

NORTHERN TERRITORY OF AUSTRALIA
PETROLEUM (SUBMERGED LANDS) AMENDMENT ACT 2002

Act No. 75 of 2002

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 75 of 2002

AN ACT

to amend the *Petroleum (Submerged Lands) Act*

*[Assented to 11 December 2002]
[Second reading 16 October 2002]*

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Petroleum (Submerged Lands) Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Petroleum (Submerged Lands) Act* is in this Act referred to as the Principal Act.

4. Repeal

Sections 2 and 3 of the Principal Act are repealed.

5. Interpretation

Section 4 of the Principal Act is amended –

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- (a) by omitting from subsection (1) the definition of "Commonwealth Act" and substituting the following:

" 'Commonwealth Act' means –

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- (b) if the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth is repealed and re-enacted (with or without modification) – the Act of the Commonwealth that re-enacts it, as amended from time to time;"

- (b) by inserting in subsection (1) after the definition of "corresponding law" the following:

" 'datum' means a reference frame for defining geographic co-ordinates;

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

- (c) by inserting in subsection (1) after the definition of "document" the following:

" 'geographic co-ordinate' includes –

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

- (d) by omitting from subsection (1) the definition of "Joint Authority" and substituting the following:

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

- (e) by omitting from subsection (4) "pipeline licence," (all references);

- (f) by inserting after subsection (4) the following:

"(4A) In this Act, a reference to the term of a pipeline licence is a reference to the period during which the pipeline licence is in force.";

- (g) by omitting subsection (8).

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6. Repeal

Sections 8 and 9 of the Principal Act are repealed.

7. Repeal and substitution

Section 10 of the Principal Act is repealed and the following substituted:

"10. Definitions

"In this Division, unless the contrary intention appears –

'Commonwealth Act' means, as the context requires –

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

'Commonwealth adjacent area' means –

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

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Lands) Act 1967 of the Commonwealth, corresponds to the area which, immediately before the repeal of the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, was the adjacent area in respect of the Territory determined in accordance with section 5A of that Act."

8. Exploration for petroleum

Section 19 of the Principal Act is amended by omitting from subsection (1) all the words after paragraph (b) and substituting the following:

"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."

9. Discovery of petroleum to be notified

Section 34 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

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

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

10. Directions by designated authority on discovery of petroleum

Section 35 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$10,000." and substituting the following:

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

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

11. Discovery of petroleum to be notified

Section 38J of the Principal Act is amended by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

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

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

12. Directions by designated authority on discovery of petroleum

Section 38K of the Principal Act is amended by omitting from subsection (2) "Penalty: \$10,000." and substituting the following:

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

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

13. Recovery of petroleum in adjacent area

Section 39 of the Principal Act is amended by omitting all the words after paragraph (b) and substituting the following:

"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."

14. Unit development

Section 59 of the Principal Act is amended –

- (a) by omitting from subsection (11)(b) "within the meaning of the Commonwealth Act"; and
- (b) by adding at the end the following:

"(13) For the purposes of subsection (11)(b), the adjacent area in respect of a State is one of the following areas:

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

15. Construction etc. of pipelines etc.

Section 60 of the Principal Act is amended by omitting all the words after subsection (6) and substituting the following:

"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."

16. Application for pipeline licence

Section 64 of the Principal Act is amended by inserting in subsection (2)(b) "of a production licence" after "licence area".

17. Grant or refusal of grant of pipeline licence

Section 65 of the Principal Act is amended –

- (a) by omitting from subsection (1) "on him" and "to him" and substituting "on the applicant" and "to the applicant" respectively;
- (b) by omitting from subsection (2) "he" and substituting "the Minister";
- (c) by inserting after subsection (2) the following:

"(2A) If a person makes an application in accordance with section 64 for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered from a place beyond the outer limits of any adjacent area, the Minister may inform the person, by instrument in writing served on the person, that he or she is prepared to grant the person a pipeline licence.";

- (d) by omitting from subsection (4)(a) "he" and "his" and substituting "he or she" and "his or her" respectively;
- (e) by omitting from subsection (4)(b) "he has" and "he thinks" and substituting "he or she has" and "he or she thinks" respectively;
- (f) by omitting from subsection (4)(c) "he has" and "he wishes" and substituting "he or she has" and "he or she wishes" respectively;
- (g) by omitting from subsection (4)(d) "he" and "him" and substituting "he or she" and "him or her" respectively;
- (h) by inserting in subsection (5) "of a production licence" after "case may be, a licence area";
- (i) by inserting in subsections (7), (8) and (9) "or (2A)" after "(2)";
- (j) by omitting from subsection (9) "notice on him", "served on him" and "to him" and substituting "notice on the person", "served on the person" and "to the person" respectively; and
- (k) by inserting in subsections (10) and (11) "or (2A)" after "(2)".

18. Term of pipeline licence

Section 67 of the Principal Act is amended by omitting subsection (1) and substituting the following:

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"(1) Subject to this Part, a pipeline licence remains in force indefinitely."

19. Repeal

Sections 68 and 69 of the Principal Act are repealed.

20. Conditions of pipeline licence

Section 70 of the Principal Act is amended by omitting subsection (3).

21. Variation of pipeline licence by designated authority

Section 72 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$50,000 or imprisonment for 5 years." and substituting the following:

"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."

22. Ceasing to operate pipeline

Section 74 of the Principal Act is amended by omitting from subsection (1) "Penalty: \$50,000 or imprisonment for 5 years." and substituting the following:

"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."

23. New section

The Principal Act is amended by inserting after section 74 in Part II, Division 4 the following:

"74AA. Termination of pipeline licence if no operations for 5 years

"(1) If a pipeline licensee –

(a) has not carried out any construction work under the pipeline licensee's pipeline licence for a continuous period of at least 5 years; and

(b) has not used the pipeline or a part of the pipeline the subject of the pipeline licensee's pipeline licence for a continuous period of at least 5 years,

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

"(2) At any time after the end of one month after the notice referred to in subsection (1) is served on the pipeline licensee, the Minister may, by written notice served on the pipeline licensee, terminate the pipeline licence or terminate the pipeline licence in respect of a part of the pipeline (as the case requires).

"(3) In working out, for the purposes of subsection (1), the duration of the period in which a pipeline licensee did not carry out any construction work under the pipeline licence or did not use the pipeline or a part of the pipeline, any period in which construction work was not carried out, or the pipeline or part of the pipeline was not used, because of circumstances beyond the pipeline licensee's control is to be disregarded."

24. True consideration to be shown

Section 82 of the Principal Act is amended by omitting from subsection (1) "Penalty: \$10,000." and substituting the following:

"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."

25. Power of Minister to acquire information as to dealings

Section 84 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

"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."

26. Production and inspection of documents

Section 85 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

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

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

27. Offences

Section 90 of the Principal Act is amended by omitting "Penalty: \$5,000." and substituting the following:

"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."

28. Notice of grants of permits etc. to be published

Section 94 of the Principal Act is amended –

- (a) by omitting "he" and substituting "he or she";
- (b) by omitting from paragraph (a) ", licence or pipeline licence" and substituting "or licence";
- (c) by inserting after paragraph (a) the following:

"(aa) the grant of a pipeline licence;"
- (d) by omitting from paragraph (e) "renewal or"; and
- (e) by omitting from paragraph (g) ", licence or pipeline licence," and substituting "or licence, or the termination of a pipeline licence,".

29. Commencement of works

Section 96 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

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

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

30. Work practices

Section 97 of the Principal Act is amended by omitting all the words after subsection (7) and substituting the following:

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

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

31. Maintenance etc. of property

Section 98 of the Principal Act is amended by omitting all the words after subsection (4) and substituting the following:

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"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

32. Drilling near boundaries

Section 100 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

33. Directions

Section 101 of the Principal Act is amended –

(a) by omitting from subsections (2A), (2B) and (2C) "Penalty: \$5,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units.";
and

(b) by omitting from subsection (7) "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

34. Exemption

Section 103 of the Principal Act is amended –

(a) by omitting from subsection (1)(a) ", licence or pipeline licence is" and ", licence or pipeline licence;" and substituting "or licence is" and "or licence;" respectively;

(b) by omitting from subsection (2) ", licence or pipeline licence" and substituting "or licence"; and

(c) by omitting from subsection (3) "he" and substituting "he or she".

35. Removal of property etc. by permittee etc.

Section 107 of the Principal Act is amended –

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- (a) by omitting from subsection (1) all the words before paragraph (a) and substituting the following:

"(1) If –

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

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

- (b) by omitting from subsection (2) "him" and substituting "the permittee, lessee, licensee or pipeline licensee"; and
- (c) by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

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

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

36. Removal of property etc. by Minister

Section 108 of the Principal Act is amended –

- (a) by omitting all the words before paragraph (a) and substituting the following:

"If –

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

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

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- (b) by omitting from paragraph (b) "he" and substituting "he or she".

37. Special prospecting authorities

Section 111 of the Principal Act is amended by omitting from subsection (9) "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 500 penalty units.
If the offender is a body corporate – 2 500 penalty units."

38. Access authorities

Section 112 of the Principal Act is amended –

- (a) by omitting from subsection (10) "Penalty for an offence against this subsection: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 500 penalty units.
If the offender is a body corporate – 2 500 penalty units.";
and

- (b) by omitting from subsection (11) "Penalty for an offence against this subsection: \$5,000." and substituting the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

39. Failing to furnish information etc.

Section 117 of the Principal Act is amended by omitting all the words after paragraph (c) and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

40. Discovery of water

Section 120 of the Principal Act is amended by omitting "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

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41. Survey of wells etc.

Section 121 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

42. Records etc. to be kept

Section 122 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

43. Interference with other rights

Section 124 of the Principal Act is amended by omitting "Penalty: \$10,000." and substituting the following:

"Penalty: If the offender is a natural person – 200 penalty units.
If the offender is a body corporate – 1 000 penalty units."

44. Inspectors

Section 125 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$500." and substituting "Penalty: 20 penalty units."

45. Powers of inspectors

Section 126 of the Principal Act is amended by omitting from subsection (3) "Penalty for an offence against this subsection: \$5,000." and substituting the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

46. Safety zones

Section 137B of the Principal Act is amended by omitting from subsection (3) "Penalty: \$100,000 or imprisonment for 10 years." and substituting the following:

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

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

47. Powers of authorized persons

Section 137C of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

"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."

48. Fees

Section 138 of the Principal Act is amended by omitting from subsections (1), (3) and (4) "or licence" and substituting ", licence or pipeline licence".

49. Time for payment of fees

Section 141 of the Principal Act is amended by inserting in paragraphs (a) and (b) "lease," before "licence or".

50. New Part

The Principal Act is amended by inserting after section 150 the following:

"PART IIA – DATUMS

"150A. Object of Part

"The main objects of this Part are –

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

"150B. Definitions

"In this Part –

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

'changeover time' means the time when a declaration under section 150D takes effect;

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'current datum' means the datum declared to be the current datum under section 150D;

'instrument under this Act' does not include the Regulations;

'previous datum' means –

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

'this Act' includes the Regulations;

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

"150C. Australian Geodetic Datum

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

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

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

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

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

"150D. Current datum and previous datum

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

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

"150E. Use of current datum

"For the purposes of this Act, the position on the surface of the Earth of --

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

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

"150F. Use of previous datum

"(1) This section applies subject to section 150G.

"(2) For the purposes of this Act, the position on the surface of the Earth of --

- (a) a permit area the subject of a permit in force immediately before the changeover time;
- (b) a lease area the subject of a lease in force immediately before the changeover time;
- (c) a licence area the subject of a licence in force immediately before the changeover time;
- (d) an area the subject of a special prospecting authority in force immediately before the changeover time;
- (e) an area the subject of an access authority in force immediately before the changeover time;

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- (f) the route of a pipeline authorised by a pipeline licence in force immediately before the changeover time; or
- (g) a point, line, block or area set out in any other instrument in force under this Act immediately before the changeover time,

is to be described by reference to the previous datum.

"150G. Variation of titles etc.

"The Regulations may authorise the Minister to issue an instrument varying –

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

- (h) a title or other instrument under this Act for the sole purpose of inserting an annotation about the applicable datum.

"150H. Variation of applications for titles

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

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

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

"150J. 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."

51. Repeal

Schedules 1 and 2 to the Principal Act are repealed.

52. Transitional: applications for pipeline licences

To avoid doubt, if a person makes an application for a pipeline licence under section 64 of the *Petroleum (Submerged Lands) Act* as in force before the commencement of this Act and, on the commencement of this Act, the application has not been rejected or the person who made the application has not been granted a pipeline licence, the *Petroleum (Submerged Lands) Act* as in force after that commencement applies to and in relation to that application and that application is to be dealt with under that Act.
