circumstances that make it likely that the contravention will continue or be repeated,
- the Minister may issue to the person an improvement notice requiring the person to remedy the contravention or the matters or activities giving rise to the opinion that the contravention will be repeated.
- (2) An improvement notice is to:
- (a) state that the Minister is of the opinion that the person:
 - (i) is contravening this Part; or
 - (ii) has contravened this Part in circumstances that make it likely that the contravention will continue or be repeated;
 - (b) state the reasons for that opinion;
 - (c) specify the provision of this Part in respect of which that opinion is held; and

- (d) specify the day (being a day later than 7 days after the day on which the notice is issued) before which the person is required to remedy the contravention or the matters or activities giving rise to its opinion that the contravention will be repeated.
- (3) A person:
- (a) to whom an improvement notice is issued and in relation to which an appeal has not been made under section 89U; and
- (b) who contravenes or fails to comply with it,
- is guilty of a regulatory 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.
- (4) A person who is found guilty of an offence against subsection (3) is guilty of a further offence against that subsection if the offence continues after he or she has been found guilty and, on being found guilty of the further offence, is punishable by a penalty not exceeding:
- (a) if the offender is a natural person – 2 penalty units; or
- (b) if the offender is a body corporate – 10 penalty units,
- for each day during which the offence continues.

89R Minister may issue prohibition notice

- (1) If the Minister is of the opinion that at a workplace there is occurring or may occur an act which involves or will involve an immediate risk to the health or safety of a person, the Minister may issue to the person who has or is reasonably believed to have control over the act or the activity in which the act may occur a prohibition notice prohibiting the continuation of the act or the carrying out of the activity until the Minister certifies in writing that the immediate risk has been removed or, in the Minister's opinion, the act will not occur.
- (2) A prohibition notice is to:
- (a) state that the Minister is of the opinion that in the workplace there is occurring or may occur an act which involves or will involve an immediate risk to the health or safety of a person;
- (b) state the reasons for that opinion;

- (c) specify the act which, in the Minister's opinion, involves or will involve the risk and the matters which give or will give rise to the risk; and
 - (d) if in the Minister's opinion the act involves or will involve a contravention or likely contravention of this Part, specify the relevant provision and state the reasons for that opinion.
- (3) A person:
- (a) to whom a prohibition notice is issued and in relation to which an appeal has not been made under section 89U; and
 - (b) who contravenes or fails to comply with it,
- is guilty of a regulatory 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.
- (4) A person who is found guilty of an offence against subsection (3) is guilty of a further offence against that subsection if the offence continues after he or she has been found guilty and, on being found guilty of the further offence, is punishable by a penalty not exceeding:
- (a) if the offender is a natural person – 2 penalty units; or
 - (b) if the offender is a body corporate – 10 penalty units,
- for each day during which the offence continues.
- (5) If an appeal has been made under section 89U against a prohibition notice, the Minister must not certify under subsection (1) until after the appeal is withdrawn or decided.
- (6) If the Minister issues a prohibition notice in respect of an act relating to the use of any plant at a workplace, the Minister may place a mark on the plant, or any part of the plant, to indicate that the plant, or the part so marked, is not to be used until the Minister certifies, under subsection (1), in respect of the act in respect of which the prohibition notice was issued.
- (7) A person who:
- (a) uses any plant, or a part of any plant, on which a mark has been placed; or

- (b) without the permission of the Minister, removes, obliterates or otherwise interferes with a mark placed on any plant, or a part of any plant,

under subsection (6) is guilty of a regulatory 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.

- (8) A person who is found guilty of an offence against subsection (7) is guilty of a further offence against that subsection if the offence continues after he or she has been found guilty and, on being found guilty of the further offence, is punishable by a penalty not exceeding:
- (a) if the offender is a natural person – 2 penalty units; or
- (b) if the offender is a body corporate – 10 penalty units,
- for each day during which the offence continues.

89S Issuing of notices

- (1) For the purposes of sections 89Q and 89R, a notice under those sections may be issued to a person by:
- (a) delivering it personally to the person;
- (b) leaving it at the person's usual or last known place of residence or business with some other person, apparently resident or employed there and who is apparently in charge or in a position of authority; or
- (c) posting it in a prepaid letter addressed to the person at the person's usual or last known place of residence or business.
- (2) Subsection (1) is in addition to the provisions of the Corporations Act 2001 relating to the service of documents.

89T Notices may include directions

- (1) The Minister may include in an improvement notice or a prohibition notice directions as to the measures to be taken to remedy the matters to which the notice relates.

- (2) A direction under subsection (1) may:
- (a) refer to a standard, code or other document as in force or existing at a particular time or as in force from time to time; and
 - (b) offer the person to whom it is issued a choice of ways in which to remedy the matters to which the notice relates.

89U Appeals against notices

- (1) A person to whom an improvement notice or a prohibition notice is issued or, if that person is a worker, that person's employer, may, within 7 days after the notice is issued or such further time as the Court allows, appeal in writing to the Court against the notice.
- (2) Pending the decision by the Court on an appeal under subsection (1), the operation of the notice:
- (a) in the case of an improvement notice – is suspended; and
 - (b) in the case of a prohibition notice – continues unless the Minister decides otherwise.
- (3) If:
- (a) the Court affirms an improvement notice or a prohibition notice or affirms such a notice with modifications; and
 - (b) the person to whom the notice was issued does not comply with the notice as affirmed or modified,
- that person is guilty of an offence and is liable to the penalty applying in the case of an offence against section 89Q or 89R, as the case may be.
- (4) In this section improvement notice includes a further notice referred to in section 89V(1).

89V Minister may carry out work

- (1) If an improvement notice requires work to be carried out by the person to whom the notice was issued, or by the person's employer who has the responsibility for carrying out the work, and that work has not been carried out:
- (a) if no appeal has been lodged under section 89U against the notice – within 7 days after the date allowed by the notice for carrying out the work; or

- (b) if an appeal has been lodged under section 89U against the notice and the Court has affirmed the notice or modified it in such a way that work is required to be carried out:
 - (i) within 7 days after the date on which the decision of the Court was made known; or
 - (ii) by the date, earlier or later than the date allowed by the notice, that the Court allows for carrying out that work,

the Minister may give to the person responsible for carrying out the work a further notice advising the person that after a specified day, not being earlier than 7 days after the service of the further notice on the person, the Minister intends to carry out the work or cause it to be carried out.

- (2) The Minister may, after the day specified in the further notice given under subsection (1) and on being satisfied that an appeal has not been lodged under section 89U against the further notice, carry out the work or cause it to be carried out.
- (3) For the purposes of subsection (2), the Minister may enter on the land comprising the relevant workplace with the workers and machinery that are reasonably necessary and do all things reasonably necessary to be done.
- (4) The costs reasonably incurred by the Minister in exercising powers under this section is a debt due to the Territory by the person required by the notice or decision to carry out the work.

Division 4 Health and safety committees

89W Health and safety committees

- (1) An employer who employs more than 20 workers at a workplace must, if requested by a majority of those workers, establish a health and safety committee for that workplace.
- (2) An employer must establish a health and safety committee not later than 3 weeks after being requested to do so under subsection (1).
- (3) For the purposes of this section, if a person (in this subsection called the principal contractor) contracts with another person (in this subsection called the subcontractor) for the execution by or under the subcontractor of work undertaken by the principal contractor in the course of the principal contractor's business or trade, the principal contractor is to be taken to be the employer of a worker employed by the subcontractor in the execution of the work.

89X Composition of health and safety committees

- (1) A health and safety committee for a workplace is to consist of:
 - (a) workers working at the workplace elected by the workers working at the workplace; and
 - (b) persons appointed by the employer of the workers.
- (2) Subject to this section, the number of workers to be elected or persons to be appointed for the purposes of this section is to be as agreed between the employer and the workers.
- (3) Not less than half of the members of a health and safety committee are to be workers elected by the workers at the workplace.

89Y Functions of health and safety committees

The functions of a health and safety committee are:

- (a) to facilitate consultation and co-operation between the employer and workers working at the workplace in initiating, developing and implementing measures designed to ensure the health and safety of the workers at the workplace;
- (b) to keep itself informed about standards relating to health and safety generally recommended or prevailing in workplaces of a comparable nature, and to review and make recommendations to the employer on rules and procedures at the workplace relating to the health and safety of the workers;
- (c) to recommend to the employer the establishment, maintenance and monitoring of programs, measures and procedures at the workplace relating to the health and safety of the workers;
- (d) to keep, in an accessible place and form, such information as is provided under this Act and by the employer regarding the hazards to workers that arise or may arise at the workplace;
- (e) to consider and make recommendations relating to changes to be made at the workplace that may reasonably be expected to affect the health and safety of the workers;
- (f) to consider and make recommendations relating to training and education in, and promotion of, health and safety at the workplace;

- (g) to consider, and make recommendations relating to changes to be made at the workplace following an accident or dangerous occurrence; and
- (h) to perform such other functions as may be prescribed, or given to the committee, with its consent, by an employer.

89Z Inspection of workplace

A person nominated by a health and safety committee may inspect the workplace or any part of the workplace for which the committee is established:

- (a) at such times as are agreed with the employer; or
- (b) if the workplace or any part of it has not been inspected in the preceding 30 days, at any time on giving reasonable notice to the employer.

89ZA Meetings

- (1) The members of a health and safety committee must elect one of the members to be the Chairperson.
- (2) Subject to subsection (3), a health and safety committee may determine its own procedures.
- (3) A health and safety committee must meet at intervals, not longer than 3 months, or at more frequent intervals as approved by the employer.

89ZB Duties of employers in relation to health and safety committees

If there is a health and safety committee at a workplace, the employer must:

- (a) make available to the committee such information as the employer has, or could reasonably be expected to have, relating to:
 - (i) hazards to persons that arise or may arise at the workplace;
 - (ii) so far as it is relevant to the hazards referred to in subparagraph (i), the plant and substances used, and the systems of work, at the workplace; and
 - (iii) the health and safety of workers at the workplace;

- (b) consult with the health and safety committee on changes proposed to be made at the workplace which may reasonably be expected to affect the health or safety of workers at the workplace;
- (c) if an accident or dangerous occurrence occurs at the workplace, ensure that the committee is notified as soon as possible;
- (d) provide the committee with reasonable facilities and assistance for the purposes of the performance of its functions under this Part; and
- (e) permit members of the committee to carry out their functions under this Part and to participate in relevant courses of training relating to health and safety of workers.

89ZC Exemption from application of Division

The Minister may, subject to the conditions he or she thinks fit:

- (a) exempt an employer at a workplace from compliance with this Division, in whole or in part; or
- (b) vary compliance with this Division, in whole or in part,

if he or she is satisfied that the employer has effected, at the workplace, a health and safety management policy which, in the opinion of the Minister, satisfies the intent of this Division.

Division 5 General

89ZD Discrimination against workers etc.

(1) An employer at a workplace must not:

- (a) dismiss a worker; or
- (b) act in any way detrimental to a worker in the worker's employment with the employer,

for the reason only that the worker:

- (c) assists or has assisted or gives or has given information to the Minister or an inspector;
- (d) makes or has made a reasonable complaint in relation to health and safety to the employer, the Minister or an inspector; or

(e) ceases work under section 89H(1).

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) In this section, Minister includes a person to whom the Minister has delegated any of his or her powers and functions under this Part.

89ZE Orders in proceedings for offences against section 89ZD

If a person is found guilty of an offence against section 89ZD, the court by which he or she is found guilty may, in addition to imposing a penalty on the person:

(a) order him or her to pay within a specified period to the person against whom the offender discriminated, such amount as it thinks fit to compensate that person; or

(b) order that the worker be reinstated or re-employed in the worker's former position or, where that position is not available, in a similar position,

or both.

89ZF Notification of accidents

If:

(a) an accident occurs at a workplace, whether or not it causes the death of, or bodily injury to, any person; or

(b) there is an occurrence at or in relation to a workplace which affects the health or safety of any person at the workplace,

which is a prescribed accident or occurrence required to be notified under this section:

(c) the employer at the workplace; or

(d) such other person as is prescribed,

must give notice of the accident or occurrence in the prescribed form and manner.

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

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

Part IV Registration of instruments**90 Registrar and Register of instruments**

- (1) The Minister may appoint a person to be the Registrar for the purposes of this Act.
- (2) The Registrar shall establish and maintain a Register of exploration permits and licences granted under this Act.
- (3) The Register may be established and maintained:
 - (a) in such form or combination of forms;
 - (b) on such medium or combination of mediums; and
 - (c) in such manner,

as the Minister thinks fit, and for the purposes of paragraph (b), a reference to a medium includes, but is not limited to:

- (d) a computer;
- (e) micro film; or
- (f) paper.

91 Particulars to be entered in Register

- (1) The Registrar shall enter in the Register a memorial in relation to each exploration permit and licence:
 - (a) specifying the name of each permittee or licensee;
 - (b) containing an accurate description, including designated numbers, of the exploration permit or licence area;
 - (c) specifying the term of the exploration permit or licence;
 - (d) containing, where the area has previously been the subject of an exploration permit or licence, details of the previous exploration permit or licence;
 - (e) specifying the conditions subject to which the exploration permit or licence is granted;
 - (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 each permittee or licensee and to the conditions of the exploration permit or licence as the Minister thinks fit.
- (2) The Registrar shall enter in the Register a memorial of:
 - (a) any notice varying, cancelling, surrendering or otherwise affecting an exploration permit or licence;
 - (b) a direction to each permittee or licensee by the Minister; and
 - (c) any notice or instrument varying or revoking a notice or instrument referred to in paragraph (a).
 - (3) It is sufficient compliance with the requirements of subsection (1) or (2) where the Registrar enters a copy of the exploration permit, licence, notice, direction or instrument in the Register.
 - (4) An exploration permit or licence shall be deemed to be registered as soon as a memorial complying with subsection (1) or a copy of the permit or licence, has been entered in the Register.
 - (5) A person to whom an exploration permit or licence has been granted shall not exercise any powers under this Act or the person's permit or licence, except under this Part, until the permit or licence, as the case may be, is registered.
 - (6) The Registrar shall endorse on the memorial or copy of the exploration permit or licence a memorandum of the date upon which the memorial or copy was entered in the Register.

91A 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 Registrar under Part IV of this Act; and
- (c) in registering the creation or transfer of an interest under this Act, the Registrar 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.

92 Memorials to be entered of exploration permits etc. cancelled etc.

Where:

- (a) an exploration permit or licence ceases to be in force in relation to a block;
- (b) an exploration permit has been wholly or partly cancelled; or
- (c) an exploration permit or licence has expired,

the Registrar shall enter in the Register a memorial of the cessation, cancellation or expiration, as the case may be.

93 Approval of transfers

- (1) Subject to this Act, a permittee or licensee may transfer his interest or any part of his interest in an exploration permit or licence to any person or persons and for that purpose may apply in writing to the Minister for the Minister's approval under this section to the transfer.
- (2) An application to the Minister under subsection (1) shall be accompanied:
 - (a) by the instrument of transfer, duly executed by the transferor and transferee, together with a copy of that instrument; and
 - (b) where there are permittees or licensees other than the transferor registered against the exploration permit or licence:
 - (i) by the consent in writing of each of the other permittees or licensees; or
 - (ii) if consent has not been obtained, by a copy of each notice of intention served on those permittees or licensees pursuant to subsection (5).
- (3) The Minister shall not accept an application under subsection (1) unless the application is made within 3 months after the date on which the party who last executed the instrument of transfer to which the application relates so executed it or within such extended period as the Minister, in special circumstances, allows.
- (4) Where an application under this section is accepted by the Minister, he shall direct the Registrar to enter a memorial in the Register of the date on which the application was accepted and to make such other notation in the Register as the Minister thinks fit.

- (5) Where the written consent of other permittees or licensees registered against an exploration permit or licence has not been obtained by the transferor, the transferor shall, before making an application under subsection (1), serve on each permittee or licensee who has not consented, a notice of his intention to apply to the Minister for approval to the proposed transfer and, in the notice:
- (a) specify the identity of the transferee and the interest to be transferred; and
 - (b) specify a date, being not earlier than 30 days after the day on which the application will be lodged with the Minister, by which the person on whom the notice is served may, to the Minister in writing, object to the proposed transfer or make submissions in relation to it.
- (6) Where the Minister accepts an application under this section, the Minister shall:
- (a) if all consents are given or no consents are needed, as soon as practicable after accepting the application, determine the application;
 - (b) if all consents are given before the date specified under subsection (5)(b), determine the application as soon as practicable after the last consent has been given; or
 - (c) if no objection or submission in relation to the transfer has been received by the Minister before the date specified under subsection (5)(b), determine the application as soon as practicable after that date.
- (7) The Minister may, if a submission in relation to a transfer is received, or shall, if an objection to the transfer is received (in each case before the date specified under subsection (5)(b)), give the applicant a copy of the submission or objection and specify a date (being not earlier than 30 days after the date of the notice) by which the applicant may respond in writing to the Minister in relation to the submission or objection, and shall, as soon as practicable after that due date, determine the application.
- (8) The Minister may, before determining an application under this section, request from any person, being a party to a proposed transfer or a permittee or licensee registered against an exploration permit or licence in which an interest is proposed to be transferred, and that person shall provide, such information relating to the transfer as the Minister thinks necessary or expedient to assist him in determining the application.

- (9) In determining an application under this section, the Minister shall take into account:
- (a) any objection or submission received from a permittee or licensee before the date specified under subsection (5)(b);
 - (b) any response to an objection or submission received from a transferor or transferee before the date specified under subsection (7);
 - (c) if the transferee is not already a registered holder of an interest in the exploration permit or licence, the technical capacity and financial resources and standing of the transferee;
 - (d) the terms and conditions of any relevant instrument to which section 96 applies; and
 - (e) the public interest.
- (10) To determine an application under this section the Minister shall either:
- (a) subject to subsection (11), approve it; or
 - (b) refuse to approve it.
- (11) The Minister may, before approving an application under this section, require the proposed transferee to lodge a security (or, where a security had previously been lodged, further security) with the Minister to better secure compliance with the conditions to which the exploration permit or licence is from time to time subject and with this Act and the Regulations.

93A Registration of transfers

- (1) Where the Minister approves a transfer under section 93 he shall, as soon as possible, endorse on the instrument of transfer and on the copy, a memorial of approval and direct the Registrar that, on payment of the prescribed fee, the Registrar shall enter in the Register the memorial of the transfer and the name of the transferee.
- (2) A transfer is registered as soon as a memorial of the transfer and the name of the transferee has, under subsection (1), been entered in the Register and, upon that memorial being entered, the transferee becomes the registered holder of the interest in the exploration permit or licence to which the instrument of transfer relates.

- (3) A copy of an instrument of transfer endorsed with the memorial of approval shall be retained by the Registrar and is subject to inspection in accordance with this Part, and the instrument of transfer endorsed with the memorial of approval shall be returned to the person who lodged the application for the transfer.
- (4) An instrument of transfer of an interest in an exploration permit or licence does not convey a legal or equitable interest in the permit or licence until it has been approved by the Minister and entered in the Register under this section, but when so approved and entered the transferee and all other registered holders of an interest in the permit or licence are jointly liable to comply with the conditions to which the permit or licence is from time to time subject and with this Act.

94 Entries in Register on devolution of title

- (1) A person upon whom the rights of a permittee or licensee have devolved by operation of law may apply in writing to the Registrar to have his name entered in the Register as the permittee or licensee.
- (2) The Registrar shall, where he is satisfied that the rights of a permittee or licensee 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 permittee or licensee and, upon that entry being so made, the applicant becomes the permittee or licensee and is subject to the same rights and obligations under this Act as if he were the person to whom the exploration permit or licence was granted.

95 Interests not to be created, &c., except by instruments in writing

A legal or equitable interest in or affecting an existing or future exploration permit or licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument in writing.

96 Approval of instruments creating, &c., interests

- (1) This section applies to an instrument by which a legal or equitable interest in or affecting an existing or future exploration permit or licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section 93 applies or an interest in a drilling fund under section 96A.

- (2) An instrument to which this section applies does not create, assign or deal with, whether directly or indirectly, a legal or equitable interest in an existing or future exploration permit or licence until:
 - (a) it has been approved by the Minister; and
 - (b) an entry has been made in the Register by the Registrar in accordance with subsection (7).
- (3) A party to an instrument to which this section applies or a person having an interest in or in relation to an exploration permit or licence by reason of such an instrument may apply to the Minister for its approval.
- (4) An application under subsection (3) shall be in writing and be accompanied by the instrument and a copy of the instrument.
- (5) On receipt of an application under subsection (3), the Minister shall direct the Registrar to enter a memorial in the Register of the date on which the application was received by the Minister and to make such other notation in the Register as the Minister thinks fit.
- (6) The Minister may approve or refuse to approve an instrument lodged with him for approval.
- (7) Where the Minister approves an instrument lodged with him for approval, he shall, as soon as possible, endorse on the original instrument, and on the copy, a memorial of approval and direct the Registrar that, on payment of the prescribed fee, he shall make an entry of the approval of the instrument in the Register and a memorial relating to the approval, the permit or licence to which the instrument relates or a copy of that exploration permit or licence.
- (8) A copy of an instrument endorsed with the memorial of approval shall be retained by the Registrar and is subject to inspection in accordance with this Part.
- (9) The original instrument endorsed with the memorial of approval shall be returned to the person who lodged the application for approval.
- (10) Where the Minister refuses an application, he shall direct the Registrar to make a notation of the refusal in the Register.

97 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 an instrument lodged with him in pursuance of this Part nor does the approval of such an instrument give to it any force, effect or validity that it would not

have had if this Part had not been enacted.

98 Power of Minister to require information as to proposed dealings

- (1) The Minister may, by notice served on the person lodging an instrument for approval under this Part, require the person to furnish to the Minister such information concerning the instrument, or the transaction to which the instrument relates, as the Minister thinks fit.
- (2) A person who is required under subsection (1) to furnish information shall not 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.

99 Production and inspection of documents

- (1) The Minister may require any person to produce to him or her or to make available for inspection by him or her any documents in the possession or under the control of that person and relating to an instrument lodged with the Minister for approval under this Part or to the transaction to which such an instrument relates.
- (2) A person shall not fail or refuse to comply with a requirement of him or her under subsection (1).

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

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

100 Inspection of Register and documents

The Register and all instruments registered, or subject to inspection, under this Part shall, at all convenient times, be open for inspection by any person upon payment of the prescribed fee.

101 Rectification of Register

Subject to section 103, the Registrar may, at any time, rectify an entry in the Register where he is satisfied that the entry does not accurately reflect the true position in relation to an exploration, licence or other matter required or permitted by or under this Act to be entered in the Register.

102 Evidentiary provisions

- (1) The Register shall be received by all courts as prima facie evidence of all matters required or authorised by this Part to be entered in the Register.
- (2) The Registrar may, on payment of a fee calculated at a prescribed rate per page, supply copies of or extracts from the Register or of or from any instrument lodged with him under this Part 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 Registrar may, on payment of a prescribed fee, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Part 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 prima facie evidence in all courts and proceedings of the statements contained in the certificate.

103 Appeals in relation to Register

- (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 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 Registrar, who may appear and be heard and shall appear if so directed by the Supreme Court.
- (4) An office copy of an order made under subsection (1) by the Supreme Court may be served on the Registrar and the Registrar shall, upon receipt of the order, rectify the Register accordingly.

- (5) A person may not apply under subsection (1), unless he has first requested the Registrar to rectify the Register.

104 Registrar not liable to certain actions

Subject to section 103, neither the Registrar 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 a power or authority conferred by this Part.

Part V Offences and forfeiture, &c.

Division 1 General

105 Licences required to explore and recover petroleum

A person shall not explore for, or engage in operations for the recovery of, petroleum unless the person does so under and in accordance with an exploration permit, retention licence or production licence.

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

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

106 Offences generally

- (1) A person shall not contravene or fail to comply with this Act or a direction or notice under this Act.
- (2) A person who contravenes or fails to comply with this Act or a direction or notice under this Act for which a penalty is not provided by this Act, other than this section, is punishable upon being found guilty by a penalty of:
- (a) if the offender is a natural person – 100 penalty units; or
- (b) if the offender is a body corporate – 500 penalty units.

107 Continuing offences

- (1) A person who has been found guilty of contravening or failing to comply with this Act or a notice or direction under this Act is guilty of a further offence against this Act where the contravention or failure to comply continues (notwithstanding that the period has elapsed) after the person has been found guilty and upon being found guilty of the further offence is punishable by a penalty of:

- (a) if the offender is a natural person – 10 penalty units for each day during which the offence continues; or
 - (b) if the offender is a body corporate – 50 penalty units for each day during which the offence continues.
- (2) Subsection (1) does not apply in relation to a continuing offence referred to in section 89Q(4) or 89R(4) or (8).

108 Offence by body corporate

- (1) Where a body corporate is guilty of an offence against this Act, an officer of the body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence is also guilty of that offence.
- (2) For the purposes of this section, **officer**, in relation to a body corporate, includes:
- (a) a director, secretary, executive officer or employee of the body corporate;
 - (b) a receiver, or a receiver and manager, of the property, or part of the property, of the body corporate;
 - (c) an official manager or a deputy official manager of the body corporate;
 - (d) a liquidator of the body corporate; and
 - (e) a trustee or other person administering a compromise or arrangement made between the body corporate and its creditors.

109 False statements

A person shall not:

- (a) knowingly make a false statement in an application for an exploration permit or licence or other document required under this Act to be lodged with the Minister;
- (b) utter or pass off, or attempt to utter or pass off, as true, before the Minister, a false, forged or counterfeit certificate or document; or

- (c) falsely personate or represent himself or herself as being the person referred to in a certificate or document presented to the Minister or in an exploration permit or licence.

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.

110 Offences in relation to Register

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 Act,

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.

111 Certain operations prohibited

No permittee or licensee may carry out operations, which would otherwise be permitted by this Act, upon land that is:

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

except with the express written approval of:

- (d) the owner of the land or, if the occupier of the land has in the land an interest registered on the Register kept by the Registrar-General under Part 3 of the *Land Title Act*, the occupier;
- (e) the registered native title body corporate in relation to the land; and

- (f) in the case of a public cemetery within the meaning of the *Cemeteries Act* – the Board of Trustees of the cemetery.

112 Time for commencing proceedings

- (1) Notwithstanding anything in any other law of the Territory, proceedings for an offence against this Act may be brought at any time.
- (2) Proceedings for an offence against this Act shall not be commenced without the consent in writing of the Minister.

113 Forfeiture

- (1) A thing seized under this Act may, on the finding of guilt of a person for an offence in connection with which that thing was seized, at the discretion of the court recording the finding of guilt, be forfeited to the Crown.
- (2) A forfeiture under this Act shall be in addition to and not a part of a penalty imposed under this Act.
- (3) Where a thing seized under this Act is not forfeited under subsection (1), section 115 applies as if no prosecution had been instituted within the period referred to in that section.
- (4) Notwithstanding subsection (3), if a person is found guilty of an offence in connection with which a thing was seized under this Act, that person is liable to pay to the Territory the reasonable costs of handling, maintaining and storing that thing from the time it was seized.

114 Delivery to Minister

A thing seized under this Act shall, where practicable, be delivered to the Minister, or a person authorised by the Minister to accept delivery of it, by the inspector who seized it.

115 Notice to claim

Where a thing seized under this Act is delivered under section 114, and no prosecution is instituted within 3 months after the seizure or delivery in respect of the use or possession of the thing, the Minister shall, by notice in writing, require the person from whom it was seized, or a person appearing to the Minister to be the owner of, or to have a legal interest in, the thing, to claim delivery to him of the thing seized.

116 Failure to claim

If no claim is made within 21 days after the date of service of a notice under section 115, the thing seized to which that section relates is forfeited to the Crown.

117 Determination of claim

Where a person served with a notice under section 115 makes a claim for the delivery to him of a thing seized under this Act, the Minister shall refer the claim to a court of summary jurisdiction which may deal with the claim in all respects as if it were a claim made by a claimant of property under section 130B of the *Justices Act*.

Division 2 Environmental offences

117AAA Application

This Division does not apply in relation to a substance that is prescribed under the *Waste Management and Pollution Control Act* to be an ozone-depleting substance.

117AAB Interpretation

(1) In this Division, unless the contrary intention appears:

contaminant means a solid, liquid, gas or any combination of those substances and includes:

- (a) noise, smoke, dust, fumes, odour or heat;
- (b) a prescribed substance or prescribed class of substances; and
- (c) a substance having a prescribed property or prescribed class of properties.

environment means land, air, water, organisms and ecosystems and includes:

- (a) the well-being of humans;
- (b) structures made or modified by humans;
- (c) the amenity values of an area; and
- (d) economic, cultural and social conditions.

environmental harm means:

- (a) any harm to or adverse effect on the environment; or
- (b) any potential harm (including the risk of harm and future harm) to or potential adverse effect on the environment,

of any degree or duration and includes environmental nuisance.

environmental nuisance, in relation to land, means:

- (a) an adverse effect on the amenity of the land caused by noise, smoke, dust, fumes or odour; or
- (b) an unsightly or offensive condition on the land.

land includes water and air on, above or under land.

material environmental harm means environmental harm that:

- (a) is not trivial or negligible in nature;
- (b) consists of an environmental nuisance of a high impact or on a wide scale;
- (c) results, or is likely to result, in not more than \$50 000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or
- (d) results in actual or potential loss or damage to the value of not more than \$50 000 or the prescribed amount (whichever is greater).

serious environmental harm means environmental harm that is more serious than material environmental harm and includes environmental harm that:

- (a) is irreversible or otherwise of a high impact or on a wide scale;
- (b) damages an aspect of the environment that is of a high conservation value, high cultural value or high community value or is of special significance;
- (c) results or is likely to result in more than \$50 000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or

- (d) results in actual or potential loss or damage to the value of more than \$50 000 or the prescribed amount (whichever is greater).

waste material means:

- (a) a solid, liquid or gas; or
- (b) a mixture of those substances,

that is left over, surplus or is an unwanted by-product and includes a prescribed substance or class of substances.

- (2) For the purposes of this Division, loss, in relation to an act or failure to act, includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures:
 - (a) to prevent or mitigate environmental harm caused by or resulting from the act or failure to act; and
 - (b) to make good environmental harm resulting from the act or failure to act.
- (3) For the purposes of this Division, environmental harm may be caused by an act or failure to act whether the harm:
 - (a) is caused directly or indirectly or is a direct or indirect result of the act or failure to act; or
 - (b) results from, or is caused by, the act or failure to act alone or from the combined effects of the act or failure to act and other factors.

117AAC Environmental offences

- (1) A person must not, during the conduct of an operation authorised under this Act, intentionally do an act, or fail to do an act, that causes the release of a contaminant or waste material on, above or under land if:
 - (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste material; and
 - (b) the contaminant or waste material causes serious environmental harm to land all of which is within one kilometre of the site where the contaminant is released.

- (2) An offence against subsection (1) is an environmental offence level 1.
- (3) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste material on, above or under land if:
 - (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste material; and
 - (b) the contaminant or waste material causes serious environmental harm to land all of which is within one kilometre of the site where the contaminant or waste material is released.
- (4) An offence against subsection (3) is an environmental offence level 2.
- (5) A person must not, during the conduct of an operation authorised under this Act, intentionally do an act, or fail to do an act, that causes the release of a contaminant or waste material on, above or under land if:
 - (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste material; and
 - (b) the contaminant or waste material causes material environmental harm to land all of which is within one kilometre of the site where the contaminant or waste material is released.
- (6) An offence against subsection (5) is an environmental offence level 2.
- (7) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste material on, above or under land if:
 - (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste material; and

- (b) the contaminant or waste material causes material environmental harm to land all of which is within one kilometre of the site where the contaminant or waste material is released.
- (8) An offence against subsection (7) is an environmental offence level 3.
- (9) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste material on, above or under land, if the contaminant or waste material causes an environmental nuisance to land all of which is within one kilometre of the site where the contaminant is released.
- (10) An offence against subsection (9) is an environmental offence level 4.

117AAD Defences to environmental offences

- (1) It is a defence to a prosecution for an offence against section 117AAC if it is proved that the act or failure to act was authorised under an Act.
- (2) It is a defence to a prosecution for an offence against section 117AAC if it is proved that the alleged offence did not result from a failure on the defendant's part to exercise reasonable diligence.
- (3) It is a defence to a prosecution for an offence against section 117AAC in relation to a particular contaminant or waste material if it is proved the defendant complied with:
 - (a) a provision of an environment protection objective within the meaning of the *Waste Management and Pollution Control Act*; or
 - (b) a condition of an approval, permit, lease, licence or other authorisation under an Act,

that fixed maximum allowable levels for the particular contaminant or waste material.

117AAE Alternative verdicts available

In a proceeding for an offence against:

- (a) section 117AAC(1) – the person charged with the offence may be found guilty alternatively of an offence against section 117AAC(3), (5), (7) or (9);

- (b) section 117AAC(3) – the person charged with the offence may be found guilty alternatively of an offence against section 117AAC(5), (7) or (9);
- (c) section 117AAC(5) – the person charged with the offence may be found guilty alternatively of an offence against section 117AAC(7) or (9); or
- (d) section 117AAC(7) – the person charged with the offence may be found guilty alternatively of an offence against section 117AAC(9).

Division 3 Liabilities of employers and employees etc. under Division 2

117AAF Actions etc. of employee or agent of body corporate are those of body corporate

- (1) If in proceedings for an offence against Division 2 it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a director, manager, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, manager, employee or agent had the relevant state of mind.
- (2) For the purposes of a prosecution for an offence against Division 2, conduct engaged in on behalf of a body corporate by a director, manager, employee or agent of the body corporate within the scope of his or her actual or apparent authority is taken to have been engaged in also by the body corporate.
- (3) For the purposes of this section, a reference to engaging in conduct is read as including a reference to failing or refusing to engage in conduct.

117AAG Director may be liable for offence of body corporate

- (1) If a body corporate commits an offence against this Part, every person who is a director of or who is concerned in the management of the body corporate is taken to have committed the same offence.

- (2) It is a defence to a prosecution for an offence committed by virtue of subsection (1) if the defendant establishes that:
 - (a) the body corporate had under this Part a defence to the offence that the defendant is, apart from this section, taken to have committed;
 - (b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;
 - (c) the defendant did not know, and ought not reasonably be expected to have known, that the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence; or
 - (d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.
- (3) A person may be proceeded against and found guilty under a provision in pursuance of subsection (1) whether or not the body corporate has been proceeded against or found guilty under the provision.
- (4) Despite anything in this Part or the *Environmental Offences and Penalties Act*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1).

117AAH Liability for managers, employees and agents

- (1) For the purposes of a prosecution for an offence against this Part, conduct engaged in on behalf of a person other than a body corporate (in this section called the **employer**) by a manager, employee or agent of the person within the scope of his or her actual or apparent authority is taken to have been engaged in also by the employer.
- (2) An employer may be proceeded against and found guilty under a provision in pursuance of subsection (1), whether or not the manager, employee or agent has been proceeded against or found guilty of an offence against that provision.
- (3) It is a defence to a prosecution for an offence committed by virtue of subsection (1) if the defendant establishes that:
 - (a) the person who committed the offence that the defendant is taken to have committed under subsection (1) had, under this Act, a defence to the offence that the defendant is, apart from this subsection, to be taken to have committed;

- (b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;
 - (c) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence; or
 - (d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.
- (4) Despite anything in this Act or the *Environmental Offences and Penalties Act*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1).
- (5) For the purposes of this section, a reference to engaging in conduct is read as including a reference to failing or refusing to engage in conduct.

Part VA Petroleum Trust Fund

117AA Establishment of Trust Fund

- (1) The Minister must establish and maintain the Petroleum Trust Fund.
- (2) For the purposes of subsection (1), an Accountable Officer's Trust Account is to be established under section 7 of the *Financial Management Act*.

117AB Payments into Trust Fund

- (1) A person who is, may be, will be or may become liable under this Act to pay compensation for the effect of an act (including a prescribed petroleum act) on native title:
 - (a) may at any time; and
 - (b) must if required to do so under this Act or another law of the Territory,pay into the Trust Fund an amount in respect of that compensation.
- (2) Moneys paid into the Trust Fund under subsection (1) and interest earned on those moneys are to be used to pay amounts in respect of the compensation payable by the holder of the relevant petroleum interest to the native title holder.

117AC How trust amounts to be dealt with

- (1) This section applies if an amount (in this section called ***the trust amount***) is being held in the Trust Fund in respect of an act and any of the following happen:
- (a) an approved determination of native title that native title does not exist in the affected land is made;
 - (b) the Minister informs the trustee in writing that he or she is not going to do the act;
 - (c) the following requirements are satisfied:
 - (i) an approved determination of native title that native title in the affected land exists has been made;
 - (ii) the relevant registered native title body corporate advises the trustee in writing that it wishes to accept the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the act;
 - (iii) the person who paid the trust amount into the Trust Fund or that person's successor or assignee advises the trustee in writing of his or her agreement to the registered native title body corporate accepting the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the act;
 - (d) a determination is made by the Tribunal, on a claim for compensation in respect of the act, that a person is entitled to compensation or that no compensation is payable to any person;
 - (e) none of paragraphs (a), (b), (c) and (d) apply and, on the application of any person, the Supreme Court decides that it would be just and equitable in all the circumstances to pay the trust amount to that person or another person (it not however being a sufficient ground for the purposes of this paragraph that a person has made or is required to make an application to the Federal Court for a determination of native title in respect of any of the affected land).
- (2) Where subsection (1)(a) or (b) applies, the trustee must:
- (a) repay the trust amount to the person who paid it into the Trust Fund or to that person's successor or assignee; or

- (b) if that person no longer exists – apply to the Supreme Court for a direction as to whom the trust amount is to be paid.
- (3) Where subsection (1)(c) applies:
 - (a) the trustee must pay the trust amount to the registered native title body corporate; and
 - (b) the native title holder has no further entitlement to compensation for the effect of the act under this Act.
- (4) Where subsection (1)(d) applies and the determination is that a person is entitled to an amount of monetary compensation:
 - (a) if the trust amount is the same as the amount determined – the trustee must pay the trust amount to the person;
 - (b) if the trust amount is less than the amount determined – the trustee must pay the trust amount to the person and the holder of the relevant petroleum interest must pay the shortfall to the person; or
 - (c) if the trust amount is more than the amount determined, the trustee must:
 - (i) pay the person so much of the trust amount as equals the amount determined; and
 - (ii) refund the excess to the person who paid the trust amount into the Trust Fund or that person's assignee or, if the person or assignee (as the case may be) no longer exists, apply to the Supreme Court for a direction as to its payment.
- (5) Where subsection (1)(d) applies and the transfer of property or the provision of goods or services constitutes some or all of the compensation, the trustee must apply to the Supreme Court for a direction as to the payment of the trust amount.
- (6) Where subsection (1)(d) applies and the determination is that no compensation is payable or to be given to any person, the trustee must repay the trust amount to the person who paid it into the Trust Fund or that person's assignee or, if that person or assignee (as the case may be) no longer exists, apply to the Supreme Court for a direction as to the payment of the trust amount.
- (7) Where subsection (1)(e) applies, the trustee must pay the trust amount in accordance with the decision of the Supreme Court.

(8) If:

- (a) the person who paid the trust amount into the Trust Fund or that person's assignee enters into a written agreement with a registered native title claimant that the claimant accepts the trust amount or part thereof on behalf of the native title holders who are signatories to the agreement, being all the native title holders in relation to the affected land, instead of any compensation to which those native title holders may be entitled under this Act for the effect of the act; and
- (b) the Minister is satisfied that, having regard to the information (if any) provided by the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land and any other relevant matter, the signatories to the agreement are the only native title holders in relation to the affected land and that it is unlikely that there are any other native title holders in relation to that land,

then:

- (c) the trustee:
 - (i) must pay the trust amount or part thereof in accordance with the agreement to the registered native title claimant; and
 - (ii) if applicable – must pay the remainder of the trust amount to the person who paid it into the Trust Fund or that person's assignee or, if that person no longer exists, apply to the Supreme Court for a direction as to the payment of the remainder; and
- (d) the native title holders who are signatories to the agreement have no further entitlement to compensation for the effect of the act under this Act.

Part VB Datums

117AD 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 petroleum interest or other instrument under this Act, using another datum (but not so as to change the position of a point, line, block or area).

117AE 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 117AG takes effect.

current datum means the datum declared to be the current datum under section 117AG.

instrument under this Act:

- (a) includes a lease referred to in section 119(1); and
- (b) does not include the Regulations.

previous datum means:

- (a) if a datum is the first datum declared to be the current datum under section 117AG – 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.

117AF Australian Geodetic Datum

- (1) For the purposes of this Act, the position on the surface of the Earth of a graticular section or a block 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 petroleum interest or other instrument under this Act, the position on the surface of the Earth of a point, line or area.
- (3) Until a declaration under section 117AG takes effect, the Australian Geodetic Datum applies for the purposes of describing, in a petroleum interest or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

117AG 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 or area in a petroleum interest or other instrument under this Act, a specified datum:

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

117AH Use of current datum

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

- (a) an exploration permit area the subject of an exploration permit granted or renewed after the changeover time;
- (b) the licence area the subject of a licence granted or renewed after the changeover time;
- (c) an access authority area the subject of an access authority granted or renewed after the changeover time; or
- (d) a point, line or area set out in any other instrument made, granted or renewed under this Act after the changeover time,

is to be described by reference to the current datum, and the exploration permit, licence, access authority or instrument may be annotated accordingly.

117AI Use of previous datum

- (1) This section applies subject to section 117AJ.
- (2) For the purposes of this Act, the position on the surface of the Earth of:
 - (a) an exploration permit area the subject of an exploration permit in force immediately before the changeover time;
 - (b) a licence area the subject of a licence in force immediately before the changeover time;
 - (c) an access authority area the subject of an access authority in force immediately before the changeover time; or
 - (d) a point, line 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.

117AJ Variation of petroleum interests etc.

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

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

117AK Variation of applications for petroleum interests

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

117AL 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 or area.

117AM Transitional Regulations

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

Part VI Miscellaneous

117A Compensation: time limit on claims

A claim for compensation payable under this Act that is not made within 3 years after the doing of the activity giving rise to the claim is, by virtue of this section, statute barred.

117B Service of documents

A document required by or under this Act to be served on a person may, unless the contrary intention appears, be served:

- (a) on that person personally;
- (b) by post to the person's usual or last-known place of abode or business; or
- (c) by leaving it with a person apparently of or above the age of 16 years at the first-mentioned person's usual or last known place of abode or business.

117C Complaints procedure

(1) This section applies in relation to an activity authorised by or under this Act that is being conducted, to any extent, on an area of land that is an alternative provision area where there is a determination in force under section 43A(1)(b) of the Native Title Act in respect of the provisions of this Act.

(2) If:

- (a) a registered native title claimant or registered native title body corporate in relation to land on which an activity is being conducted; or
- (b) the owner of that land,

is of the opinion that the activity is being conducted in a manner that adversely affects his or her registered interests in the land, the claimant, body corporate or owner may lodge in writing with the Minister a complaint about the matter.

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- (3) Without limiting the generality of subsection (2), the things that may be complained of include the effect that the activity is having on a sacred site within the meaning of the *Northern Territory Aboriginal Sacred Sites Act*.
- (4) On receipt of a complaint under subsection (2), the Minister may do one or more of the following:
- (a) seek an explanation about the matter from the person conducting the activity the subject of the complaint;
 - (b) request the person conducting the activity to attend a meeting with the Minister or a person authorised by the Minister to discuss the matter;
 - (c) request the person conducting the activity and the complainant to attend a conference with the Minister or a person authorised by the Minister with a view to resolving the matter,

and, having done one or more of the things referred to in paragraphs (a), (b) and (c), may do one or more of the following:

- (d) give the person conducting the activity notice in writing requiring the person to take specified action within a specified period and, if the person fails to comply with the notice, authorise another person to enter the land and take that action, the costs of that other person taking that action being a debt due and payable to the Territory by the person to whom the notice was given;
- (e) subject to this Act, vary the conditions to which the conduct of the activity is subject;
- (f) subject to this Act, take any other action, including cancelling the relevant petroleum interest, as the Minister considers appropriate.

118 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) Without limiting the generality of subsection (1), the Administrator may in the Regulations prescribe for or in relation to:
- (a) the exploration for petroleum and the carrying on of operations for that purpose;
 - (b) the production of petroleum, including the rate of production from a licence area, and the carrying on of operations and execution of works for that purpose;
 - (c) the conservation and prevention of waste of natural resources whether petroleum or otherwise;
 - (d) the construction, erection, maintenance, operation or use of installations or equipment within an exploration permit or licence area by the permittee or licensee;
 - (e) the control of the flow or discharge, and the prevention of escape of, petroleum, water or drilling fluid, or a mixture of them or any other matter;
 - (f) the cleaning up or other remedying of the effects of the escape of petroleum;
 - (g) the prevention of damage to petroleum bearing strata in an area in relation to which an exploration permit or licence is not in force;
 - (h) the separation of:
 - (i) each source of petroleum discovered in an exploration permit or licence area; and
 - (ii) each source of water discovered in an exploration permit or licence area;
 - (j) the prevention of water and other matter from entering a petroleum pool through wells;
 - (k) the maintenance in good condition and repair of all structures, equipment and other property used or intended to be used for or in connection with the exploration for, or the production of, petroleum in an exploration permit or licence area;
 - (m) the removal from an exploration permit or licence area of structures, equipment or other property brought into an exploration permit or licence area;
 - (n) the safety of operations for or related to the exploration for or the recovery of petroleum;

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- (p) the protection of the environment and people who have lawful access to the exploration permit or licence area;
 - (pa) matters in respect of occupational health and safety under Part IIIA;
 - (q) the fees payable under this Act;
 - (r) the form and manner of making applications under this Act; and
 - (s) penalties for offences against the Regulations not exceeding:
 - (i) if the offender is a natural person – 500 penalty units; or
 - (ii) if the offender is a body corporate – 2 500 penalty units.

119 Application, savings and transitional

- (1) Subject to this section, this Act does not apply to or in relation to:
 - (a) a permit or lease, granted under the repealed Act before the commencement of this Act;
 - (b) a renewal of a permit or lease referred to in paragraph (a); or
 - (c) the application for, or grant or renewal of, a lease in relation to an area which was previously the whole or part of the area the subject of a permit referred to in paragraph (a).
- (1A) Part VB applies to and in relation to a lease referred to in subsection (1).
- (2) For the purposes of subsection (1), the repealed Act shall continue in force as though this Act had not come into force except that a lease granted or renewed under the repealed Act remains in force for the same period as a production licence and is subject to Part IIIA and to the provisions of this Act relating to the release of information, the giving of directions by the Minister and the calculation and payment of royalties.
- (2AA) A lessee of a lease referred to in subsection (1) may apply for the renewal of the lease under the repealed Act, as continued in force by subsection (2), at a time earlier than that specified in the repealed Act, and, subject to Part IIA if applicable, the Minister may grant the renewal, where the Minister is satisfied that there are commercial reasons that justify the application being made at a time earlier than that specified in the repealed Act.

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- (2A) The Minister shall not under the repealed Act, as continued in force by subsection (2), grant a lease of land comprising the whole or a part of a park or reserve except in accordance with the conditions, if any, specified by the minister administering the *Territory Parks and Wildlife Conservation Act*.
- (2B) The holder of a permit continued in force by subsection (2) shall not carry out work referred to in a statement under section 25 of the repealed Act, or other exploration, which may cause significant disturbance to the surface of land comprising the whole or a part of a park or reserve unless he has advised the Minister, in writing, of the proposed activity and he carries it out in accordance with such directions, if any, as the Minister thinks fit, or which are required under subsection (2C) to be given, to protect the environment of or in the vicinity of the park or reserve.
- (2C) The minister administering the *Territory Parks and Wildlife Conservation Act* may require the Minister to give as directions under subsection (2B) such directions in relation to the protection of the environment of the park or reserve referred to in that subsection as the minister thinks fit, and the Minister shall give those directions accordingly.
- (2D) Subject to subsection (2E), a lease in respect of which a condition referred to in subsection (2A) is specified is, in addition to the conditions prescribed for the purposes of section 46(2)(b) of the repealed Act, subject to that condition so specified.
- (2E) Where a condition prescribed for the purposes of section 46(2)(b) of the repealed Act is inconsistent with a condition specified under subsection (2A), the first-mentioned condition, to the extent of that inconsistency, has no force or effect.
- (2F) The Minister has power to give a direction referred to in subsection (2B).
- (3) A permittee or lessee, within the meaning of the repealed Act, may, by notice in writing to the Minister, apply to surrender his permit or lease under the repealed Act in consideration of a grant, subject to subsection (4), of a permit or licence under this Act.
- (4) In an application under subsection (3), the permittee or lessee, within the meaning of the repealed Act, shall specify:
- (a) the nature;
 - (b) the term, including whether it shall be deemed to be an initial grant or a renewal and the date of expiration; and
 - (c) the conditions,

of the permit or licence he proposes shall be granted to him.

- (5) Before the expiration of 3 months after the date of receipt of an application under subsection (3), the Minister must give notice to the applicant of:
- (a) the conditions subject to which he or she is prepared to grant the application; and
 - (b) the date, not being earlier than 28 days after the date of the notice, after which the application lapses unless the Minister has received from the applicant an acceptance of the conditions specified in the notice.
- (6) If the Minister receives from the applicant within the time specified in subsection (5)(b) a written acceptance of the conditions, the Minister must grant the permit or licence to the applicant subject to those conditions and cause the Registrar to register it.
- (7) Upon the registration of a permit or licence granted under subsection (6), the permit or lease, within the meaning of the repealed Act, expires.
- (8) Subject to subsection (9), an application for a permit that had been made under the repealed Act and had not been processed before the commencement of this Act may, at the election of the applicant made within 2 months after the commencement of this Act, be processed as an application for a permit under this Act as though it were an application made under this Act on the commencement of this Act, but shall otherwise lapse.
- (9) Where an application referred to in subsection (8) does not comply with the requirements of section 16(1), the Minister may:
- (a) exercise his powers under section 16(2); and
 - (b) as he thinks fit, amend the application so that it complies with the requirements of section 16(1).
- (10) The person who, immediately before the commencement of this Act, held the office of Petroleum Registrar within the meaning of the repealed Act shall, on that commencement, be the Registrar for the purposes of this Act as if he were appointed under section 90(1) by the Minister on the commencement.
- (11) The Register of Permits and Register of Leases, within the meaning of the repealed Act shall, on the commencement of this Act form part of the Register for the purposes of this Act.

- (12) Each record kept, registration or record made, certificate or instrument issued, permit, permission, authority, notice or information given, served or lodged or return made, for any purpose, under the repealed Act and in force or effect immediately before the commencement of this Act, shall continue in force and have effect as if kept, made, issued or given under this Act.
- (13) An interest, whether legal or equitable, created before the commencement of this Act in relation to a permit or lease granted or issued under the repealed Act and in force immediately before the commencement of this Act, shall continue to have the same force and effect after the commencement of this Act as it had before the commencement.

ENDNOTES
1 KEY

Key to abbreviations in list of legislation and amendments

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
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Petroleum Act 1984 (Act No. 50, 1984)***

Assent date	29 September 1995
Commenced	15 October 1984 (<i>Gaz G40</i> , 10 October 1984, p 10)

Petroleum Amendment Act 1985 (Act No. 65, 1985)

Assent date	24 December 1984
Commenced	28 January 1986 (s 2, s 2 <i>Mining Amendment Act 1985 (Act No. 63, 1985)</i> and <i>Gaz S3</i> , 28 January 1986)

Petroleum Amendment Act 1990 (Act No. 45, 1990)

Assent date	20 September 1990
Commenced	14 November 1990 (<i>Gaz G45</i> , 14 November 1990, p 4)

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 <i>Corporations (NT) Act 1990 (Act No. 56, 1990)</i> and <i>Gaz S76</i> , 21 December 1990)

Statute Law Revision Act 1992 (Act No. 46, 1992)

Assent date	7 September 1992
Commenced	7 September 1992

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993 (Act No. 11, 1993)</i> and <i>Gaz S53</i> , 29 June 1993)

Native Title (Consequential Amendments) Act 1994 (Act No. 30, 1994)

Assent date	18 May 1994
Commenced	29 June 1994 (<i>Gaz G26</i> , 29 June 1994, p 3)

Petroleum Amendment Act 1994 (Act No. 49, 1994)

Assent date 20 September 1994
Commenced 30 September 1994 (*Gaz S51*, 30 September 1994)

Statute Law Revision Act (No. 2) 1995 (Act No. 42, 1995)

Assent date 13 October 1995
Commenced 13 October 1995

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced 1 July 1996 (s 2(1), s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

Petroleum Amendment Act 1998 (Act No. 53, 1998)

Assent date 28 August 1998
Commenced 1 October 1998 (s 2(1), (2) and (3), *Gaz S37*, 1 October 1998, s 2(4), s 2 *Validation of Titles and Actions Amendment Act 1998* (Act No. 55, 1998) and *Gaz S37*, 1 October 1998)

Amending Legislation***Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)***

Assent date 23 December 1998
Commenced pt 11: 1 October 1998

Petroleum Amendment Regulations (SL No. 44, 1998)

Notified 1 October 1998
Commenced 1 October 1998 (r 2, s 2 *Petroleum Amendment Act 1998* (Act No. 53, 1998), s 2 *Validation of Titles and Actions Amendment Act 1998* (Act No. 55, 1998) and *Gaz S37*, 1 October 1998)

Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)

Assent date 23 December 1998
Commenced pt 10: 1 October 1998 (s 2(7) and r 2 *Petroleum Amendment Regulations* SL No. 44, 1998)

Lands and Mining (Miscellaneous Amendments) Act 1999 (Act No. 1, 1999)

Assent date 19 February 1999
Commenced 19 February 1999

Petroleum Amendment Regulations (SL No. 13, 1999)

Notified 16 April 1999
Commenced 16 April 1999

Amending Legislation***Petroleum Amendment Regulations (SL No. 15, 1999)***

Notified 20 April 1999
Commenced 20 April 1999

Lands and Mining (Miscellaneous Amendments) Act (No. 2) 1999 (Act No. 26, 1999)

Assent date 17 June 1999
Commenced 17 June 1999

Petroleum Amendment Act 2000 (Act No. 31, 2000)

Assent date 27 June 2000
 Commenced s 8: 16 April 1999; rem: 27 June 2000 (s 2)

Financial Relations Agreement (Consequential Provisions) Act 2000 (Act No. 32, 2000)

Assent date 27 June 2000
 Commenced 1 July 2000 (s 2(2))

Petroleum Amendment Act (No. 2) 2000 (Act No. 42, 2000)

Assent date 31 August 2000
 Commenced 11 July 2001 (Gaz G27, 11 July 2001, p 2)

Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)

Assent date 12 September 2000
 Commenced 1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and Gaz G38, 1 December 2000, p 2)

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, 1 December 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)

Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)

Assent date 11 December 2001
 Commenced 11 December 2001 (s 2(4))

Statute Law Revision Act 2002 (Act No. 18, 2002)

Assent date 7 June 2002
 Commenced 7 June 2002

Petroleum Amendment Act 2003 (Act No. 14, 2003)

Assent date 18 March 2003
 Commenced 2 July 2003 (Gaz G26, 2 July 2003, p 2)

Petroleum Amendment Act 2004 (Act No. 50, 2004)

Assent date 13 September 2004
 Commenced 13 September 2004

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
 Commenced 14 December 2005

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date 8 March 2007
 Commenced 8 March 2007

3**SAVINGS AND TRANSITIONAL PROVISIONS**

s 22(2) *Petroleum Amendment Act 1994* (Act No. 49, 1994)
 s 13 (amd SL No. 13, 1999, r 19; sub SL No. 15, 1999, r 4) and s 14
Petroleum Amendment Act 1998 (Act No. 53, 1998)
 rr 16 and 17 *Petroleum Amendment Regulations* (SL No. 13, 1999)
 s 57 *Petroleum Amendment Act 2003* (Act No. 14, 2003)
 sch *Petroleum Amendment Act 2004* (Act No. 50, 2004)

4**LIST OF AMENDMENTS**

s 3 sub No. 50, 2004, s 3
 s 5 amd No. 65, 1985, s 4; No. 45, 1990, s 4; No. 28, 1993, s 3; No. 30, 1994, s 3; No. 49, 1994, s 4; No. 53, 1998, s 4; SL No. 44, 1998; No. 93, 1998, s 204; SL No. 13, 1999; No. 45, 2000, s 11; No. 14, 2003, s 4; No. 4, 2007, s 7
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 s 17 amd No. 14, 2003, s 56
 s 18 amd No. 49, 1994, s 6; SL No. 44, 1998; No. 93, 1998, s 206; No. 1, 1999, s 26; SL No. 13, 1999; No. 31, 2000, s 3; No. 14, 2003, s 6
 s 19 sub SL No. 44, 1998
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 s 22 amd No. 49, 1994, s 7; No. 14, 2003, s 7
 s 23 amd No. 49, 1994, s 22; No. 93, 1998, s 209; No. 14, 2003, s 8
 s 24 amd No. 49, 1994, s 8; No. 14, 2003, s 56
 s 25 amd No. 49, 1994, s 22; No. 93, 1998, s 210; No. 14, 2003, s 9; No. 50, 2004, s 7
 s 26 amd No. 49, 1994, s 22; No. 14, 2003, s 10
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 s 34 amd No. 93, 1998, s 215; No. 14, 2003, s 56; No. 50, 2004, s 8
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 s 38 amd No. 93, 1998, s 217; No. 14, 2003, s 14; No. 50, 2004, s 9
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s 44	amd No. 14, 2003, s 56
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s 47	amd No. 93, 1998, s 222; No. 14, 2003, s 18
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s 52	amd No. 49, 1994, s 22; No. 93, 1998, s 224; No. 50, 2004, s 11
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s 57B	ins No. 53, 1998, s 6 amd SL No. 44, 1998; No. 93, 1998, s 228; No. 14, 2003, s 56
s 57C	ins No. 53, 1998, s 6 amd SL No. 44, 1998; No. 93, 1998, s 229; No. 1, 1999, s 27
s 57D	ins No. 53, 1998, s 6 amd SL No. 44, 1998 sub No. 93, 1998, s 230
s 57DA	ins SL No. 44, 1998 amd No. 93, 1998, s 231
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s 57GA	ins No. 26, 1999, s 41
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- s 57N ins No. 53, 1998, s 6
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- s 57NA ins SL No. 13, 1999
- s 57P ins No. 53, 1998, s 6
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- s 57Q ins No. 53, 1998, s 6
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- s 57R ins SL No. 44, 1998
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- s 57U ins SL No. 44, 1998
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- s 63 sub No. 14, 2003, s 22
- s 64 amd No. 49, 1994, s 22; No. 14, 2003, s 23
- s 65 amd No. 49, 1994, s 22; No. 93, 1998, s 250; No. 14, 2003, s 24
- s 66 amd No. 45, 1990, s 9; No. 14, 2003, s 56
- s 67 sub No. 49, 1994, s 15
- s 68 amd No. 14, 2003, s 56
- s 69 amd No. 53, 1998, s 7; No. 93, 1998, s 251; No. 14, 2003, s 56
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- s 75 amd No. 49, 1994, s 22; No. 14, 2003, s 27
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- s 77 amd No. 42, 2000, s 7; No. 14, 2003, s 28
- s 78 amd No. 14, 2003, s 56
- s 79 amd No. 65, 1985, s 7; No. 49, 1994, s 18; No. 53, 1998, s 8
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- s 82 amd No. 30, 1994, s 3; No. 53, 1998, s 10; No. 93, 1998, s 254; No. 14,
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