

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM LEGISLATION AMENDMENT ACT 2022

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Act No. 33 of 2022

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. 33 of 2022

An Act to amend the *Petroleum Act 1984*, the *Petroleum Regulations 2020*, the *Petroleum (Environment) Regulations 2016* and the *Environmental Offences and Penalties Regulations 2011* and for related purposes

[Assented to 16 December 2022]  
[Introduced 12 October 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Petroleum Legislation Amendment Act 2022*.

### 2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 7 October 2024, it commences on that day.

## Part 2 Amendment of Petroleum Act 1984

### 3 Act amended

This Part amends the *Petroleum Act 1984*.

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**4 Section 3 amended (Objective)**

## (1) Section 3(1)

*omit, insert*

- (1) The objective of this Act is to provide a legal framework that:
- (a) encourages persons to undertake effective exploration for petroleum and to develop petroleum production so that the optimal value of the resource is returned to the Territory; and
  - (b) provides protection to the environment of the Territory; and
  - (c) promotes principles of ecologically sustainable development.

## (2) Section 3(2)(f)

*omit, insert*

- (e) resource management, activity and infrastructure plans to support and enhance well and surface infrastructure integrity and the strategic management of petroleum production consistent with achieving optimum long-term recovery of the resource;
- (f) the reduction of risk or potential risk of environmental harm by ensuring that activities associated with exploration for, or production of, petroleum are carried out in a manner in which the environmental impacts and risks of the activities are reduced to a level that is:
  - (i) as low as reasonably practicable; and
  - (ii) acceptable;

**5 Section 5 amended (Interpretation)**

- (1) Section 5(1), definitions ***aggrieved person, alternative provision area, future act, guidelines, land, licensee, native title objection, Native Title Registrar, onshore place, panel, permittee, prescribed petroleum act, previous exclusive possession act, private land, repealed Act, representative Aboriginal/Torres Strait Islander body*** and ***this Act***

*omit*

## (2) Section 5(1)

*insert*

**annual report**, see section 61H.

**appraisal production infrastructure** means temporary or semi-permanent infrastructure located on an exploration permit area or retention licence area, downstream from a wellhead, for the purpose of extracting, processing, refining, storing, transporting or using petroleum produced on an appraisal basis to allow for its beneficial use, other than a pipeline as defined in section 3 of the *Energy Pipelines Act 1981*.

**approved code of practice** means a code of practice established by the Minister under section 117AZV.

**approved environment management plan** means an environment management plan approved under the regulations.

**approved form** means a form approved under section 117J.

**approved plan** means a plan approved under Part III, Division 1, Subdivision 2.

**audit direction** means a direction issued under section 89W.

**auditor** means a person appointed to undertake an audit under section 89W(3).

**authorised analyst** means a person appointed as an authorised analyst under section 117P.

**CEO** means the Chief Executive Officer.

**change in control**, for Part IVA, see section 104B.

**compliance direction** means a compliance direction issued under section 89N.

**contaminant**, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

**corporation**, for Part IVA, see section 104A.

**ecologically sustainable development**, see section 4 of the *Environment Protection Act 2019*.

**Environment CEO** means the Chief Executive Officer of the Agency administering the *Environment Protection Act 2019*.

**environment management plan** means a plan prepared under and in accordance with the regulations that addresses potential environmental risks and impacts that might arise from carrying on the activities contemplated by the plan.

**Environment Minister** means the Minister administering the *Environment Protection Act 2019*.

**environmental harm**, see subsections (8), (9) and (10).

**environmental security**, see Part VC, Division 2.

**excluded third party submission**, in relation to a submission made under this Act, means:

- (a) a submission made by a person in the form of a form letter or petition prepared by another body or organisation; or
- (b) a submission made after the end of a period specified for the making of submissions under this Act.

**family**, for Part IVA, see section 104A.

**family relationship**, for Part IVA, see section 104A.

**field management plan**, see section 60(2).

**future act**, see section 233 of the Native Title Act.

**geophysical survey** means a geophysical investigation conducted by any generally recognised method, including a seismic, gravimetric, magnetic, electrical or radioactive method, but does not include any operation conducted wholly or partly within a well.

**guidelines** means guidelines issued under section 117C.

**infrastructure** includes structures, plant and equipment.

**interest holder** means the holder of a petroleum interest.

**investor**, for Part IVA, see section 104A.

**land** includes:

- (a) waters and land under waters within the Territory other than waters to which the *Petroleum (Submerged Lands) Act 1981* applies; and
- (b) water on or under land.

**levy** means:

- (a) for Part VD – see section 117AZE; or
- (b) for Part VE – see section 117AZK.

**licensee**:

- (a) except for Part III, Division 1, Subdivision 2, means a production licensee or a retention licensee; or
- (b) for Part III, Division 1, Subdivision 2 – see section 59.

**material environmental harm**, see section 8 of the *Environment Protection Act 2019*.

**monitoring and compliance levy**, see section 117AZF.

**orphan well**, for Part VE, see section 117AZL.

**orphan well levy**, see Part VE, see section 117AZM.

**permittee**:

- (a) except for Part III, Division 1, Subdivision 2, means a person who is registered under Part IV as the holder of an exploration permit; or
- (b) for Part III, Division 1, Subdivision 2 – see section 59.

**petroleum infrastructure decommissioning security**, see Part VC, Division 3.

**petroleum surface infrastructure plan**, see section 60(3).

**pollution**, see section 4 of the *Waste Management and Pollution Control Act 1998*.

**premises** includes:

- (a) infrastructure, whether stationary or portable; and
- (b) a vehicle or other conveyance.

**produce**, in relation to petroleum, means to recover or release the petroleum from a petroleum pool in the course, or as a result, of any operations.

**related**, for Part IVA, see section 104C.

**related corporations**, for Part IVA, see section 104A.

**repealed Act** means the Acts repealed by this Act when this Act was enacted, as in force immediately before that repeal.

**reporting period**, see section 5A.

**reservoir** means any subsurface formation or geological sequence containing a petroleum pool.

**rig release** means the point at which a drilling rig conducts its last operation on a well and its services are no longer required for that well.

**share**, for Part IVA, see section 104A.

**significant environmental harm**, see section 9 of the *Environment Protection Act 2019*.

**stop work notice** means a stop work notice issued under section 89R.

**surface infrastructure** means infrastructure located on a production licence area, downstream from a wellhead, for the purpose of extracting, processing, refining, storing, transporting or using petroleum, other than a pipeline as defined in section 3 of the *Energy Pipelines Act 1981*.

**survey** means a systematic geoscientific survey, including a geological or geophysical survey.

**vary**, in relation to the conditions of a petroleum interest or approved plan, includes adding, suspending, waiving or revoking a condition of the petroleum interest or approved plan.

**waste**, see section 4 of the *Waste Management and Pollution Control Act 1998*.

**wellhead** means the casing head and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

**well operations management plan**, see section 60(1).

(3) Section 5(1), definition **petroleum**, paragraph (c), after "with"

*insert*

hydrogen,



- (4) After section 5(7)
- insert*
- (8) For this Act, **environmental harm** means direct or indirect alteration of the environment to its detriment or degradation, of any degree or duration, whether temporary or permanent.
- (9) The regulations may specify alterations of the environment to which the definition of **environmental harm** applies.
- (10) Without limiting subsection (8) or (9), for this Act, environmental harm may be caused by pollution whether the harm:
- (a) is a direct or indirect result of the pollution; or
- (b) results from the pollution alone or from the combined effects of the pollution or other factors.
- (11) For this Act, a discovery of petroleum is taken to have occurred where:
- (a) the presence of petroleum within a reservoir is indicated during drilling; and
- (b) the petroleum is shown to be producible after taking into account any guidelines published or adopted by the Minister for the purposes of this subsection.
- (12) For this Act, petroleum is recovered or produced on an appraisal basis if it is recovered or produced under a process intended to establish the extent and nature of a discovery of petroleum.
- (5) Section 5, at the end
- insert*
- Note for section 5*
- The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

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**6 Section 5A inserted**

After section 5

*insert*

**5A Meaning of reporting period**

- (1) A **reporting period**, in relation to a petroleum interest, is each period of 12 months ending on the anniversary of the day on which the petroleum interest was granted.
- (2) If the petroleum interest comes to an end during one of the periods under subsection (1) then the last reporting period is the period from the last anniversary of the day on which the petroleum interest was granted to the day on which the petroleum interest ceases to exist.

**7 Section 6 amended (Petroleum property of Crown)**

Section 6(2)

*omit, insert*

- (2) The property in petroleum produced from a well on an area to which a petroleum interest relates passes to the interest holder at the wellhead.

**8 Section 6AA inserted**

After section 6, in Part I

*insert*

**6AA Application of Criminal Code**

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

*Note for section 6AA*

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

**9 Section 7 repealed (Delegation)**

Section 7

*repeal*

---

**10 Section 16 amended (Release of blocks and application for exploration permit)**

(1) Section 16(2)(c)

*omit*

(2) Section 16(2)(d)

*omit*

the guidelines

*insert*

any guidelines

**11 Section 17 amended (More than one application for same block or blocks)**

Section 17(2)

*omit*

the guidelines

*insert*

any guidelines published by the Minister

**12 Section 18 amended (Notice of application for exploration permit)**

(1) Section 18(1AA)(c)

*omit*

in accordance with the guidelines

(2) Section 18(1A)

*omit*

**13 Section 19 amended (Objections)**

Section 19(3)

*omit*

---

**14 Section 20 amended (Determination of application for exploration permit)**

- (1) Section 20(3)  
*omit*  
, subject to section 57L,
- (2) Section 20(3), after "some or all of the blocks"  
*insert*  
(including part or parts of a block)
- (3) Section 20(6)  
*omit, insert*
- (6) If the Minister grants an exploration permit in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the exploration permit, remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.
- (7) If the Minister determines to refuse to grant the exploration permit, the Minister must, as soon as practicable, give the applicant a notice of the determination stating the reasons for the determination.

**15 Section 21E repealed (Guidelines)**

Section 21E

*repeal*

**16 Section 23 amended (Application for renewal of exploration permit)**

Section 23(1)

*omit*

Subject to sections 24 and 24A and to Parts IIA and IIB as applicable, a

*insert*

A

---

**17 Sections 24 and 24A repealed**

Sections 24 and 24A

*repeal*

**18 Section 25 amended (Grant or refusal of exploration permit)**

(1) Section 25(1)

*omit*

subject to Parts IIA and IIB as applicable,

(2) Section 25(1)(c)

*omit*

all words from "lodging" to "this Act"

*insert*

agreeing to provide appropriate security or securities as required under this Act

(3) Section 25(2A)

*omit*

and a statement that the permittee may request a review of the determination under Division 6

(4) Section 25(5) and (6)

*omit, insert*

(5) A permittee served with a notice under subsection (1) may, within 28 days after service of the notice or a longer period agreed by the Minister, by written notice served on the Minister, request the Minister to renew the exploration permit.

(6) If a permittee makes a request under subsection (5) within the time referred to in that subsection, the Minister must renew the exploration permit.

(5) Section 25(10)

*omit*

and lodged with the Minister the security

(6) After section 25(11)

*insert*

(12) This section operates subject to section 25A.

## **19 Section 25A inserted**

After section 25

*insert*

### **25A Requirement to reduce exploration permit area**

- (1) The Minister may, as part of the Minister's decision to renew an exploration permit, reduce the number of blocks in respect of which the permit is in force to a number specified by the Minister.
- (2) For subsection (1), the Minister must take into account:
  - (a) the extent to which the permittee is:
    - (i) actively undertaking exploration activities in the exploration permit area; and
    - (ii) complying with the conditions of the exploration permit; and
  - (b) the views of the permittee about the proposed reduction.
- (3) The Minister must:
  - (a) include information about a proposal to act under this section in the notice given to the permittee under section 25; and
  - (b) if the Minister is proposing to act under this section, include in the notice an invitation to the permittee to make a submission within a period specified in the notice.
- (4) The Minister may, on the basis of a request made by the permittee within the period specified under subsection (3)(b), defer a reduction for a period determined or approved by the Minister.
- (5) If the permittee will not accept a reduction in the number of blocks in respect of which the permit is in force as provided by this section, the Minister may cancel the renewal of the exploration permit.

---

**20 Section 26 replaced**

Section 26

*repeal, insert*

**26 Annual fee**

- (1) The annual fee payable in relation to an exploration permit is the amount prescribed by, or calculated in accordance with, the regulations.
- (2) Subject to section 63, the annual fee for an exploration permit is payable by the permittee in advance on:
  - (a) the commencement of the exploration permit; and
  - (b) each anniversary of the commencement of the permit or its last renewal.

**21 Section 27 amended (Conditions of exploration permit)**

Section 27

*omit*

and to Parts IIA and IIB as applicable

**22 Section 28 amended (Variation etc. of condition of exploration permit)**

- (1) Section 28, heading

*omit*

**etc.**
- (2) Section 28(1)

*omit, insert*

  - (1) A permittee may apply to the Minister to vary a condition of the permittee's exploration permit.
- (3) Section 28(2) and (3)

*omit, insert*

  - (2) On receiving an application under subsection (1), the Minister may, by notice served on the permittee, vary a condition of the exploration permit in accordance with the application.

- (3) If a condition of an exploration permit which places an obligation on the permittee is suspended by a variation under subsection (2), the Minister may, in the notice or by a later notice served on the permittee, extend the term of the permit by a period not exceeding the period of the suspension.

**23 Section 29 amended (Rights conferred by exploration permit)**

- (1) Section 29(2)  
*omit*  
his  
*insert*  
their
- (2) After section 29(2)(c)  
*insert*  
(ca) if approved by the Minister – recover petroleum on an appraisal basis from the permit area; and
- (3) Section 29(2)(a) and (b), at the end  
*insert*  
and
- (4) Section 29(3)  
*omit, insert*
- (3) The Minister must, subject to Division 4 and to the conditions the Minister thinks fit, grant a production licence to a permittee if the permittee has:
- (a) complied with the conditions to which the permittee's exploration permit is subject, the directions, if any, given to the permittee by the Minister and with this Act; and
  - (b) discovered a commercially exploitable accumulation of petroleum within the permittee's exploration permit area; and
  - (c) applied under section 45 for a production licence in relation to the blocks where the accumulation occurs.



---

**24 Section 32 amended (Application for retention licence)**

(1) Section 32(1)

*omit*

all words from "including" to "Minister:"

*insert*

a permittee may apply for a retention licence by lodging with the Minister the following:

(2) After section 32(1)(b)

*insert*

(ba) a statement justifying the number of blocks subject to the application;

(3) Section 32(1)(k)(ii)

*omit*

and

**25 Section 33 amended (Size of retention licence area)**

(1) Section 33(1) and (2)

*omit*

shall

*insert*

must

(2) Section 33(1)

*omit*

12

*insert*

200

---

**26 Section 34 amended (Grant or refusal of retention licence)**

## (1) Section 34(1)

*omit, insert*

(1) The Minister may determine to grant a retention licence in respect of all, or part, of the land to which an application under section 32 relates, subject to the conditions the Minister thinks appropriate, if satisfied that:

- (a) the applicant complied with the requirements of this Act relating to an application for a retention licence; and
- (b) the applicant, as a permittee, complied with the provisions of this Act relating to the exploration permit and the exploration permit area and the directions, if any, given to the applicant by the Minister.

## (2) After section 34(3)

*insert*

(3A) If the Minister grants a retention licence in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the retention licence, remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.

## (3) Section 34(5)

*omit*

and a statement that the applicant may request a review of the determination under Division 6

**27 Section 37 amended (Application for renewal of retention licence)**

## Section 37(1)

*omit, insert*

(1) A retention licensee may apply to the Minister for the renewal of the licence.

---

**28 Section 38 amended (Grant or refusal of renewal of retention licence)**

- (1) Section 38(1)  
*omit*  
, subject to Parts IIA and IIB as applicable,
- (2) Section 38(3A)  
*omit*  
and a statement that the retention licensee may request a review of the determination under Division 6
- (3) Section 38(7) and (8)  
*omit, insert*
- (7) A retention licensee served with a notice under subsection (1) or (2) may, within 28 days after service of the notice or a longer period agreed by the Minister, by notice served on the Minister, request the Minister to renew the retention licence.
- (8) If a retention licensee makes a request under subsection (7) within the time referred to in that subsection, the Minister must renew the retention licence.
- (4) Section 38(12)  
*omit*  
and lodged with the Minister the security

**29 Section 39 replaced**

Section 39  
*repeal, insert*

**39 Annual fee**

- (1) The annual fee payable in relation to a retention licence is the amount prescribed by, or calculated in accordance with, the regulations.
- (2) Subject to section 63, the annual fee for a retention licence is payable by the retention licensee in advance on:
- (a) the commencement of the retention licence; and

- (b) each anniversary of the commencement of the retention licence or its last renewal.

**30 Section 40 amended (Conditions of retention licence)**

Section 40

*omit*

and to Parts IIA and IIB as applicable

**31 Section 41 replaced**

Section 41

*repeal, insert*

**41 Variation of condition of retention licence**

- (1) A retention licensee may apply to the Minister to vary a condition of the licence.
- (2) An application under subsection (1) must be accompanied by the prescribed fee.
- (3) On receiving an application under subsection (1), the Minister may, by notice served on the licensee, vary a condition of the licence.
- (4) If a retention licensee applies under subsection (1) to vary a condition of the licence which relates to the technical works program, the Minister may, after consultation with the retention licensee, appoint a person to evaluate the proposed variation and report their findings to the Minister.
- (5) If the Minister appoints a person under subsection (4), the cost of the person's services is a debt due and payable to the Territory by the retention licensee and may be recovered in a court of competent jurisdiction.

**32 Section 42 amended (Rights conferred by retention licence)**

- (1) After section 42(1)

*insert*

- (1A) A retention licence allows the recovery of petroleum on an appraisal basis if approved by the Minister.

- (2) Section 42(2)  
*omit*  
, to Parts IIA and IIB (as applicable)

**33 Section 45 amended (Application for production licence)**

- (1) Section 45(1)  
*omit*  
including Part IIA if applicable,
- (2) After section 45(1)(b)  
*insert*  
(ba) a statement justifying the number of blocks subject to the application;
- (3) Section 45(1A)  
*omit*

**34 Section 46 amended (Size of production licence)**

- (1) Section 46(1) and (2)  
*omit*  
shall  
*insert*  
must
- (2) Section 46(1)  
*omit*  
12  
*insert*  
200

---

**35 Section 47 amended (Grant of production licence)**

- (1) Section 47(1) and (2)  
*omit*  
subject to section 57L if applicable,
- (2) Section 47(2), after "applicant the production licence"  
*insert*  
in respect of all, or part, of the land to which the application relates
- (3) After section 47(6)  
*insert*
- (7) If the Minister grants a production licence in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the production licence and subject to subsection (3), remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.

**36 Section 48 amended (Refusal to grant production licence)**

Section 48(1A)

*omit*

and a statement that the applicant may apply for a review of the determination under Division 6

**37 Section 51 amended (Application for renewal of production licence)**

- (1) Section 51(1)  
*omit, insert*
- (1) A production licensee may apply to the Minister for the renewal of the licence.
- (2) Section 51(4)  
*omit*  
where he is

*insert*

if

**38 Section 52 amended (Grant or refusal of renewal of production licence)**

(1) Section 52(1)

*omit*

, subject to Parts IIA and IB as applicable,

(2) Section 52(3A)

*omit*

and a statement that the production licensee may request a review of the determination under Division 6

(3) Section 52(6)(b)

*omit, insert*

(b) vary the conditions contained in the notice under that subsection.

(4) Section 52(7)

*omit*

, and subject to the conditions imposed in pursuance of section 57L if applicable

(5) Section 52(8)(b)

*omit*

and the amount of the security to be lodged

**39 Section 53 replaced**

Section 53

*repeal, insert*

**53 Annual fee**

- (1) The annual fee payable in relation to a production licence is the amount prescribed by, or calculated in accordance with, the regulations.

- (2) Subject to section 63, the annual fee for a production licence is payable by the production licensee in advance on:
- (a) the commencement of the production licence; and
  - (b) each anniversary of the commencement of the production licence or its last renewal.

**40 Section 54 amended (Conditions of production licence)**

- (1) Section 54(1)  
*omit*  
and Parts IIA and IIB as applicable
- (2) Section 54(2)(c)  
*omit*  
produced; and  
*insert*  
produced.
- (3) Section 54(2)(f)  
*omit*

**41 Section 55 replaced**

Section 55  
*repeal, insert*

**55 Variation of condition of production licence**

- (1) A production licensee may apply to the Minister to vary a condition of the licence.
- (2) An application under subsection (1) must be accompanied by the prescribed fee.
- (3) On receiving an application under subsection (1), the Minister may, by notice served on the licensee, vary a condition of the licence.
- (4) If a production licensee applies under subsection (1) to vary a condition of the licence which relates to the technical works program, the Minister may, after consultation with the production licensee, appoint a person to evaluate the proposed variation and



report their findings to the Minister.

- (5) If the Minister appoints a person under subsection (4), the cost of the person's services is a debt due and payable to the Territory by the production licensee and may be recovered in a court of competent jurisdiction.

**42 Section 57A amended (Access authorities)**

- (1) Section 57A(2)

*omit*

Subject to Part IIA if applicable, a

*insert*

A

- (2) Section 57A(3)

*omit*

and to Parts IIA and IIB as applicable

- (3) After section 57A(3)

*insert*

- (3A) An access authority may be granted in respect of all, or part, of the land to which the application under subsection (2) relates.

- (3B) If the Minister grants an access authority in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the access authority, remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.

- (4) Section 57A(5)

*omit, insert*

- (5) The Minister may, at any time by written notice served on the holder of an access authority, vary the access authority area to which the access authority is subject.

## (5) Section 57A(10)

*omit*

Subject to Parts IIA and IIB as applicable, an

*insert*

An

## (6) Section 57A(13) to (15)

*omit, insert*

(13) A person must comply with a direction under subsection (12).

(14) A person commits an offence if:

- (a) the person is given a direction under subsection (12); and
- (b) the person intentionally engages in conduct; and
- (c) the conduct results in a contravention of the direction and the person is reckless in relation to that result.

Maximum penalty: 500 penalty units.

(15) Strict liability applies to subsection (14)(a).

(16) A person commits an offence if:

- (a) the person is given a direction under subsection (12); and
- (b) the person contravenes the direction.

Maximum penalty: 200 penalty units.

(17) An offence against subsection (16) is an offence of strict liability.

(18) It is a defence to a prosecution for an offence against subsection (14) or (16) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(19) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (18).

---

**43 Section 57AA and Part II, Division 5A inserted**

After section 57A

*insert*

**57AA Report on operations under access authority**

- (1) A person must comply with subsection (2) if:
  - (a) the person is the holder of an access authority; and
  - (b) the 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
  - (c) the person is not the permittee, licensee, lessee or the holder of the petroleum title.
- (2) The person must, not later than 28 days after the end of each month during which the access authority is in force, provide the permittee, licensee, lessee or holder of the petroleum title with a report, in writing, of:
  - (a) the operations carried on in the permit area, licence area, lease area or the area over which a petroleum title is granted during that month; and
  - (b) a summary of the facts ascertained from those operations.
- (3) A person commits an offence if the person is required to provide a report under subsection (2) and the person contravenes that requirement.

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

**Division 5A Common and related provisions****57AAA Recovery of petroleum on appraisal basis**

- (1) This section applies to a person who is:
  - (a) a permittee; or
  - (b) a retention licensee.

- (2) The person may apply to the Minister for approval to recover petroleum on an appraisal basis under the relevant petroleum interest.
- (3) An application for the approval of the Minister must:
  - (a) be in the approved form; and
  - (b) be accompanied by the information required by the Minister; and
  - (c) be accompanied by a proposal for the petroleum infrastructure decommissioning security relating to any appraisal production infrastructure proposed to be used in connection with the recovery of petroleum on an appraisal basis; and
  - (d) be accompanied by the prescribed fee; and
  - (e) comply with any guidelines published by the Minister.
- (4) The Minister may give the person a written notice requesting further information to assist the Minister to determine the application.
- (5) The Minister must not approve the application unless satisfied:
  - (a) that a discovery of petroleum has occurred on the permit area or retention licence area; and
  - (b) that extended well testing is required to determine whether the reservoir is commercially exploitable; and
  - (c) that petroleum recovered during extended well testing would be flared or vented if the approval were not to be granted; and
  - (d) that the applicant has obtained approval, consent or agreement under the Land Rights Act or the Native Title Act in relation to the sale or other beneficial use of petroleum recovered on an appraisal basis.
- (6) An approval under this section is subject to conditions specified by the Minister on the grant of the approval.
- (7) An approval under this section is for a period determined by the Minister.
- (8) The Minister may, on the Minister's own initiative, vary a condition of an approval under this section.
- (9) The Minister may, on the application of a permittee or retention licensee, vary a condition of an approval under this section.

- (10) The Minister may, on the application of a permittee or retention licensee, extend the period of an approval under this section.
- (11) The Minister may, by written notice to a permittee or retention licensee, cancel an approval under this section if the permittee or licensee:
  - (a) did not comply with a condition of the approval; or
  - (b) has been issued with a notice under section 30 or 43.

**57AAB Transfer of interest in application for petroleum interest**

- (1) This section applies to a person who:
  - (a) has applied for a petroleum interest; and
  - (b) is seeking to transfer the person's interest in the application to another person.
- (2) The transfer has no effect unless it is approved by the Minister.
- (3) An application for the approval of the Minister must:
  - (a) be in the approved form; and
  - (b) be accompanied by an instrument of transfer that is signed or executed in the manner specified in the approved form; and
  - (c) in the case of an application for a permit or licence – be accompanied by the information required by the Minister including information to establish that the proposed transferee, and any associated entity of the proposed transferee, is an appropriate person to hold the permit or licence; and
  - (d) be accompanied by the prescribed fee; and
  - (e) comply with any other requirement determined by the Minister and published on the Agency's website.
- (4) The Minister may, before determining an application under this section, request from the applicant or proposed transferee further information relating to the transfer to assist the Minister to determine the application.
- (5) In determining an application under this section in relation to a permit or licence, the Minister must be satisfied that the proposed transferee, and any associated entity of the proposed transferee, is an appropriate person to hold the permit or licence as required by section 15A (and may take into account any other matter

determined to be relevant by the Minister).

- (6) If the Minister approves a transfer under this section, the Minister may:
  - (a) cause the transfer to be noted or given effect to in such manner as the Minister thinks appropriate; and
  - (b) require that any step taken in relation to the application to be repeated or varied in such manner as the Minister thinks appropriate.
- (7) An approval under this section may be subject to any other condition or requirement determined by the Minister and recorded as part of the Minister's approval.

**57AAC Grant relating to Aboriginal land or native title land**

- (1) If any of the affected land to which an application for a petroleum interest comprises Aboriginal land, the Minister may grant a petroleum interest for that land only if the applicant has obtained any permit, consent or agreement required under the Land Rights Act.
- (2) If the Minister is satisfied that a grant of a petroleum interest will be a future act in relation to any of the land to be comprised in the petroleum interest, the Minister may grant the petroleum interest only if satisfied that all procedures under the Native Title Act relevant to the future act have been followed.

**57AAD Ability of Minister to vary conditions of petroleum interest**

- (1) The Minister may, on the Minister's own initiative, vary a condition of a petroleum interest.
- (2) The Minister may take action under subsection (1) if the Minister believes on reasonable grounds that:
  - (a) the interest holder has contravened a provision of this Act or a direction or notice under this Act; or
  - (b) without limiting paragraph (a), the interest holder has failed to comply with a condition of the petroleum interest; or
  - (c) the action is reasonably necessary to protect:
    - (i) any aspect of the environment; or
    - (ii) any person, property or infrastructure.

- (3) Before taking action under subsection (1), the Minister must:
  - (a) by written notice, inform the interest holder of the proposed action and the reasons for it; and
  - (b) allow the interest holder an opportunity to make representations about the proposed action within a period (being at least 28 days) specified in the notice.
- (4) As soon as practicable after making a decision to take action under subsection (1), the Minister must give notice to the interest holder setting out details of the action that has been taken.

#### **57AAE Insurance**

- (1) It is a condition of a petroleum interest that the interest holder will maintain an insurance policy as required by the Minister during any period determined or directed by the Minister.
- (2) The Minister may, from time to time, require that an insurance policy under subsection (1) be varied or substituted.

#### **44 Part II, Division 6, Subdivision 2 replaced**

Part II, Division 6, Subdivision 2

*repeal, insert*

#### **Subdivision 2 Review by Tribunal**

##### **57AB Review by Tribunal**

- (1) The Tribunal has jurisdiction to review a decision or determination (a **reviewable decision**) specified in Schedule 3.
- (2) An **interested person**, for a reviewable decision, is a person specified in Schedule 3 for the decision.
- (3) An interested person for a reviewable decision may apply to the Tribunal for review of the reviewable decision.

*Note for subsection (3)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.*

- (4) A person must not apply for review of a reviewable decision for reasons of commercial competition.

- (5) Unless the Tribunal orders otherwise, an application for review by the Tribunal does not affect the operation or implementation of the decision or determination under review.

**45 Parts IIA and IIB repealed**

Parts IIA and IIB

*repeal*

**46 Part III heading replaced**

Part III, heading

*omit, insert*

**Part III                    General provisions relating to petroleum interests**

**47 Part III, Division 1, Subdivision 1 heading inserted**

Before section 58

*insert*

**Subdivision 1    Conditions**

**48 Section 58 amended (General conditions)**

- (1) Before section 58(a)

*insert*

(aa) pay royalty on all petroleum produced or recovered from the area to which a petroleum interest relates; and

- (2) Section 58(a)

*omit*

fees

*insert*

fees, levies

- (3) Section 58(ab)

*omit*



(4) After section 58(g)

*insert*

(ga) ensure, in relation to a well capable of producing or recovering petroleum, that a measuring device approved by the CEO is installed on the exploration permit or licence area at a location required or approved by the CEO before commencing any production or recovery operations at that well; and

#### **49 Sections 58A to 61 replaced**

Sections 58A to 61

*repeal, insert*

### **Subdivision 2 Resource management, activity and infrastructure plans**

#### **59 Definitions**

In this Subdivision:

***licensee*** includes a person who has applied for a licence.

***permittee*** includes a person who has applied for a permit.

#### **60 Types of plans**

- (1) A ***well operations management plan*** is a plan, prepared by a permittee or licensee, that demonstrates to the Minister that well activities will be appropriately managed over the entire life cycle of the well, including in relation to drilling, well construction, operation, re-entry, modification, decommissioning and the post-decommissioning period, to ensure that the risks to the integrity of the well are reduced to as low as is reasonably practicable.
- (2) A ***field management plan*** is a plan, prepared by a licensee for a production licence, that demonstrates to the Minister that the licensee has a strategic plan for the life cycle of the field that will provide for the maximum economic recovery of petroleum, and will return the optimal value of the resource, including the optimal value to the Territory, after taking into account good oilfield practice and any other relevant factor under this Act.
- (3) A ***petroleum surface infrastructure plan*** is a plan, prepared by a licensee for a production licence, that demonstrates to the Minister that petroleum surface infrastructure on the licence area will be appropriately designed, built, operated and decommissioned to ensure that petroleum recovered under the licence will be

appropriately managed from the point of extraction at the wellhead to the point of removal from the licence area in order to secure supply and to return the optimal value of the resource, including the optimal value to the Territory, after taking into account good oilfield practice and any other relevant factor under this Act.

## **61 Application for approval**

- (1) A permittee or licensee who proposes to commence any well-related operations under the permit or licence, or the production of petroleum under a licence, must first submit to the Minister, for approval:
  - (a) a well operations management plan; and
  - (b) in the case of a production licence:
    - (i) a field management plan; and
    - (ii) a petroleum surface infrastructure plan.
- (2) A plan submitted under subsection (1) must be:
  - (a) in the approved form; and
  - (b) accompanied by the prescribed fee.
- (3) A plan submitted under subsection (1) must include the prescribed information and comply with any guidelines published by the Minister.
- (4) The Minister may give the permittee or licensee a written notice requiring further information about any matter required by regulation or guidelines to be included in the plan.
- (5) A permittee or licensee must comply with a notice under subsection (4) within 14 days after the notice is given or within a longer period allowed by the Minister.
- (6) A well operations management plan or petroleum surface infrastructure plan submitted under this section must be accompanied by a proposal for the petroleum infrastructure decommissioning security to be provided in connection with the plan.
- (7) A field management plan submitted under this section must be accompanied by an application for the approval of a rate of recovery.

- (8) A proposal or application under subsection (6) or (7) must be in the approved form.

### **61A Approval**

- (1) The Minister must not approve a plan under this Subdivision unless satisfied:

(a) that the plan has been prepared in accordance with the requirements of this Act, including any relevant approved code of practice; and

(b) that the plan demonstrates that the permittee or licensee has adequately considered and addressed all the factors and risks relevant to ensuring that the plan meets its objectives under this Act.

- (2) The Minister may on the receipt of a plan and any additional information provided by a permittee or licensee under this Subdivision:

(a) approve the plan; or

(b) not approve the plan on the basis that the Minister cannot approve the plan under subsection (1).

- (3) The Minister must make a decision under subsection (2) within the designated period together with any period that the permittee or licensee takes to comply with a notice under section 61(4) if a notice is given under that section.

- (4) A plan approved by the Minister under this section is subject to any conditions specified by the Minister on the approval of the plan.

- (5) The rate of recovery may be approved by the Minister if the Minister is satisfied that the rate at which petroleum will be extracted under the field management plan is consistent with good oil field practice and seeks to maximise the economic development potential of the field and the return of the optimal value of the resource.

- (6) In this section:

***designated period*** means:

(a) in the case of a well operations management plan – 45 days from when the plan is submitted for approval; and

(b) in the case of a field management plan – 120 days from when the plan is submitted for approval; and

- (c) in the case of a petroleum surface infrastructure plan – 90 days from when the plan is submitted for approval.

### **61B Review of plan**

- (1) An approved plan may be reviewed at any time by the permittee or licensee (but a revised plan does not have effect unless approved by the Minister).
- (2) An approved plan must be reviewed:
  - (a) in the case of a well operations management plan:
    - (i) before the permittee or licensee commences an activity not covered by the plan or inconsistent with the plan; or
    - (ii) before the permittee or licensee makes a significant change to the manner in which risks to the integrity of a well covered by the plan are managed so as to be as low as is reasonably practicable; or
    - (iii) as soon as practicable after the integrity of a well covered by the plan becomes subject to a significant new risk or a significantly increased level of risk; or
  - (b) in the case of a field management plan:
    - (i) before the licensee makes a significant change to the development strategy or management strategy of the field covered by the plan; or
    - (ii) before the licensee makes a significant change to the equipment or procedures used to determine the quantity or composition of petroleum or water produced during operations; or
    - (iii) before ceasing production for a material period of time; or
  - (c) in the case of a petroleum surface infrastructure plan:
    - (i) before the licensee commences an activity not covered by the plan or inconsistent with the plan; or
    - (ii) before the licensee makes a significant change to the manner in which risks to the integrity of any surface infrastructure covered by the plan are managed so as to be as low as is reasonably practicable; or

- (iii) as soon as practicable after the integrity of any surface infrastructure covered by the plan becomes subject to a significant new risk or a significantly increased level of risk; or
  - (d) if the plan has been in operation for 5 years since it was approved without review, or since it was last reviewed; or
  - (e) if the Minister directs that the plan must be reviewed; or
  - (f) if a review is required in prescribed circumstances.
- (3) A review must be conducted:
  - (a) in accordance with prescribed requirements; and
  - (b) within a prescribed period.
- (4) A copy of a plan revised after being reviewed under this section must be given to the Minister in accordance with any prescribed requirements.
- (5) A revised plan given to the Minister under subsection (4) must be accompanied by the prescribed fee.
- (6) The Minister may on the receipt of a revised plan:
  - (a) approve the revised plan; or
  - (b) not approve the revised plan on the basis that the revisions are inappropriate or would not allow the plan to be approved as an original plan under this Act.

### **61C Variation of conditions**

- (1) The Minister may, if the Minister considers it appropriate after consultation with a permittee or licensee, by written notice served on the permittee or licensee, vary a condition of an approved plan.
- (2) A permittee or licensee may apply to the Minister to vary a condition of an approved plan.
- (3) An application under subsection (2) must be:
  - (a) in the approved form; and
  - (b) accompanied by the prescribed fee.
- (4) On receiving an application under subsection (2), the Minister may, by notice served on the permittee or licensee, vary a condition of an approved plan in accordance with the application.

**61D Transfer of permit or licence**

- (1) An approved plan continues to apply in relation to a permit or licence if an interest in the permit or licence is transferred to another person.
- (2) Subsection (1) does not prevent a revised plan being approved under section 61B.

**61E Offences relating to plans**

- (1) A permittee or licensee commits an offence if:
  - (a) the permittee or licensee intentionally engages in conduct; and
  - (b) the conduct is part of an activity for which an approved plan is required under this Subdivision and the permittee or licensee is reckless in relation to that circumstance; and
  - (c) the activity is not covered by the plan.

Maximum penalty: 2 000 penalty units.

- (2) Strict liability applies to subsection (1)(c).
- (3) A permittee or licensee commits an offence if:
  - (a) the permittee or licensee engages in conduct; and
  - (b) the conduct is part of an activity for which an approved plan is required under this Subdivision; and
  - (c) the activity is not covered by the plan.

Maximum penalty: 200 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) A permittee or licensee commits an offence if:
  - (a) the permittee or licensee intentionally engages in conduct; and
  - (b) the conduct is part of an activity for which an approved plan is required under this Subdivision and the permittee or licensee is reckless in relation to that circumstance; and
  - (c) the permittee or licensee is the holder of the plan for the activity; and

- (d) the conduct results in a contravention of the plan and the permittee or licensee is reckless in relation to that result.

Maximum penalty: 2 000 penalty units.

- (6) Strict liability applies to subsection (5)(c).
- (7) A permittee or licensee commits an offence if:
- (a) the permittee or licensee engages in conduct; and
  - (b) the conduct is part of an activity for which an approved plan is required under this Subdivision; and
  - (c) the permittee or licensee is the holder of the plan for the activity; and
  - (d) the conduct results in a contravention of the plan.

Maximum penalty: 200 penalty units.

- (8) An offence against subsection (7) is an offence of strict liability.
- (9) It is a defence to a prosecution for an offence against subsection (1), (3), (5) or (7) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (10) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (9).

*Note for subsection (10)*

*The defendant has an evidential burden in relation to these defences (see section 43BU of the Criminal Code).*

- (11) A permittee or licensee is exempt from an offence against this section if acting in an emergency in which there is a likelihood of any of the following:
- (a) injury;
  - (b) significant discharge of fluids from a well;
  - (c) damage to:
    - (i) an underground formation that contains petroleum; or
    - (ii) an aquifer; or
    - (iii) any other part of the environment;

- (d) significant damage to a well or surface infrastructure.

*Note for subsection (11)*

*The permittee or licensee has an evidential burden in relation to this exemption (see section 43BU of the Criminal Code).*

**61F Specific duty relating to well and surface infrastructure integrity**

- (1) A permittee or licensee must take reasonable steps to:
- (a) identify and assess any hazard or risk that might compromise the integrity of a well or surface infrastructure; and
  - (b) implement and maintain measures to eliminate or, if that is not reasonably practicable, control, any hazard or risk that might compromise the integrity of a well or surface infrastructure.
- (2) A permittee or licensee commits an offence if the permittee or licensee fails to take reasonable steps to control any hazard or risk that might compromise the integrity of a well or surface infrastructure.

Maximum penalty: 500 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

**61G Specific provision for rate of recovery**

- (1) The Minister may, at any time during the term of the licence, direct a petroleum licensee to:
- (a) provide information necessary to ensure that an appropriate rate of recovery is being achieved under the licence; or
  - (b) increase or decrease the rate of recovery under the licence to a rate acceptable to the Minister; or
  - (c) cease operations at a well or wells specified by the Minister; or
  - (d) review the relevant field management plan and submit a new rate of recovery proposal for approval.
- (2) A review under subsection (1)(d) must be conducted:
- (a) in accordance with the Minister's direction; and
  - (b) within a period specified by the Minister.



- (3) The Minister may, when satisfied that an appropriate rate of recovery has been established following a review under subsection (1)(d), approve a new rate of recovery.
- (4) A person commits an offence if the person is subject to a direction under subsection (1) and the person contravenes the direction.  
  
Maximum penalty: 1 300 penalty units.
- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (7) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (6).

### **Subdivision 3 Reports and samples**

#### **61H Annual reports**

- (1) An interest holder must, within 1 month after the end of each reporting period, give to the Minister a report for that reporting period that relates to the interest holder's petroleum interest (an **annual report**).
- (2) The annual report must be in the approved form.
- (3) The annual report must be provided even if work under the petroleum interest is suspended.
- (4) The annual report must include the prescribed information .
- (5) The Minister may, by written notice, direct the interest holder to provide any information that should have been included in an annual report under this section.
- (6) A direction under subsection (5) must be given within 1 month after the annual report is given to the Minister under subsection (1).
- (7) The interest holder must comply with a direction under subsection (5) within 14 days after the direction is given or within a longer period allowed by the Minister.
- (8) An interest holder commits an offence if the interest holder contravenes a requirement under subsection (1) or (7).

Maximum penalty: 200 penalty units.

- (9) An offence against subsection (8) is an offence of strict liability.
- (10) If an interest holder fails to comply with a requirement to give a report or information to the Minister under this section within the period required under this section, the prescribed late lodgement fee is payable by the interest holder for each week or part of a week while the interest holder is in default.
- (11) The Minister may remit an amount payable under subsection (10) in the whole or in part.
- (12) The Minister may recover an amount payable under subsection (10) in a court of competent jurisdiction as a debt due and payable to the Territory.
- (13) A reference in this section to an interest holder includes a reference to a former interest holder in relation to the last reporting period for the relevant petroleum interest.

#### **61J Survey and other reports**

- (1) An interest holder must give the Minister the following reports with respect to surveys conducted in relation to a petroleum interest:
  - (a) a weekly survey report;
  - (b) for a downhole survey – a downhole survey report;
  - (c) for a geophysical or geological survey:
    - (i) an acquisition report; and
    - (ii) a processing report; and
    - (iii) a final survey report in the form of an interpretation report.
- (2) A report under subsection (1) must be provided to the Minister as follows:
  - (a) a weekly survey report must be provided at the end of each week while the survey is being conducted;
  - (b) a downhole survey report must be provided by the end of the month after the month during which the survey was completed, or within a longer period allowed by the Minister in a particular case;

- (c) an acquisition report, a processing report or a final survey report must be provided within 12 months after the completion of the acquisition of the data associated with the survey, or within a longer period allowed by the Minister in a particular case.
- (3) An interest holder must give to the Minister a prescribed report if the interest holder undertakes a geoscientific study or the reprocessing of pre-existing data acquired in a geophysical or geological survey.
- (4) A report under subsection (3) must be provided to the Minister within 12 months after the study is undertaken or reprocessing of the data is completed.
- (5) A report under this section must be provided in the approved form.
- (6) A report under this section must:
- (a) include the prescribed information; and
  - (b) comply with, and be accompanied by any information required by, reporting guidelines published by the Minister for the purposes of this section.
- (7) A person commits an offence if the person is required to give a report to the Minister under this section and the person contravenes that requirement.
- Maximum penalty: 200 penalty units.
- (8) An offence against subsection (7) is an offence of strict liability.
- (9) If an interest holder fails to comply with a requirement to give a report to the Minister under this section within the period required under this section, the prescribed late lodgement fee is payable by the interest holder for each week or part of a week while the interest holder is in default.
- (10) The Minister may remit an amount payable under subsection (9) in the whole or in part.
- (11) The Minister may recover an amount payable under subsection (9) in a court of competent jurisdiction as a debt due and payable to the Territory.

**61K Well completion reports**

- (1) A permittee or licensee must give reports under this section if the drilling or boring of a well on a permit or licence area ceases or is completed.
- (2) The permittee or licensee must give to the Minister:
  - (a) within 3 months after rig release – an initial well completion report in the approved form; and
  - (b) within 12 months after rig release, or within a longer period allowed by the Minister – a final well completion report in the approved form.
- (3) A report under this section must include the prescribed information and comply with any guidelines published by the Minister for the purposes of this section.
- (4) A person commits an offence if the person is required to give a report to the Minister under this section and the person contravenes that requirement.

Maximum penalty: 200 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.
- (6) If a permittee or licensee fails to comply with a requirement to give a report to the Minister under this section within the period required under this section, the prescribed late lodgement fee is payable by the permittee or licensee for each week or part of a week while the interest holder is in default.
- (7) The Minister may remit an amount payable under subsection (6) in the whole or in part.
- (8) The Minister may recover an amount payable under subsection (6) in a court of competent jurisdiction as a debt due and payable to the Territory.
- (9) A report given to the Minister under this section remains confidential until the earliest of the following (and then may be released by the Minister):
  - (a) 2 years from rig release;
  - (b) the date on which the permit or licence comes to an end (without a licence or new licence being granted to the permittee or licensee);

- (c) the relinquishment of the block where the well was located.

## **61L Samples**

- (1) A permittee or licensee must offer to the Minister:
  - (a) all cuttings collected and core obtained from a well within 6 months after rig release; and
  - (b) all fluid and gas samples obtained from a well as soon as practicable after they are collected.
- (2) A sample must be collected, prepared, identified and provided to the Minister in accordance with any guidelines published by the Minister for the purposes of this section.
- (3) A sample, or a portion of a sample, provided to the Minister must be accompanied by the approved form.
- (4) The Minister may:
  - (a) determine that a sample, or a class of sample, is not required to be submitted to the Minister; or
  - (b) determine that a portion of a sample may be retained by the permittee or licensee.
- (5) The Minister may require that a sample, or a portion of a sample, retained by a permittee or licensee under subsection (4), be submitted to the Minister at a later time.
- (6) A sample, or a portion of a sample, must not be:
  - (a) sent overseas by a permittee or licensee without the approval of the Minister; or
  - (b) disposed of or destroyed by a permittee or licensee without the approval of the Minister.
- (7) An approval under subsection (6) may be granted subject to conditions determined by the Minister.
- (8) The Minister may store, retain or dispose of a sample, or a portion of a sample, provided under this section as the Minister considers appropriate.
- (9) The Minister may release a sample, or a portion of a sample, as provided by regulation.

- (10) A permittee or licensee commits an offence if the permittee or licensee is required to comply with a provision of this section and the permittee or licensee contravenes that requirement.

Maximum penalty: 200 penalty units.

- (11) A permittee or licensee commits an offence if the permittee or licensee is subject to a condition imposed by the Minister under this section and the permittee or licensee contravenes that condition.

Maximum penalty: 200 penalty units.

- (12) An offence against subsection (10) or (11) is an offence of strict liability.

- (13) It is a defence to a prosecution for an offence against subsection (10) or (11) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (13)*

*The defendant has an evidential burden in relation to the matters in subsection (13) (see section 43BU of the Criminal Code).*

- (14) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (13).

- (15) In this section:

**sample** means:

- (a) cuttings and cores; and
- (b) fluid and gas acquired as samples.

## **50 Section 62 amended (Project reports)**

Section 62(2)

*omit*

under section 59

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**51 Part III, Division 1, Subdivision 4 and Subdivision 5 heading inserted**

After section 62

*insert*

**Subdivision 4 Management of information****62A Release of information by Minister**

- (1) The Minister may, at any time, release or publish statistical or industry information, collected or acquired under this Act, that does not identify a particular person or body.
- (2) The Minister may, at any time, release information, collected or acquired under this Act to another Minister if the release:
  - (a) is for the purposes of the calculation, collection or recovery of:
    - (i) a fee or charge payable to the Territory under this Act; or
    - (ii) royalty payable on petroleum; or
    - (iii) a levy payable to the Territory under this Act; or
  - (b) relates to the exercise of a power or the performance of a function by the other Minister under this Act.
- (3) The Minister may release or publish basic information, collected or acquired under this Act, at any time after 2 years from the date on which the information was required to be given to the Minister under this Act (even if the information was not given to the Minister on time).
- (4) The Minister may release or publish interpretative information, collected or acquired under this Act, at any time after 4 years from the date on which information forming part of the interpretative information was required to be given to the Minister under this Act (even if the information was not given to the Minister on time).
- (5) The Minister may release or publish any other information relating to a petroleum interest of a kind prescribed for this subsection at any time after 5 years from the date on which it was given or acquired by the Minister.

- (6) A time limit under subsection (3), (4) or (5) ceases to apply to the release of the information if:
- (a) the petroleum interest to which the information relates comes to an end, other than in the case of a permit or licence if a licence or new licence is granted to the permittee or licensee; or
  - (b) the information relates exclusively to a particular block and the block is relinquished.
- (7) The Minister must not release or publish the following information under subsections (1) to (6):
- (a) information concerning a trade secret;
  - (b) other information the disclosure of which would, or could reasonably be expected to, adversely affect the lawful business, commercial or financial affairs of a person;
  - (c) information:
    - (i) outlining the technical qualifications of a person; or
    - (ii) comprising personal information; or
    - (iii) outlining or comprising technical advice that has been provided to an applicant for a petroleum interest or to the holder of a petroleum interest; or
    - (iv) outlining the financial resources available to an applicant for a petroleum interest or to the holder of a petroleum interest;
  - (d) an annual report;
  - (e) information of a kind prescribed for this subsection.
- (8) This section does not limit the power of the Minister to release information:
- (a) under another provision of this Act; or
  - (b) if the Minister is required to release the information by a court or the Tribunal; or
  - (c) if the information is required for compliance or enforcement proceedings (including a prosecution or proceedings for a civil order) under this Act or being considered under this Act; or



- (d) if the Minister is authorised to release the information by regulation for this subsection.
- (9) Information that the Minister must not release under this section is exempt from the operation of the *Information Act 2002*.
- (10) Subsection (9) does not extend to Part 9 of the *Information Act 2002*.
- (11) In this section:

**basic information** is any information or data acquired or observed in the field or a laboratory and includes physical and chemical measurements conducted as part of the analysis of fluid or core or cutting samples.

**interpretative information** is a conclusion or opinion based wholly or partly on basic information analysis or other documentary information.

## Subdivision 5 Other requirements and related provisions

### 52 Section 63 amended (Payment of first year's annual fee in respect of exploration permit or licence)

Section 63

*omit*

for each block

### 53 Section 64 replaced

Section 64

*repeal, insert*

### 64 Discovery to be notified

- (1) If petroleum is discovered within an exploration permit or licence area, the permittee or licensee must:
- (a) notify the Minister of the discovery by using the approved form within 3 days after the discovery and in any case before any announcement is made about the discovery to the Australian Securities Exchange or to the general public; and
- (b) provide the Minister with a report on the evaluation of the discovery by using the approved form within 3 months after the date of the discovery.

- (2) A permittee or licensee commits an offence if the permittee or licensee is subject to a requirement under subsection (1) and the permittee or licensee fails to comply with that requirement.

Maximum penalty: 400 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) The Minister may, by written notice, direct a permittee or licensee to provide further particulars of a discovery notified under subsection (1).
- (5) A notice under subsection (4) may direct the permittee or licensee to provide the particulars:
- (a) in a manner and form specified in the notice; and
  - (b) within a period specified in the notice.

- (6) A permittee or licensee commits an offence if the permittee or licensee is given a direction under subsection (4) and the permittee or licensee contravenes the direction.

Maximum penalty: 200 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against subsection (2) or (6) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

#### **54 Section 67 repealed (Drilling and seismic surveys)**

Section 67

*repeal*

#### **55 Section 69 amended (Unit development)**

Section 69(1)

*omit*

Subject to Parts IIA and IIB as applicable, where

*insert*

If

---

**56 Section 69A inserted**

After section 69, in Part III, Division 1

*insert*

**69A Ability to waive, suspend or reduce annual fee or levy**

- (1) A permittee or licensee may apply to the Minister to waive, suspend or reduce an annual fee or levy payable in relation to a permit or licence.
- (2) The Minister may, on receipt of an application under subsection (1), by written notice to the applicant, waive, suspend or reduce an annual fee or levy if satisfied that it is appropriate to do so.
- (3) The Minister must consult with the Environment Minister before waiving, suspending or reducing a monitoring and compliance levy under this section.

**57 Section 70A repealed (Notification of conditions relating to native title)**

Section 70A

*repeal*

**58 Section 71 amended (Directions by Minister)**

- (1) Section 71(1)

*omit*

him

*insert*

the permittee or licensee

- (2) Section 71(2)

*omit*

A direction under subsection (1) has effect and shall be complied with notwithstanding anything in the Regulations

*insert*

Despite anything to the contrary in the Regulations, a permittee or licensee must comply with a direction under subsection (1)

(3) Section 71(3)

*omit, insert*

(3) A person commits an offence if:

- (a) the person is a permittee or licensee; and
- (b) the permittee or licensee is given a direction under subsection (1); and
- (c) the permittee or licensee intentionally engages in conduct; and
- (d) the conduct results in a contravention of the direction and the permittee or licensee is reckless in relation to that result.

Maximum penalty: 3 000 penalty units.

(4) Strict liability applies to subsection (3)(a) and (b).

(5) A permittee or licensee commits an offence if the permittee or licensee is given a direction under subsection (1) and the permittee or licensee contravenes the direction.

Maximum penalty: 200 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (3) or (5) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

**59 Section 72 replaced**

Section 72

*repeal, insert*

**72 Compliance with direction**

If an action required by a direction given by the Minister under this Act is not taken, the CEO may:

- (a) cause that action to be taken; and
- (b) recover the cost of taking that action from any person subject to the direction in a court of competent jurisdiction as a debt due and payable to the Territory.

---

**60 Section 73 replaced**

Section 73

*repeal, insert*

**73 Surrender**

- (1) An interest holder may apply to the Minister to surrender all or part of the area to which the petroleum interest relates (the **proposed surrender area**).
- (2) An application may not be made under subsection (1) unless:
  - (a) all operations carried on in the proposed surrender area have ceased; and
  - (b) all of the environmental outcomes required under this or another Act, including remediation and rehabilitation of land, have been met; and
  - (c) any approved environment management plan that applied in relation to the proposed surrender area ceases to be in force in relation to the proposed surrender area.
- (3) Subsection (2)(b) applies in relation to:
  - (a) the land comprising the proposed surrender area; and
  - (b) any adjacent land that is or may be affected by operations carried on in the proposed surrender area.
- (4) An application under this section must be in the approved form.
- (5) The application must be accompanied by:
  - (a) a statement confirming that:
    - (i) all operations referred to in subsection (2)(a) have ceased; and
    - (ii) all environmental outcomes referred to in subsection (2)(b) have been met; and
  - (b) for subsection (2)(c) – a copy of a notice issued by the Environment Minister that provides for the approved environment management plan to no longer be in force; and
  - (c) any other prescribed document or information; and
  - (d) the prescribed fee.

- (6) The Minister may, by written notice, require an applicant to give a report or other information to the Minister.
- (7) The Minister is not required to make a decision on an application until the applicant complies with any requirement under subsection (6).
- (8) In the case of a partial surrender, the Minister may refuse to accept the surrender if the Minister is not satisfied that:
- (a) the requirements under subsection (2) are satisfied; and
  - (b) the interest holder, in relation to the area to which the petroleum interest relates, complied with:
    - (i) the conditions of the petroleum interest; and
    - (ii) the provisions of this Act; and
    - (iii) any direction under this Act that is still relevant; and
  - (c) the retained area will:
    - (i) form one or more discrete areas comprising not less than the minimum number of blocks allowed under this Act; and
    - (ii) be a shape and size that complies with the other requirements of this Act; and
  - (d) the surrender is appropriate taking into account the relevant well operations management plan and petroleum surface infrastructure plan, and any other relevant matter.
- (9) The Minister may, if satisfied that circumstances justify the acceptance of a surrender, accept a partial surrender if the retained area does not comply with subsection (8)(c).
- (10) In the case of a complete surrender, the Minister may refuse to accept the surrender if the Minister is not satisfied that:
- (a) the requirements under subsection (2) are satisfied; and
  - (b) the interest holder, in relation to the area to which the petroleum interest relates, complied with:
    - (i) the conditions of the petroleum interest; and
    - (ii) the provisions of this Act; and
    - (iii) any direction under this Act that is still relevant; and

- (c) the surrender is appropriate taking into account the relevant well operations management plan and petroleum surface infrastructure plan, and any other relevant matter.
- (11) An interest holder is not entitled to a refund of part of an annual fee for an unexpired period after the acceptance of the surrender.

**61 Section 74 amended (Cancellation)**

- (1) Section 74(1)

*omit, insert*

- (1) 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 if the permittee or licensee:
- (a) did not comply with a condition of the permit or licence; or
  - (b) did not comply with a provision of this Act; or
  - (c) did not comply with a direction given by the Minister; or
  - (d) did not pay, within 3 months after the date on which it became due, an amount payable by the permittee or licensee under this Act; or
  - (e) was found guilty of an offence under this Act.

- (2) After section 74(4)

*insert*

- (4A) Nothing in this section limits:
- (a) the ability to commence proceedings for an offence against this Act; or
  - (b) the ability to commence proceedings for a debt due and payable under this Act; or
  - (c) any other action that may be taken under another provision of this Act in relation to a matter referred to in subsection (1); or
  - (d) any other provision of this Act that allows for a permit or licence to be cancelled.

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**62 Sections 75 and 76 replaced**

Sections 75 and 76

*repeal, insert*

**75 Report on ceasing to hold exploration permit or licence area**

- (1) This section applies to:
- (a) a person who has been a permittee or licensee and who ceases to hold the relevant exploration permit or licence; or
  - (b) a person who is a permittee or licensee if:
    - (i) the relevant exploration permit or licence area is reduced; or
    - (ii) part of the relevant exploration permit or licence area is surrendered.
- (2) A person mentioned in subsection (1)(a) must, within the designated period after the person ceases to hold the exploration permit or licence, give to the Minister a report, on the exploration and other activities carried out on the exploration permit or licence area, as comprised from time to time, during the period of the exploration permit or licence.
- (3) A person mentioned in subsection (1)(b)(i) must, within the designated period after the exploration permit or licence area has been reduced, give to the Minister a report on the exploration and other activities carried out on the exploration permit or licence area which has not been retained.
- (4) A person mentioned in subsection (1)(b)(ii) must, within the designated period after part of the exploration permit or licence area has been surrendered, give to the Minister a report on the exploration and other activities carried out on the exploration permit or licence area which has been surrendered.
- (5) A report under subsection (2), (3) or (4) must be in the approved form.
- (6) A person commits an offence if the person is required to give a report to the Minister under this section and the person contravenes that requirement.

Maximum penalty: 200 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.



(8) In this section:

***designated period*** means 3 months or any longer period allowed by the Minister in a particular case.

**63 Section 77 amended (Removal of property on surrender, expiry or cancellation)**

(1) Section 77(1)(b)

*omit*

plug or close off

*insert*

decommission

(2) Section 77(2)

*omit, insert*

(2) A person commits an offence if:

- (a) the person is or was a permittee or licensee; and
- (b) the person is given a direction under subsection (1); and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in a contravention of the direction and the person is reckless in relation to that result; and
- (e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Maximum penalty: 6 500 penalty units or imprisonment for 5 years.

Minimum penalty: 650 penalty units.

(3) An offence against subsection (2) is a summary offence.

(4) A person commits an offence if:

- (a) the person is or was a permittee or licensee; and
- (b) the person is given a direction under subsection (1); and
- (c) the person intentionally engages in conduct; and

(d) the conduct results in a contravention of the direction and the person is reckless in relation to that result; and

(e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Maximum penalty: 2 600 penalty units.

Minimum penalty: 260 penalty units.

(5) Strict liability applies to subsections (2)(a) and (b) and (4)(a) and (b).

(6) A person commits an offence if:

(a) the person is given a direction under subsection (1); and

(b) the person engages in conduct; and

(c) the conduct results in significant environmental harm.

Maximum penalty: 2 600 penalty units.

Minimum penalty: 260 penalty units.

(7) A person who is or was a permittee or licensee commits an offence if the person is given a direction under subsection (1) and the person contravenes the direction.

Maximum penalty: 1 300 penalty units.

Minimum penalty: 130 penalty units.

(8) An offence against subsection (6) or (7) is an offence of strict liability.

(9) It is a defence to a prosecution for an offence against subsection (2), (4), (6) or (7) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(10) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (9).

#### **64 Part III, Division 4 heading replaced**

Part III, Division 4, heading

*omit, insert*

### **Division 4 Compensation**

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**65 Sections 79 and 80 repealed**

Sections 79 and 80

*repeal*

**66 Section 81 amended (Compensation to owners)**

Section 81(2)

*omit*

**67 Section 83 repealed (Conditions about compensation for effect on native title)**

Section 83

*repeal*

**68 Section 84 amended (Royalties)**

Section 84(6)

*omit*

**69 Section 86 amended (Suspension etc. of annual fee or royalty)**

(1) Section 86, heading

*omit, insert*

**86 Ability to waive, suspend or reduce royalty**

(2) Section 86(1)

*omit*

an annual fee or

(3) Section 86(2)

*omit*

All words from "Where" to "is"

*insert*

After receiving an application under subsection (1), the Minister may, by notice to the applicant, waive, suspend or reduce royalty payable in relation to the licence if the Minister considers the waiver, suspension or reduction is

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**70 Part III, Division 6 replaced**

Part III, Division 6

*repeal, insert*

**Division 6 Inspectors****Subdivision 1 Appointment of inspectors****87 Appointment**

- (1) The CEO or the Environment CEO may appoint a person to be an inspector for the purposes of this Act.
- (2) An appointment may be made subject to such conditions or limitations as the CEO or the Environment CEO thinks appropriate.

**88 Identity card**

- (1) The CEO or the Environment CEO must give an inspector an identity card stating the inspector's name and that the person is an inspector.
- (2) The identity card must:
  - (a) display a recent photograph of the inspector; and
  - (b) state the card's date of issue; and
  - (c) be signed by the inspector.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.
- (4) An inspector must, on request, produce the inspector's identity card before exercising the powers of an inspector under this Act in relation to a person or entering land or premises on a particular occasion.

**89 Return of identity card**

- (1) A person who ceases to be an inspector must return the person's identity card to the CEO or the Environment CEO (as the case requires) within 15 business days after the cessation.

- (2) A person commits an offence if the person ceases to be an inspector and fails to return the person's identity card to the CEO or the Environment CEO within 15 business days after the cessation.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

## **Subdivision 2 Functions and general powers**

### **89A Functions**

- (1) An inspector has the following functions under this Act:
- (a) to provide information and advice about compliance with this Act;
  - (b) to monitor compliance with this Act and to take action to require or secure compliance with this Act through the exercise of powers under this Act;
  - (c) to investigate contraventions of this Act and assist in the prosecution of offences;
  - (d) to do anything else necessary or required for the administration, operation or enforcement of this Act, including gathering information.
- (2) An inspector has the powers necessary to perform the inspector's functions under this Act.
- (3) This section does not limit a function or power of an inspector under another provision of this Act.

### **89B General powers of inspectors**

- (1) An inspector may enter the following land and premises:
- (a) any land comprised in, proposed to be comprised in, or previously comprised in, a petroleum interest;
  - (b) any land affected, or apparently or potentially affected, by operations or activities for which a permit or licence is, or was, required under this Act;

- (c) any premises used for or in connection with any operations or activities for which a permit or licence is, or was, required under this Act;
  - (d) any land or premises if the entry is authorised by a search warrant.
- (2) On entering land or premises under this Act an inspector may do any of the following:
- (a) inspect or examine the land or premises and anything on the land or premises;
  - (b) make inquiries of a person present on the land or premises;
  - (c) search the land or premises and anything found there;
  - (d) inspect any operations or activities conducted on the land or premises;
  - (e) take photographs and make sketches or other records;
  - (f) make recordings in any medium, including audio, visual and audio-visual recordings;
  - (g) dig up land;
  - (h) operate or test any equipment;
  - (i) examine or test any infrastructure or other thing;
  - (j) measure anything, or take and remove for analysis a sample of any substance or thing;
  - (k) bring equipment or materials on to the land or premises and use, install and maintain equipment or materials.
- (3) An inspector may do any of the following:
- (a) require a person on land or premises entered under subsection (1) to give the inspector reasonable assistance to perform or exercise the inspector's functions or powers including:
    - (i) to operate any computer or other equipment; and
    - (ii) to provide any access or assistance to access any computer or other equipment or any service;

- (b) require a person to produce any document that may be relevant to operations or activities for which a permit or licence is required under this Act, or a copy of such a document, for inspection;
  - (c) inspect and take copies of a document;
  - (d) seize any documents and any equipment required to access any documents;
  - (e) require a person to provide the person's name, address and date of birth and evidence of these if:
    - (i) the person is on, or in the vicinity of, land or premises that may be inspected under this section; or
    - (ii) the inspector reasonably suspects the person is travelling to or from land or premises that may be inspected under this section; or
    - (iii) the inspector reasonably suspects the person is the owner or occupier of any land or premises; or
    - (iv) the inspector reasonably suspects the person is under investigation for a suspected contravention of this Act;
  - (f) require a person at the land or premises to answer reasonable questions related to an inspection of the land or premises;
  - (g) authorise a person to provide assistance to an inspector in the performance or exercise of the inspector's functions or powers;
  - (h) operate a drone or other device over any land comprised in, proposed to be comprised in, or previously comprised in, a petroleum interest;
  - (i) do any other act or thing necessary for, or incidental to, the exercise of a power mentioned in this section.
- (4) An inspector may, with the approval of the CEO:
- (a) by notice signed by the inspector, require the attendance of a person at a time and place specified in the notice; and
  - (b) require a person who appears as the result of the notice to produce any document and to answer any questions that may be relevant to the administration, operation or enforcement of this Act.

- (5) Without limiting any other power, if an inspector is satisfied that there are reasonable grounds for suspecting that an offence against this Act was, is being or is about to be committed, the inspector may (without warrant), and with such assistance as the inspector thinks necessary:
- (a) seize or secure any thing that the inspector believes, on reasonable grounds, was, 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.
- (6) An entry may be made under subsection (1) with, or without, the consent of the owner or occupier of the land or premises.
- (7) An inspector may use reasonable force in exercising a power under subsection (1) or (2).
- (8) Despite anything to the contrary in this Division, an inspector must not enter or exercise inspection or search powers in relation to any part of premises that are used for residential purposes except in the following circumstances:
- (a) the owner or occupier consents to the entry, inspection or search;
  - (b) the entry is authorised by a search warrant under Subdivision 3.

### **89C Duty of inspector in relation to seized thing**

- (1) As soon as practicable but within 5 business days after an inspector seizes a thing under section 89B, the inspector must give a receipt for it to the person from whom it was seized.
- (2) The receipt must describe generally each thing seized and its condition.
- (3) If for any reason it is not practicable to comply with subsection (1), the inspector must:
- (a) leave the receipt at the place of seizure; and
  - (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.



- (4) The inspector must allow a person who would be entitled to the seized thing if it were not in the inspector's possession to inspect it and, if it is a document, to take extracts from it or make copies of it.
- (5) The inspector must return the seized thing to its owner at the end of the later of:
  - (a) 3 years from the date it was seized; or
  - (b) if a prosecution for an offence involving the seized thing is started within the 3 years from the date it was seized – 12 months after the end of the prosecution for the offence and any appeal from the prosecution.
- (6) Despite subsection (5), the inspector must return the seized thing to the person from whom it was seized if the inspector no longer considers its retention as evidence is necessary.
- (7) Despite subsections (5) and (6), the inspector may keep the seized thing if the inspector believes on reasonable grounds that it is necessary to continue to keep it to prevent its use in committing an offence.
- (8) An inspector must give written notice to the owner of a seized thing as soon as practicable if the inspector decides under subsection (7) to keep the thing.

#### **89D Forfeiture of seized thing**

- (1) Despite section 89C, the court may order the forfeiture of a seized thing to the Territory if:
  - (a) the owner of the seized thing is found guilty of an offence for which the thing was retained as evidence; or
  - (b) the court makes an order against the owner of a seized thing under Part VA.
- (2) The forfeited thing becomes the property of the Territory and may be destroyed or disposed of as directed by the CEO.
- (3) This section does not limit a court's powers under any other law.

#### **89E Offence to contravene requirement**

- (1) A person commits an offence if the person is required to do something under section 89B and the person contravenes the requirement.

Maximum penalty: 200 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

#### **89F Obstruction of inspector**

- (1) A person commits an offence if:
  - (a) the person intentionally obstructs another person; and
  - (b) the other person is an inspector; and
  - (c) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) In this section:

***acting in an official capacity***, in relation to an inspector, means the inspector is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

***obstruct*** includes hinder or resist.

#### **89G Self-incrimination**

- (1) A person required to answer a question, give information or produce a document under this Subdivision is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.
- (2) Despite subsection (1), any answer, information or document given is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant.

**89H Entry on Aboriginal land**

The power of an inspector to enter land or premises may be exercised under this Act despite:

- (a) the land or premises being Aboriginal land; or
- (b) the inspector not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

**Subdivision 3 Search warrants****89J Search warrants**

- (1) An inspector may apply to a Local Court Judge for a search warrant for a place.
- (2) The application must be made on oath and state the grounds on which the warrant is sought.
- (3) The Judge may refuse to consider the application until the inspector gives the Judge all the information the Judge requires about the application in the form the Judge requires.

*Example for subsection (3)*

*The Judge may require additional information supporting the application to be given by statutory declaration.*

- (4) The Judge may issue a search warrant for a place only if the Judge is satisfied there are reasonable grounds for suspecting that there is evidence of an offence against this Act at the place.
- (5) The search warrant must state:
  - (a) that an inspector named in the warrant may, with necessary and reasonable assistance and force, enter the place and exercise the inspector's investigation powers; and
  - (b) the suspected offence for which the search warrant is sought; and
  - (c) the evidence that may be seized under the search warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) that the warrant remains in force for 5 business days after the date of its issue.

**89K      Announcement before entry and provision of authority**

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must:
  - (a) announce that entry to the place is authorised by the warrant; and
  - (b) give any person at the place an opportunity to allow that entry.
- (2) The announcement is not required if the inspector or person assisting the inspector believes on reasonable grounds that immediate entry to the place is needed to avoid frustration of the warrant.
- (3) If asked by a person who appears to have management or control of a place where a search warrant is being executed, the inspector must:
  - (a) produce the inspector's identity card for inspection by the person; and
  - (b) give the person a copy of the warrant.

**Subdivision 4    Directions by inspectors****89L      Directions by inspectors**

- (1) An inspector may issue a direction to an interest holder to do any of the following:
  - (a) take action to prevent, minimise, manage or remediate:
    - (i) environmental harm including by rehabilitating any aspect of the environment; or
    - (ii) harm to a person, property or infrastructure, or any potential harm (including the risk of harm and future harm) to or potential adverse effect on a person, property or infrastructure; or
    - (iii) a situation that is compromising, or may compromise, the integrity of any infrastructure or operating system;
  - (b) take action that is in accordance with good oilfield practice;
  - (c) take action for a purpose that is connected with, or ancillary to, action directed under paragraph (a) or (b).

- (2) A direction under this section must specify the grounds on which it is issued.
- (3) A direction under this section must state that the interest holder may apply to the Tribunal for review of the decision to issue the direction.
- (4) A direction under this section may impose any requirement reasonably required for the purpose for which the direction is issued, including one or more of the following requirements:
  - (a) a requirement that the interest holder discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an inspector or the CEO;
  - (b) a requirement that the interest holder not carry on a specified activity except subject to specified conditions;
  - (c) a requirement that the interest holder take specified action in a specified way, and within a specified period or at specified times, or in specified circumstances (including a requirement that a specified work practice be altered or discontinued).
- (5) A direction must allow a reasonable time for compliance with the direction.
- (6) A direction may be given orally but must be confirmed by written notice to the person as soon as practicable.
- (7) An inspector may, by written notice given to the interest holder to whom a direction under this section is issued, vary or revoke the direction.
- (8) A direction given under this section:
  - (a) applies to the interest holder and may also be expressed to apply to an employee, agent or contractor of the interest holder; and
  - (b) may be given to an interest holder by giving it to an employee, agent or contractor of the interest holder.
- (9) If a direction is expressed to apply to an employee, agent or contractor of the interest holder, a reference in subsection (1) or (4) to an interest holder extends to the other person or persons to whom the direction applies.

**89M Offence to contravene direction**

- (1) A person commits an offence if the person is subject to a direction under section 89L and the person contravenes the direction.

Maximum penalty: 1 300 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

**Division 7 Compliance directions****89N Compliance directions**

- (1) The CEO may issue a compliance direction to an interest holder for the purpose of securing compliance with:
- (a) a condition of a petroleum interest; or
  - (b) an environment management plan; or
  - (c) any authorisation or direction that relates to an activity conducted under a petroleum interest; or
  - (d) any requirement or obligation imposed by or under this Act.
- (2) A compliance direction must:
- (a) be in writing; and
  - (b) specify the grounds on which it is issued.
- (3) A compliance direction must state that the interest holder may apply to the Tribunal for review of the decision to issue the direction.
- (4) A compliance direction may impose any requirement reasonably required for the purpose for which the direction is issued including one or more of the following:
- (a) a requirement that the interest holder discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an inspector or the CEO;

- (b) a requirement that the interest holder not carry on a specified activity except at specified times or subject to specified conditions;
  - (c) a requirement that the interest holder take specified action in a specified way, and within a specified period or at specified times, or in specified circumstances (including a requirement that a specified work practice be altered or discontinued);
  - (d) a requirement that the interest holder comply with any specified code or standard prepared or published by a body or authority referred to in the direction;
  - (e) a requirement that the interest holder undertake specified tests or monitoring;
  - (f) a requirement that the interest holder give to the CEO specified results or reports;
  - (g) a requirement that the interest holder appoint or engage a person with specified qualifications to prepare a plan or report or to undertake tests or monitoring required by the direction.
- (5) The CEO may include in a compliance direction a requirement for an act or omission that might otherwise constitute a contravention of this Act if:
- (a) the CEO considers that it is reasonably necessary in the circumstances to do so; and
  - (b) the CEO is acting with the approval of the Minister.
- (6) A person incurs no liability to a penalty under this Act for an act or omission made in compliance with a requirement mentioned in subsection (5).
- (7) The CEO may, by written notice given to the interest holder to whom a compliance direction is issued, vary or revoke the direction.
- (8) A compliance direction given under this section:
- (a) applies to the interest holder and may also be expressed to apply to an employee, agent or contractor of the interest holder; and
  - (b) may be given to an interest holder by giving it to an employee, agent or contractor of the interest holder.

- (9) If a compliance direction is expressed to apply to an employee, agent or contractor of the interest holder, a reference in subsection (1) or (4) to an interest holder extends to the other person or persons to whom the direction applies.

**89P Effect of compliance direction on need for further authorisation**

- (1) This section applies to a person who is required by a compliance direction to carry out an action and an authorisation of a kind prescribed is required for that action under this Act.
- (2) The person may carry out the action without obtaining the authorisation.
- (3) A person incurs no liability to a penalty under this Act in acting under subsection (2).

**89Q Offence to contravene direction**

- (1) A person commits an offence if:
- (a) the person is subject to a compliance direction; and
  - (b) the person intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the compliance direction and the person is reckless in relation to that result.

Maximum penalty: 2 600 penalty units.

- (2) Strict liability applies to subsection (1)(a).
- (3) A person commits an offence if the person is subject to a compliance direction and the person contravenes the direction.

Maximum penalty: 1 300 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).



**Division 8      Stop work notices****89R      Stop work notices**

- (1) The CEO may issue a stop work notice if:
- (a) the CEO believes on reasonable grounds that circumstances exist that would allow the cancellation or revocation of:
    - (i) a petroleum interest; or
    - (ii) an environment management plan; or
    - (iii) any other authorisation that relates to an activity conducted under a petroleum interest; and
  - (b) the CEO considers that action should be taken to prevent or minimise environmental harm, or harm to any person, infrastructure or other property while:
    - (i) an investigation is carried out or concluded; or
    - (ii) a decision is made about the steps that should be taken in the circumstances; or
    - (iii) action is taken to address the circumstances or any related matter.
- (2) A stop work notice must:
- (a) be in writing given to the holder of the relevant petroleum interest; and
  - (b) specify the grounds on which it is issued.
- (3) A stop work notice may direct the holder of the petroleum interest to do one or more of the following:
- (a) to discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from the CEO;
  - (b) to not carry on a specified activity except in accordance with any conditions specified in the notice;
  - (c) to take action to prevent, minimise, manage or remediate any:
    - (i) environmental harm including by rehabilitating any aspect of the environment; or

- (ii) harm to a person, infrastructure or property, or any potential harm (including the risk of harm and future harm) to or potential adverse effect on a person, infrastructure or property;
- (d) without limiting paragraph (c), to take action to address any matter that the CEO considers to be a significant threat to:
  - (i) the environment; or
  - (ii) any person, infrastructure or property;
- (e) to take action for a purpose that is connected with, or ancillary to, action directed under a preceding paragraph or to deal with any other matter that may be relevant in the circumstances.
- (4) The CEO may, by written notice given to the person to whom a stop work notice is issued, vary or revoke the notice.
- (5) A stop work notice:
  - (a) applies to the holder of the petroleum interest and may also be expressed to apply to an employee, agent or contractor of the holder of the petroleum interest; and
  - (b) may be given to a holder of a petroleum interest by giving it to an employee, agent or contractor of the holder of the petroleum interest.
- (6) If a stop work notice is expressed to apply to an employee, agent or contractor of the holder of a petroleum interest, a reference in subsection (3) to the holder of a petroleum interest extends to the other person or persons to whom the stop work notice applies.

### **89S Offence to contravene stop work notice**

- (1) A person commits an offence if:
  - (a) the person is subject to a stop work notice; and
  - (b) the person contravenes the notice.

Maximum penalty: 1 300 penalty units.
- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

## **Division 9      Audits**

### **89T      Preliminary matters**

This Division does not affect any other provision of this Act or the regulations that:

- (a) enables a petroleum interest to be subject to a condition requiring monitoring or reporting; or
- (b) relates to conducting audits or undertaking investigations or inquiries; or
- (c) provides for a longer period with respect to the keeping of records.

### **89U      Nature of audit**

An audit under this Division is a periodic or particular documented evaluation of operations or activities conducted under a petroleum interest (including management practices, systems and infrastructure) for any one or more of the following purposes:

- (a) to provide information on compliance or otherwise with obligations under the petroleum interest or other related legal requirements under this or any other law (including in relation to the protection of the environment from the impacts of activities under a petroleum interest and remediation and rehabilitation work on account of action taken by the holder of the petroleum interest);
- (b) to provide information on compliance or otherwise with codes of practice or policies relevant to the petroleum interest;
- (c) to enable a determination of whether the way activities are being carried out under the petroleum interest can be improved to achieve better compliance with this Act or to provide greater consistency with the objects of this Act.

### **89V      Accreditation and regulation of auditors**

The regulations may make provision for or with respect to:

- (a) the accreditation of auditors for this Division;
- (b) the carrying out of audits by auditors.

**89W Audit directions**

- (1) The CEO may issue an audit direction to an interest holder requiring that one or more audits be undertaken, to the satisfaction of the CEO, for any one or more of the purposes referred to in section 89U.
- (2) An audit direction must:
  - (a) be in writing given to the interest holder; and
  - (b) specify the purpose or purposes of the audit.
- (3) An audit direction may require one or more of the following:
  - (a) that the auditor appointed to undertake the audit holds an accreditation or qualification specified by the CEO;
  - (b) approval by the CEO of the auditor before being appointed;
  - (c) preparation of specified written documentation during the course of the audit;
  - (d) preparation of an audit report;
  - (e) giving the audit report to the CEO.
- (4) An audit direction may also:
  - (a) specify the format and level of detail required for the audit; or
  - (b) require the auditor to submit the proposed format and level of detail to the CEO for approval.
- (5) The CEO may, by written notice given to the person to whom an audit direction is issued, vary or revoke the direction.

**89X Declarations**

- (1) An audit report must be accompanied by:
  - (a) a declaration signed by the holder of the petroleum interest certifying that the holder has not knowingly provided any information to the auditor that is misleading in a material particular and has provided all relevant information to the auditor; and
  - (b) a declaration signed by the auditor:
    - (i) setting out the auditor's qualifications; and

- (ii) certifying that the audit was undertaken in accordance with the requirements of the CEO's audit direction; and
  - (iii) certifying that the report is accurate and that the auditor has not knowingly included any information in it that is misleading in a material particular or failed to include any relevant information in it.
- (2) A statement under subsection (1) may be qualified in relation to the provision of misleading information if the person, as part of the declaration:
  - (a) identifies the information; and
  - (b) explains the reason why it is misleading.

### **89Y Self-incriminatory information**

- (1) A person required to give information in connection with an audit under this Division must do so whether or not the information might tend to incriminate the person or make the person liable to a penalty.
- (2) If the giving of information might tend to incriminate a person or make the person liable to a penalty, the fact of giving the information (as distinct from the contents of the information) is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of giving misleading information).

### **89Z Offences relating to audits**

- (1) An interest holder commits an offence if:
  - (a) the interest holder is issued with an audit direction; and
  - (b) the interest holder intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the audit direction and the interest holder is reckless in relation to that result.

Maximum penalty: 2 600 penalty units.

- (2) Strict liability applies to subsection (1)(a).
- (3) An interest holder commits an offence if the interest holder is issued with an audit direction and the interest holder contravenes the audit direction.

Maximum penalty: 1 300 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

#### **89ZA Retention and production of information**

- (1) An interest holder must retain any written documentation required to be prepared by the interest holder in connection with the audit for a period of at least 5 years after the audit report is given to the CEO (or for such other period as may be agreed or determined by the CEO).
- (2) The CEO may direct an interest holder to produce any documentation that is required to be retained under subsection (1).
- (3) A person commits an offence if:
  - (a) the person is an interest holder; and
  - (b) the interest holder is given a direction under subsection (2); and
  - (c) the interest holder intentionally engages in conduct; and
  - (d) the conduct results in a contravention of the direction and the interest holder is reckless in relation to that result.

Maximum penalty: 2 600 penalty units.

- (4) Strict liability applies to subsection (3)(a) and (b).
- (5) An interest holder commits an offence if the interest holder is given a direction under subsection (2) and the interest holder contravenes that direction.

Maximum penalty: 1 300 penalty units.

- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (3) or (5) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

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**71 Section 93 amended (Approval of transfers)**

- (1) Section 93(1AA), (1) and (2)
- omit, insert*
- (1) This section applies to a person who:
- (a) has an interest in an exploration permit or licence as a permittee or licensee; and
  - (b) is seeking to transfer the person's interest to another person.
- (2) The transfer has no effect unless it is approved by the Minister and any transfer takes effect subject to the operation of section 93A.
- (2A) An application for approval of the transfer by the Minister must:
- (a) be in the approved form; and
  - (b) be accompanied by an instrument of transfer that:
    - (i) is signed or executed in the manner specified in the approved form; and
    - (ii) complies with any other prescribed requirement; and
  - (c) be accompanied by any information required by the Minister including information to establish that the proposed transferee, and any associated entity of the proposed transferee, is an appropriate person to hold the permit or licence; and
  - (d) be accompanied by the prescribed fee; and
  - (e) comply with any other requirement determined by the Minister and published on the Agency's website.
- (2B) If there are one or more permittees or licensees other than the transferor registered against the exploration permit or licence, the application must also be accompanied by:
- (a) the written consent of each of the other permittees or licensees; or
  - (b) if consent was not obtained – a copy of each notice of intention served on those permittees or licensees under subsection (5).

- (2) Section 93(3)  
*omit*  
shall not accept an application under subsection (1)  
*insert*  
must not accept an application under this section
- (3) Section 93(4)  
*omit*  
Where an application under this section is accepted by the Minister, he shall  
*insert*  
If the Minister accepts an application under this section, the Minister must
- (4) Section 93(5)  
*omit*  
subsection (1)  
*insert*  
this section
- (5) Section 93(9B)  
*omit*
- (6) Section 93(11)  
*omit, insert*
- (11) The Minister may, before approving an application under this section, require the proposed transferee to:
- (a) adopt or review an approved plan, or an approved environment management plan and, in the case of a review, to submit a revised or new plan for the approval of the Minister or the Environment Minister; and
  - (b) provide a new or additional environmental security or petroleum infrastructure decommissioning security.



- (12) The Minister is not required to approve a transfer until the proposed transferee:
- (a) complies with a requirement under subsection (11); and
  - (b) obtains any approvals required from the Minister and the Environment Minister.
- (13) An approval under this section may be subject to any other condition determined by the Minister and recorded as part of the Minister's approval.

## **72 Section 93A amended (Registration of transfers)**

(1) Section 93A(1)

*omit, insert*

- (1) If the Minister approves a transfer under section 93, the Minister must:
- (a) record the approval by endorsing a memorial of approval on the instrument electronically or in such other manner as the Minister thinks appropriate; and
  - (b) request the Registrar to enter in the Register a memorial of the transfer and the name of the transferee.

(2) Section 93A(4)

*omit, insert*

- (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 the transfer is approved by the Minister and entered in the Register under this section.
- (4A) When a transfer is approved and entered in the Register:
- (a) the transferee and all other registered holders of an interest in the permit or licence are jointly liable to comply with this Act, including the conditions to which the permit or licence is, from time to time, subject; and
  - (b) the transferee is responsible for any liability or requirement applying in relation to the transferor with respect to the permit or licence immediately before the transfer takes effect.

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**73 Section 96 amended (Approval of instruments creating, &c., interests)**

- (1) Section 96, heading  
*omit*  
**creating, &c.,**  
*insert*  
**relating to**
- (2) Section 96(4)  
*omit, insert*
- (4) An application for the approval of the Minister must:
- (a) be in the approved form; and
  - (b) be accompanied by the instrument; and
  - (c) be accompanied by any information required by the Minister; and
  - (d) be accompanied by the prescribed fee; and
  - (e) comply with any other requirement determined by the Minister and published on the Agency's website.
- (3) Section 96(5)  
*omit*  
subsection (3)  
*insert*  
this section
- (4) Section 96(7)  
*omit, insert*
- (7) If the Minister approves an instrument lodged with the Minister under this section, the Minister must:
- (a) record the approval by endorsing a memorial of approval on the instrument electronically or in such other manner as the Minister thinks appropriate; and

---

(b) request the Registrar to enter in the Register a memorial relating to the approval.

(5) Section 96(9)

*omit*

original

(6) Section 96(9)

*omit*

shall

*insert*

must

(7) Section 96(10)

*omit*

Where the Minister refuses an application, he shall

*insert*

If the Minister refuses an application, the Minister must

**74 Section 98 amended (Power of Minister to require information as to proposed dealings)**

Section 98(2)

*omit, insert*

(2) The Minister may determine not to deal with the instrument until the person complies with a requirement under subsection (1).

**75 Section 99 amended (Production and inspection of documents)**

Section 99(2)

*omit, insert*

(2) The Minister may determine not to deal with the matter until the person complies with a requirement under subsection (1).

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**76 Part IVA inserted**

After section 104

*insert*

**Part IVA Change in control of corporation holding permit or licence****104A Definitions**

In this Part:

***change in control***, see section 104B.

***corporation*** means a corporation as defined in section 57A of the *Corporations Act 2001* (Cth).

***family*** means 2 or more persons connected with each other by family relationships.

***family relationship*** means any of the following:

- (a) the relationship between a person and the person's spouse;
- (b) the relationship between a person and the person's child or remoter lineal descendant;
- (c) the relationship between a person and the child or remoter lineal descendant of the person's spouse;
- (d) the relationship between a person and the person's brother or sister;
- (e) the relationship between a person and the child or remoter lineal descendant of the person's brother or sister;
- (f) the relationship between a person and the spouse of a person with whom a relationship exists under paragraph (b), (c), (d) or (e).

***investor***, in relation to a corporation holding a permit or licence, means a person who has or acquires an interest in shares in the corporation.

***related***, see section 104C.

***related corporations*** means related corporations under section 50 of the *Corporations Act 2001* (Cth).

**share** means a share in the share capital of a corporation holding a permit or licence.

**104B Meaning of *change in control***

For this Part, a ***change in control*** of a corporation occurs when a person, or a group of related persons, becomes able to exercise, or to control (directly or indirectly) the exercise of, a majority of the votes exercisable at meetings of the directors or shareholders of the corporation.

**104C Meaning of *related***

- (1) For this Part, 2 persons are ***related*** to each other if:
  - (a) they are members of the same family; or
  - (b) they are related corporations; or
  - (c) one is a corporation and the other is a director of, or a shareholder in, the corporation; or
  - (d) they are both trustees of the same trust, or of different trusts with a common beneficiary, or one is a trustee and the other is a beneficiary of the same trust; or
  - (e) a chain of relationships can be traced between them under one or more of the above paragraphs.
- (2) A person is taken not to be related to another if the Minister is satisfied that they are not, and have not been, acting in concert in relation to the acquisition of an interest in shares in a corporation holding a permit or licence.

**104D Acquisition of interest in shares**

- (1) For this Part, the acquisition of an interest in shares in a corporation holding a permit or licence includes:
  - (a) the allotment or issue of a share, not being the issue of a share to a member on registration of the corporation as a corporation; and
  - (b) the acquisition of the legal title in a share by purchase or transfer; and
  - (c) the redemption, surrender or cancellation of a share; and
  - (d) the variation, abrogation or alteration of a right pertaining to a share; and

- (e) a declaration of trust over shares; and
  - (f) if shares are held subject to a discretionary trust – the addition of a beneficiary or class of beneficiaries to the existing beneficiaries under the trust; and
  - (g) if shares are held subject to a discretionary trust – a change in control of a corporate beneficiary under the trust and a change in control of the trust if both changes:
    - (i) occur within a 12 month period; and
    - (ii) arise from (or substantially from) one transaction or one series of transactions; and
  - (h) a statutory vesting of shares; and
  - (i) a vesting of shares through a merger.
- (2) Despite subsection (1), an acquisition of an interest in shares in a corporation holding a permit or licence does not include an acquisition:
- (a) that occurs as the result of the appointment of:
    - (i) a receiver or trustee in bankruptcy; or
    - (ii) a liquidator; or
  - (b) that is declared not to constitute an acquisition by the regulations.

#### **104E Approval of change in control**

- (1) This section applies in relation to a change in control of a corporation holding a permit or licence.
- (2) An application for the approval of the Minister must be made before the change in control occurs.
- (3) An application under this section must be made by an investor who is a person who is, or who is a member of a group of persons who are, to become able to exercise, or to control (directly or indirectly) the exercise of, a majority of the votes exercisable at meetings of the directors or shareholders of the corporation holding the permit or licence.
- (4) An application for the approval of the Minister must:
  - (a) be in the approved form; and

- (b) be accompanied by any information required by the Minister;  
and
  - (c) be accompanied by the prescribed fee; and
  - (d) comply with any other requirement determined by the Minister and published on the Agency's website.
- (5) The Minister may, before determining an application under this section, request an investor to provide to the Minister further information to assist the Minister to determine the application.
- (6) The Minister may determine not to deal with the application until the investor complies with a request under subsection (5).
- (7) In determining an application under this section, the Minister must be satisfied that any investor, and any associated entity of any investor, who is, or forms part of a group of related persons who are, to become able to exercise, or to control (directly or indirectly) the exercise of, a majority of the votes exercisable at meetings of the directors or shareholders of the corporation holding a permit or licence are appropriate persons to hold the permit or licence.
- (8) The Minister may cancel the permit or licence if:
- (a) the Minister is unwilling to approve an application under this section; and
  - (b) the change in the control of the corporation proceeds in any event.

#### **104F Offence to fail to apply for approval**

- (1) A person commits an offence if:
- (a) the person is a person who has or acquires an interest in shares in a corporation holding a permit or licence; and
  - (b) the person is a person who is, or who is a member of a group of persons who are, to become able to exercise, or to control (directly or indirectly) the exercise of, a majority of the votes exercisable at meetings of the directors or shareholders of a corporation holding a permit or licence; and
  - (c) an application is not made in accordance with section 104E(2).

Maximum penalty: 200 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

**77 Part V heading replaced**

Part V, heading

*omit, insert*

**Part V Offences and related provisions****78 Sections 105 to 117 replaced**

Sections 105 to 117

*repeal, insert*

**105 Permit and licences required to explore and recover petroleum**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct is part of carrying out an activity for which an exploration permit, retention licence or production licence is required and the person is reckless in relation to that circumstance; and
  - (c) the activity is not authorised by an exploration permit, retention licence or production licence.

Maximum penalty: 5 000 penalty units.

- (2) Strict liability applies to subsection (1)(c).
- (3) A person commits an offence if:
  - (a) the person engages in conduct; and
  - (b) the conduct is part of carrying out activity for which an exploration permit, retention licence or production licence is required; and
  - (c) the activity is not authorised by an exploration permit, retention licence or production licence.

Maximum penalty: 1 000 penalty units.



- (4) An offence against subsection (3) is an offence of strict liability.
- (5) A person commits an offence if:
- (a) the person is the holder of an exploration permit, retention licence or production licence; and
  - (b) the person intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the exploration permit, retention licence or production licence and the person is reckless in relation to that result.

Maximum penalty: 5 000 penalty units.

- (6) Strict liability applies to subsection (5)(a).
- (7) A person commits an offence if:
- (a) the person is the holder of an exploration permit, retention licence or production licence; and
  - (b) the person engages in conduct; and
  - (c) the conduct results in a contravention of the exploration permit, retention licence or production licence.

Maximum penalty: 1 000 penalty units.

- (8) An offence against subsection (7) is an offence of strict liability.
- (9) It is a defence to a prosecution for an offence against subsection (1), (3), (5) or (7) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (10) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (9).

## **106 Interference with activities or work**

- (1) A person commits an offence if:
- (a) the person intentionally interferes with an activity; and

- (b) the activity is being conducted in accordance with an exploration permit, retention licence or production licence under this Act and the person is reckless in relation to that circumstance.

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

- (2) A person commits an offence if:

- (a) the person intentionally interferes with the construction of a road, or other work or operations; and
- (b) the construction of the road, or the other work or operations, is being conducted in accordance with section 57A(9) or 65 and the person is reckless in relation to that circumstance.

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

## **107 Misleading information**

- (1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the other person is an authorised person; and
- (c) the information is misleading and the person has knowledge of that circumstance; and
- (d) the authorised person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is an authorised person; and
- (c) the document contains misleading information and the person has knowledge of that circumstance; and

- (d) the authorised person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:
- (a) draws the misleading aspect of the information or document to the authorised person; and
  - (b) to the extent to which the defendant can reasonably do so – gives the authorised person the information necessary to remedy the misleading aspect of the information or document.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (5) In this section:

**acting in an official capacity**, in relation to an authorised person, means the authorised person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

**authorised person** means:

- (a) the Minister; or
- (b) the Environment Minister; or
- (c) the CEO; or
- (d) the Environment CEO; or
- (e) the Registrar; or
- (f) an inspector; or
- (g) an auditor.

**108 False representations**

- (1) A person commits an offence if:
- (a) the person (the **first person**) intentionally represents to another person that the first person is a person named in a certificate or other document; and
  - (b) the certificate or other document is issued under this Act; and
  - (c) the first person is not a person named in the certificate or other document and the first person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) Strict liability applies to subsection (1)(b).

- (3) A person commits an offence if:

- (a) the person intentionally produces or tenders in evidence a document in any proceedings before a court or tribunal; and
- (b) the document purports to be:
  - (i) a copy of or extract from an entry in the Register; or
  - (ii) a copy of an instrument lodged with the Minister under this Act; and
- (c) the person has knowledge of the circumstance referred to in paragraph (b); and
- (d) the document is false and the person has knowledge of that circumstance.

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

**109 Operations near residence or other area**

- (1) Subject to subsection (4), a permittee or licensee must not carry out an operation on land that is:
- (a) used as, or within 50 m of land being used as, a residence, yard, garden, orchard or cultivated field; or
  - (b) within a distance of 200 m of any artificial accumulation of water or any outlet from which water may be obtained.

- (2) A permittee or licensee commits an offence if the permittee or licensee carries out an operation in contravention of subsection (1).

Maximum penalty: 200 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

- (4) A permittee or licensee is exempt from subsection (1) if given written approval to carry out the operations by:

(a) 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 2000*, the occupier; and

(b) any registered native title bodies corporate, or registered native title claimants, in relation to the land.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

## 110 Operations near cemetery

- (1) Subject to subsection (4), a permittee or licensee must not carry out an operation on land that is used as, or within 200 m of land being used as, a cemetery.

- (2) A permittee or licensee commits an offence if the permittee or licensee carries out an operation in contravention of subsection (1).

Maximum penalty: 200 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

- (4) A permittee or licensee is exempt from subsection (1) if given written approval to carry out the operations by the responsible entity for the cemetery.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

- (5) In this section:

**cemetery**, see section 7 of the *Burial and Cremation Act 2022*.

**111 Construction near habitable building**

(1) A permittee or licensee must not construct a well, wellhead, pipeline or petroleum processing facility on land that is used as, or within 2 km of land being used as, a habitable building.

(2) A permittee or licensee commits an offence if the permittee or licensee undertakes construction in contravention of subsection (1).

Maximum penalty: 200 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) In this section:

**habitable building** means:

- (a) a building in which people reside or work; or
- (b) a school, including a playground associated with a school; or
- (c) a permanent sporting facility; or
- (d) a hospital or other type of community medical facility;

**petroleum processing facility** means a temporary or permanent facility for the processing or storage of petroleum.

**pipeline** means a pipeline constructed or to be constructed for a purpose mentioned in section 4(1)(e)(i) to (iv) of the *Energy Pipelines Act 1981*.

**112 Construction of well or well pad near designated bore**

(1) Subject to subsection (4), a permittee or licensee must not construct a well or well pad within 1 km of a designated bore.

(2) A permittee or licensee commits an offence if the permittee or licensee undertakes construction in contravention of subsection (1).

Maximum penalty: 200 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) A permittee or licensee is exempt from subsection (1) if given written approval to undertake the construction by:

- (a) 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 2000*, the occupier; and

- (b) any registered native title bodies corporate, or registered native title claimants, in relation to the land; and
- (c) the owner of the designated bore.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

- (5) In this section:

**designated bore**, see section 60A(3) of the *Water Act 1992*.

**owner**, of a designated bore, see section 60A(3) of the *Water Act 1992*.

### **113 Continuing offences**

- (1) If a court finds a person guilty of an offence against this Act, the court may, in addition to any penalty imposed for the offence, impose a penalty not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the offence is charged.
- (2) If an offence continues after the person is found guilty of the offence, the court may:
  - (a) find the person guilty of a further offence; and
  - (b) in addition to any penalty imposed for the further offence, impose a penalty of not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the person was first found guilty.
- (3) If an offence consists of an omission to do something that is required to be done, the omission is taken to continue for as long as the thing required to be done remains to be done after the end of the period for compliance with the requirement.

### **114 Conduct of employee or agent**

- (1) This section applies to a prosecution for an offence against this Act.

*Note for subsection (1)*

*This section deals with prosecutions of individuals. Part IIAA, Division 5, of the Criminal Code contains provisions about corporate criminal responsibility.*

- (2) Conduct engaged in by an employee or agent of an individual within the scope of the employee or agent's actual or apparent authority is taken to have been also engaged in by the individual.
- (3) It is a defence to a prosecution for the offence if the individual took reasonable steps to prevent the conduct.
- (4) In deciding whether the individual took reasonable steps to prevent the conduct, a court must consider:
  - (a) any action the individual took to ensure the employee or agent had a reasonable knowledge and understanding of the requirement to comply with the contravened provision; and
  - (b) the level of management, control or supervision that was appropriate for the individual to exercise over the representative.
- (5) Subsection (4) does not limit the matters the court may consider.
- (6) If it is relevant to prove an individual had a fault element in relation to a physical element of an offence, it is enough to show:
  - (a) the conduct relevant to the physical element was engaged in by an employee or agent of the individual within the scope of the employee or agent's actual or apparent authority; and
  - (b) the employee or agent had the fault element in relation to the physical element.
- (7) An individual may rely on section 43AX of the Criminal Code in relation to conduct by an employee or agent that would be an offence by the individual only if:
  - (a) the employee or agent was under a mistaken but reasonable belief about the facts that, had they existed, would have meant that the conduct would not have constituted an offence; and
  - (b) the individual proves the individual exercised due diligence to prevent the conduct.

*Note for subsection (7)*

*Section 43AX of the Criminal Code provides a person is not criminally responsible if the person engaged in conduct under a mistake of fact in relation to an offence of strict liability.*



- (8) An individual (the **defendant**) may not rely on section 43BA of the Criminal Code in relation to a physical element of an offence caused by another individual if the other individual is an employee or agent of the defendant.

*Note for subsection (8)*

*Section 43BA of the Criminal Code provides a person is not criminally responsible in circumstances of an intervening conduct or event.*

- (9) An individual who is convicted of an offence cannot be punished by imprisonment for the offence if the individual would not have been convicted of the offence without subsection (2) or (6).
- (10) In this section:

**fault element** means intention, knowledge or recklessness.

## **115 Criminal liability of executive officer of body corporate**

- (1) This section applies in relation to the following offences:
- (a) an offence against section 77(2), (4), (6) or (7), 89M(1), 89Q(1) or (3), 89S(1), 89Z(1) or (3), 89ZA(3) or (5), 105(1), (3), (5) or (7) or 117AAB(1), (3), (5), (6) or (7);
  - (b) a prescribed offence against a provision of the regulations.
- (2) An executive officer of a body corporate commits an offence if:
- (a) the body corporate commits the offence and the officer was reckless about whether the offence would be committed; and
  - (b) the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
  - (c) the officer recklessly failed to take reasonable steps to prevent the commission of the offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

- (3) Strict liability applies to subsection (2)(b).

- (4) In deciding whether the executive officer took reasonable steps to prevent the commission of the offence, a court must consider the following to the extent relevant:
- (a) any action the officer took directed towards ensuring that:
    - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the provision to which the offence relates; and
    - (ii) the body corporate implemented any appropriate recommendation arising from an assessment referred to in subparagraph (i); and
    - (iii) the body corporate's employees, agents and contractors had reasonable knowledge and understanding of the requirement to comply with the provision to which the offence relates;
  - (b) any action the officer took when the officer became aware that the relevant offence was, or could be, or was about to be, committed.
- (5) Subsection (4) does not limit the matters the court may consider.
- (6) This section does not affect the liability of the body corporate.
- (7) This section applies whether or not the body corporate is prosecuted for, or found guilty of, the offence with which the executive officer was charged.
- (8) Without limiting any other defence available to the officer, an executive officer may rely on a defence that would be available to the body corporate if it were charged with the offence with which the executive officer is charged and, in so doing, the officer bears the same burden of proof that the body corporate would bear.

*Note for subsection (8)*

*The defendant has an evidential burden in relation to the matters in subsection (8) (see section 43BU of the Criminal Code).*

- (9) In this section:

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

**116 Commencement of criminal proceedings**

- (1) Despite any other law, proceedings for an offence under this Act may be brought at any time.
- (2) Proceedings for an offence against this Act may only be commenced by:
  - (a) the CEO; or
  - (b) an inspector or other person authorised by the CEO.

**79 Sections 117AAB to 117AAE, Part V, Division 3 and Part VA replaced**

Sections 117AAB to 117AAE, Part V, Division 3 and Part VA  
*repeal, insert*

**117AAB Environmental offences**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct occurs during the course of an operation; and
  - (c) the operation is authorised under this Act; and
  - (d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Maximum penalty: 6 500 penalty units or imprisonment for 5 years.

Minimum penalty: 650 penalty units.

- (2) An offence against subsection (1) is a summary offence.
- (3) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct occurs during the course of an operation; and
  - (c) the operation is authorised under this Act; and

- (d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Maximum penalty: 2 600 penalty units.

Minimum penalty: 260 penalty units.

- (4) Strict liability applies to subsections (1)(b) and (c) and (3)(b) and (c).

- (5) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct occurs during the course of an operation; and
- (c) the operation is authorised under this Act; and
- (d) the conduct results in significant environmental harm.

Maximum penalty: 2 600 penalty units.

Minimum penalty: 260 penalty units.

- (6) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct occurs during the course of an operation; and
- (c) the operation is authorised under this Act; and
- (d) the conduct results in material environmental harm.

Maximum penalty: 1 300 penalty units.

Minimum penalty: 130 penalty units.

- (7) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct occurs during the course of an operation; and
- (c) the operation is authorised under this Act; and
- (d) the conduct results in environmental harm.

Maximum penalty: 130 penalty units.

- (8) An offence against subsection (5), (6) or (7) is an offence of strict liability.
- (9) It is a defence to a prosecution for an offence against subsection (1), (3), (5), (6) or (7) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (10) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (9).

### **117AAC Additional defences for environmental offences**

- (1) It is a defence to a prosecution of an offence against section 117AAB if the conduct was authorised under another provision of this Act or another Act.

*Note for subsection (1)*

*The defendant has an evidential burden in relation to the matters in subregulation (1) (see section 43BU of the Criminal Code).*

- (2) If environmental harm is the result of the release of a contaminant or waste, it is a defence to a prosecution for an offence against section 117AAB, in relation to a particular contaminant or waste, if the defendant complied with:
  - (a) a provision of an environment protection objective as defined in section 4(1) of the *Waste Management and Pollution Control Act 1998* that fixed maximum allowable levels for the particular contaminant or waste; or
  - (b) a condition of an approval, permit, lease, licence or other authorisation under this Act or another Act that fixed maximum allowable levels for the particular contaminant or waste.

*Note for subsection (2)*

*The defendant has an evidential burden in relation to the matters in subregulation (2) (see section 43BU of the Criminal Code).*

## **Division 3 Alternative verdicts**

### **117AAD Alternative verdict**

In a proceeding against a person charged with an offence against a provision specified in the following Table, column 1 (the **prosecuted offence**), the trier of fact may find the person not guilty of the prosecuted offence but guilty of an offence against a provision specified in the Table as an alternative offence for the prosecuted offence (the **alternative offence**) if the trier of fact:

- 
- (a) is not satisfied beyond reasonable doubt that the person committed the prosecuted offence; and
- (b) is satisfied beyond reasonable doubt that the person committed the alternative offence.

**Table Alternative offences**

<b>Prosecuted offence</b>	<b>Alternative offence</b>
section 57A(14)	section 57A(16)
section 61E(1)	section 61E(3)
section 61E(5)	section 61E(7)
section 77(2)	section 77(4), (6) or (7)
section 77(4)	section 77(7)
section 77(6)	section 77(7)
section 89Q(1)	section 89Q(3)
section 89Z(1)	section 89Z(3)
section 89ZA(3)	section 89ZA(5)
section 105(1)	section 105(3)
section 105(5)	section 105(7)
section 117AAB(1)	section 117AAB(3), (5), (6) or (7)
section 117AAB(3)	section 117AAB(6) or (7)
section 117AAB(5)	section 117AAB(6) or (7)

## **Division 4 Additional orders available on finding of guilt**

### **117AAE Adverse publicity orders**

- (1) If a person is found guilty of an offence against this Act, the court may make an order (an **adverse publicity order**) requiring the person to do any of the following:
- (a) to publicise, in the manner specified in the order, the offence, its consequences, the penalty imposed and any other related matter;

- (b) to notify a specified person or specified class of person, in the manner specified in the order, of the offence, its consequences, the penalty imposed and any other related matter.
- (2) A person subject to an adverse order must give the CEO evidence of compliance with the order within 7 days after the end of the period specified in the order.
- (3) The court may make an adverse publicity order on its own motion or on the application of the person prosecuting the offence.
- (4) The court must, in determining whether to make an adverse publicity order, take into account any material before the court relating to the effect of the taking of action or actions that the court proposes to specify in the order is likely to have on a person other than the person found guilty of the offence.
- (5) If the CEO does not receive evidence in accordance with subsection (2), the CEO, or a person authorised in writing by the CEO, may take the action or actions specified in the order.
- (6) If the CEO is not satisfied that the person complied with the order, the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take action.
- (7) The CEO is entitled to recover from the person subject to the order an amount equal to the reasonable costs and expenses of taking the action or actions as a debt due and payable to the Territory.

#### **117AAF Order to remedy breach**

- (1) If a person is found guilty of an offence against this Act, the court may, in addition to any sanction that it may impose, make an order requiring the person to take specified steps, within a specified period, to remedy any matter caused by the commission of the offence that appears to the court to be within the person's power to remedy.
- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court if an application for the extension is made before the period expires.
- (3) A person commits an offence if:
  - (a) the person is subject to an order under this section; and
  - (b) the person contravenes the order.

Maximum penalty: 500 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

### **117AAG Recovery of costs**

- (1) If a person is found guilty of an offence against this Act, the court may, in addition to any sanction that it may impose, make an order requiring the person to pay to the CEO or the Environment CEO:
- (a) the costs reasonably incurred for the prosecution of the offence; and
  - (b) the costs directly related to the investigation of the offence.
- (2) Without limiting subsection (1), the costs covered by the subsection may include costs for testing, storing or disposing of evidence.

## **Part VA Civil enforcement, penalties and other proceedings**

### **Division 1 Injunctions and other orders**

#### **117AA Who may bring proceedings**

- (1) Subject to this Division, an application for an injunction or other order under this Division may be brought by the following:
- (a) the Minister;
  - (b) the CEO;
  - (c) a person who is affected by an alleged act or omission that contravenes or may contravene this Act;
  - (d) an interested person;
  - (e) a person acting on behalf of an unincorporated organisation that is an interested person;
  - (f) a person acting with the written consent of the Minister or the CEO.



(2) In this section:

***interested person*** is:

(a) an individual who:

(i) has engaged in a series of activities for protection or conservation of, or research into, the environment at any time in the 2 years immediately before the commencement of the application; and

(ii) resides, or ordinarily resides, in the Territory; or

(b) an organisation that:

(i) has objects or purposes that include the protection or conservation of, or research into, the environment; and

(ii) is incorporated, or operates on a regular basis, in the Territory.

#### **117AB Prohibitory injunctions**

(1) If a person engaged, is engaging or is proposing to engage in conduct constituting a contravention of this Act, the Supreme Court may grant an injunction restraining the person from engaging in the conduct.

(2) If the Supreme Court grants an injunction restraining a person from engaging in conduct and in the opinion of the Court it is desirable to do so, the Court may make an order requiring the person to do a specified act or thing.

#### **117ABA Mandatory injunctions**

If a person refused or failed, or is refusing or failing, or is proposing to refuse or fail to do an act or thing, and the refusal or failure did, does or would constitute a contravention of this Act, the Supreme Court may grant an injunction requiring the person to do the act or thing.

#### **117ABB Interim injunctions**

(1) Before deciding an application for an injunction under this Division, the Supreme Court may grant an interim injunction:

(a) restraining a person from engaging in conduct; or

(b) requiring a person to do an act or thing.

- (2) The Supreme Court must not require an applicant for an injunction to give an undertaking as to damages as a condition of granting an interim injunction.

**117ABC Certain considerations for granting injunctions not relevant**

- (1) The Supreme Court may grant an injunction restraining a person from engaging in conduct:
- (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) whether or not the person previously engaged in conduct of that kind; and
  - (c) whether or not there is imminent danger of environmental harm if the person engages, or continues to engage, in conduct of that kind.
- (2) The Supreme Court may grant an injunction requiring a person to do a particular act or thing:
- (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
  - (b) whether or not the person previously refused or failed to do that act or thing; and
  - (c) whether or not there is an imminent danger of environmental harm if the person refuses or fails to do that act or thing.

**117ABD Discharge of injunctions**

On application, the Supreme Court may discharge or vary an injunction.

**117ABE Other orders**

- (1) On application only by the Minister or the CEO, the Supreme Court may make the following orders in relation to a contravention of this Act:
  - (a) if the contravention of this Act resulted in environmental harm – an order requiring the person who committed the contravention to:
    - (i) do a specified act or thing to remediate any specified environmental harm or to rehabilitate any aspect of the environment; and
    - (ii) if appropriate, do a specified act or thing to prevent or mitigate further environmental harm;
  - (b) if the Minister or the CEO incurred costs or expenses in doing an act or thing to prevent or mitigate environmental harm resulting from the contravention of this Act or to remediate or rehabilitate the environment as a result of environmental harm – an order against the person who committed the contravention for payment of the reasonable costs and expenses incurred in doing the act or thing.
- (2) On application by a person referred to in section 117AA(1)(c) who suffered loss or damage as a result of a contravention of this Act, or incurred costs and expenses in doing an act or thing to prevent or mitigate that loss or damage, the Supreme Court may make an order against the person who committed the contravention for payment of:
  - (a) compensation for the loss or damage; or
  - (b) the reasonable costs and expenses incurred in doing the act or thing.

**117ABF Supreme Court may vary or revoke order**

The Supreme Court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order made under section 117ABE.

**117ABG Time for commencing proceedings under this Division**

- (1) A proceeding under this Division may be commenced by the Minister or the CEO at any time within 12 months after the date of the alleged act or omission that contravenes or may contravene this Act.

- (2) A proceeding under this Division may be commenced by a person referred to in section 117AA(1)(c), (d), (e) or (f) at any time within 6 months after the date of the alleged act or omission that contravenes or may contravene this Act.
- (3) The Supreme Court may, on application, extend the time specified in subsection (1) or (2).
- (4) An application under subsection (3) may be commenced before or after the end of the time specified in subsection (1) or (2).
- (5) In considering an application under subsection (3), the Supreme Court must consider the following if the information is available:
  - (a) when the alleged contravention occurred;
  - (b) whether the impact of the alleged contravention ought to have been discovered by the applicant if the applicant had exercised due diligence in finding the impact and whether the applicant exercised that due diligence;
  - (c) whether extending the time would prejudice the proposed respondent's ability to maintain a defence to the proceeding on the merits;
  - (d) any other criteria the Court considers relevant.

#### **117ABH Security and undertakings**

Subject to section 117D, the Supreme Court may order a person referred to in section 117AA(1)(c), (d), (e) or (f) who is the applicant in a proceeding under this Division:

- (a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; and
- (b) to give an undertaking as to the payment of any amount of damages that may be awarded under section 117ABJ.

#### **117ABJ Orders as to damages on application of respondent**

- (1) The Supreme Court may make an order under this section if, in a proceeding under this Division in relation to an alleged contravention of this Act commenced by a person referred to in section 117AA(1)(c), (d), (e) or (f), the Court determines:
  - (a) that the respondent has not contravened this Act; and

- (b) that the respondent has suffered loss or damage as a result of the commencement of the proceeding under this Division; and
  - (c) that in the circumstances it is appropriate to make an order under this section.
- (2) The Supreme Court may, on the application of the respondent, and in addition to any order as to costs, require a person referred to in section 117AA(1)(c), (d), (e) or (f) who is the applicant in a proceeding under this Division to pay to the respondent the amount determined by the Court to compensate the respondent for the loss or damage suffered by the respondent.

#### **117ABK Orders as to costs**

Subject to section 117D, in any proceeding under this Division, the Supreme Court may make any order as to costs that it considers just and reasonable.

#### **117ABL Powers conferred are in addition to other powers of Supreme Court**

The powers conferred on the Supreme Court under this Division are in addition to the other powers of the Court.

### **Division 2 Enforceable undertakings**

#### **117ABM Enforceable undertaking**

- (1) An undertaking under this Division is an enforceable promise given by a person who is alleged to have contravened this Act, in exchange for the stay of any proceedings in respect of the contravention.
- (2) An undertaking may contain any terms and conditions that the CEO considers necessary to promote the objectives of this Act or to ensure compliance with this Act.
- (3) An undertaking must include time limits for the performance of any obligations and a method to monitor compliance with the undertaking.
- (4) The process of negotiating an undertaking is without prejudice to any party's position.
- (5) The CEO may accept a written undertaking given by the holder of a petroleum interest in connection with a contravention or alleged contravention by the holder of the petroleum interest of:
  - (a) this Act; or

- (b) a term or condition of the petroleum interest.
- (6) The CEO must consider the following before accepting an undertaking:
    - (a) the nature and gravity of the conduct;
    - (b) the maximum penalty provided for the alleged contravention;
    - (c) the benefits of the proposed undertaking and the public interest;
    - (d) the interests of justice;
    - (e) any other factor that the CEO considers relevant.
  - (7) The CEO must give written notice to the person whether or not the person's undertaking is accepted.
  - (8) An enforceable undertaking may require the holder of the petroleum interest to publish notice of the alleged contravention and any act or thing done, or to be done, by the holder of the petroleum interest.
  - (9) The CEO must publish on the Agency's website, or in any other way determined to be appropriate by the CEO, notice of the decision to accept the enforceable undertaking and of the reasons for that decision.
  - (10) The giving of an undertaking does not constitute an admission of guilt by the person giving it in relation to the alleged contravention or offence.

#### **117ABN Enforcement orders**

- (1) The CEO may apply to the Supreme Court for an order under subsection (2) if the CEO considers that a holder of a petroleum interest contravened an enforceable undertaking accepted by the CEO.
- (2) The Supreme Court may make any of the following enforcement orders if the Court is satisfied that the holder of the petroleum interest has contravened an enforceable undertaking:
  - (a) an order directing the holder of the petroleum interest to comply with the undertaking;
  - (b) an order directing the holder of the petroleum interest to do any specified act or thing for the purpose of complying with the enforceable undertaking;

- (c) an order directing the holder of the petroleum interest to do any specified act or thing to minimise any harm or other impact resulting from the contravention of the enforceable undertaking;
- (d) an order that the holder of the petroleum interest pay an amount to the CEO for any costs or expenses reasonably incurred by the CEO in taking action to minimise any harm or other impact resulting from the contravention of the enforceable undertaking, including any investigation, legal or court costs;
- (e) an order that the holder of the petroleum interest pay an amount in compensation to any other person who has suffered loss or damage as a result of the contravention of the enforceable undertaking;
- (f) an order revoking the enforceable undertaking;
- (g) any other order the Court considers appropriate in the circumstances.

#### **117ABP Power of CEO to take action**

- (1) The CEO may do any act or thing specified in an enforcement order if the holder of the petroleum interest contravenes the order.
- (2) In doing a specified act or thing, the CEO may:
  - (a) do anything that is necessary or expedient to be done for that purpose; and
  - (b) publish notice that the holder of the petroleum interest has contravened the enforcement order.
- (3) The CEO may recover the reasonable costs and expenses incurred in doing a specified act or thing under this section from the holder of the petroleum interest in a court of competent jurisdiction as a debt due and payable to the Territory.
- (4) The CEO may, in writing, authorise another person to exercise a power or perform a function under subsection (1) or (2) on the CEO's behalf.
- (5) If a person is authorised to exercise a power or perform a function under subsection (4), anything done by the person in the exercise of the power or the performance of the function has the same effect as if it had been done by the CEO.

**117ABQ Variation or withdrawal of enforceable undertaking by interest holder**

- (1) The holder of a petroleum interest may vary or withdraw an enforceable undertaking accepted by the CEO with the consent of the CEO.
- (2) Despite subsection (1), the provisions of an enforceable undertaking cannot be varied to provide for a different contravention.
- (3) An enforceable undertaking is revoked on the withdrawal of the undertaking.
- (4) The CEO must publish on the Agency's website, or in any other way determined to be appropriate by the CEO, notice of the decision to consent to the variation or withdrawal of an enforceable undertaking and of the reasons for that decision.

**117ABR No criminal proceedings while enforceable undertaking in force**

- (1) Subject to subsection (3), no proceedings for an alleged contravention of this Act may be commenced or continued against a person if an enforceable undertaking in relation to the contravention:
  - (a) is in effect; or
  - (b) is completely discharged.
- (2) After accepting an enforceable undertaking from a person, the CEO must take reasonable steps to have the prosecution against the person discontinued as soon as possible.
- (3) Proceedings may be instituted or resumed against a person who gave an enforceable undertaking in respect of the alleged contravention or offence if the undertaking is not complied with.

**117ABS No further proceedings if enforceable undertaking complied with**

If the CEO is satisfied that an enforceable undertaking in relation to an alleged contravention of this Act has been complied with, a criminal proceeding for an offence that is constituted by the alleged contravention may not be commenced.



**Division 3      Civil orders****117ABT    Application for civil orders**

The CEO may apply to the Local Court for a civil order under this Division if the CEO is satisfied that a person contravened a provision of this Act that is:

- (a) an offence of strict liability; or
- (b) an offence under Part V, Division 2 (not being an offence of strict liability) that is prescribed for this Division.

**117ABU    Time for making application**

An application under this Division may be commenced at any time within 3 years after the day of the alleged contravention.

**117ABV    CEO to have regard to certain matters**

In determining whether to make an application under this Division in relation to a contravention of a provision of this Act, the CEO must have regard to:

- (a) the seriousness of the contravention; and
- (b) the previous record of the offender in complying with this Act; and
- (c) any other relevant matter.

**117ABW    Notice of proposed application to Local Court**

- (1) The CEO must not apply for a civil order unless the CEO serves on the person to whom the application relates a notice of the CEO's intention to make the application.
- (2) The notice must:
  - (a) be in the approved form; and
  - (b) specify the maximum amount that the person may be ordered to pay as a civil penalty; and
  - (c) include a statement advising the person that the person may elect to be prosecuted for the relevant contravention by written notice given to the CEO within the time specified in the notice.
- (3) The time specified in the notice must not be less than 30 days.

- (4) The CEO must not apply for a civil order in relation to a contravention if the person serves a written notice on the CEO, within the time specified in the notice under subsection (2), electing to be prosecuted for the contravention.

### **117ABX Civil orders**

- (1) On the application of the CEO, the Local Court may make the following orders against a person if the Local Court is satisfied on the balance of probabilities that the person contravened a provision of this Act that is an offence referred to in section 117ABT:
- (a) an order that the person pay to the Territory a pecuniary amount as a civil penalty;
  - (b) an order mentioned in section 117ABZ;
  - (c) any other order that the Court considers appropriate.
- (2) The amount of a civil penalty ordered under this section to be paid in relation to a contravention of a provision that is an offence must not exceed the amount specified by this Act as the maximum penalty for the offence.

### **117ABY Local Court to have regard to certain matters**

In determining the amount to be paid by a person as a civil penalty, the Local Court must have regard to:

- (a) the nature and extent of the contravention; and
- (b) any environmental harm resulting from the contravention; and
- (c) any financial or economic saving or benefit the person stood to gain by committing the contravention; and
- (d) whether the person has previously been found, in a proceeding under this Act, to have engaged in any similar conduct; and
- (e) any other matter the Court considers relevant.

### **117ABZ Civil orders under section 117ABX(1)(b)**

For section 117ABX(1)(b), any of the following orders may be made against a person:

- (a) an order that the person must take specified measures within a specified time:
  - (i) to prevent the contravention occurring again; or

- (ii) to remediate any environmental harm resulting from the contravention including by rehabilitating any aspect of the environment; or
  - (iii) to enhance the environment in an area for public benefit;
- (b) an order requiring the person to compensate the Territory for the costs of the CEO or the Environment CEO in taking any remedial or preventive action that was made necessary as a result of the act or omission that constituted the contravention;
- (c) an order directing the person to pay to the Territory an amount that the Local Court estimates will not exceed the financial or economic benefit that the person or a person associated with the person has gained or can reasonably be expected to gain as a result of the contravention;
- (d) an order directing the person to pay an amount in compensation to any person who has suffered loss or damage as a result of the contravention;
- (e) an order requiring the person to publicise the contravention and any impact of the contravention in a specified manner.

#### **117ABZA Power to take remedial measures**

- (1) If a person fails to take any measures specified by an order mentioned in section 117ABZ(a), the CEO may take those measures.
- (2) The CEO may recover the reasonable costs of taking any measures under subsection (1) from the person in a court of competent jurisdiction as a debt due and payable to the Territory.
- (3) The CEO may, in writing, authorise another person to exercise a power or perform a function under subsection (1) or (2) on the CEO's behalf.
- (4) If a person is authorised to exercise a power or perform a function under subsection (3), anything done by the person in the exercise of the power or the performance of the function has the same effect as if it had been done by the CEO.

#### **117ABZB Civil jurisdiction**

- (1) The jurisdiction conferred by this Division is part of the civil jurisdiction of the Local Court.

- (2) The jurisdictional limit for a civil proceeding specified under section 12 of the *Local Court Act 2015* does not apply to a proceeding under this Division.

### **117ABZC Contravention of 2 or more provisions**

If the conduct of a person constitutes a contravention of 2 or more provisions of this Act that are offences referred to in section 117ABT, an amount of civil penalty may be ordered to be paid by the person under this Division in relation to the contravention of any one or more of the provisions but the person is not liable to pay more than one amount as a civil penalty in relation to the same conduct.

### **117ABZD Stay of proceeding**

- (1) This section applies to a proceeding for:
- (a) a civil order in relation to a contravention of this Act; or
  - (b) enforcement of a civil order mentioned in paragraph (a).
- (2) The proceeding is stayed if a criminal proceeding is commenced or has already commenced against the person for an offence constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (3) The stayed proceeding may only be resumed if the criminal proceeding does not result in a finding of guilt being made against the person.

### **117ABZE Inadmissibility of evidence in criminal proceedings**

- (1) Evidence of information given or evidence of the production of documents by a person is not admissible in a criminal proceeding against a person if:
- (a) the person gave the evidence or produced the documents in the course of a proceeding under this Division for the recovery of an amount as a civil penalty in relation to a contravention of this Act; and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct alleged to constitute the contravention.
- (2) Subsection (1) does not prevent the use of information given or a document produced by a person to locate or identify further evidence that may be used in evidence against the person in a proceeding for an offence or the imposition of a penalty.

- (3) Subsection (1) does not apply to a criminal proceeding in relation to the provision of misleading information or documents.

### **117ABZF Orders as to costs**

In a proceeding under this Division, the Local Court may make any order as to costs that it considers just and reasonable, including an order requiring the reimbursement of the costs and expenses incurred by the CEO or the Environment CEO in investigating the alleged offence.

### **117ABZG Recovery of amounts ordered to be paid to Territory**

Any amount ordered by the Local Court under this Division to be paid to the Territory may be recovered by the Territory as a judgment debt.

### **117ABZH Civil proceedings not to affect compliance directions**

A proceeding for a civil order against a person does not affect any existing compliance direction issued to the person or the issue of a compliance direction to the person during or after the end of the proceeding.

## **80 Parts VC to VF inserted**

After section 117AM

*insert*

## **Part VC Financial assurance framework**

### **Division 1 Preliminary matters**

#### **117AN Types of security**

There are 2 kinds of security for the purposes of this Part:

- (a) environmental securities; and
- (b) petroleum infrastructure decommissioning securities.

**117AP Requirement for security**

- (1) The Minister may determine the form of security required in a particular case after taking into account any direction of the Treasurer about acceptable or appropriate securities under this Part.

*Examples for subsection (1)*

*A form of security might be:*

- (a) a cash bond posted to the Territory Government and held in trust; or
  - (b) a bank guarantee; or
  - (c) a surety bond or insurance bond.
- (2) The Minister may require that more than one security be provided in a particular case.
- (3) Unless otherwise determined by the Minister, a security does not extend to an activity or work that does not require approval under an environment management plan, well operations management plan or petroleum surface infrastructure plan.

**Division 2 Environmental securities****117AQ General provisions**

- (1) An environmental security is a form of security to secure costs and to contribute to the management of risks associated with the remediation and rehabilitation of environmental impacts resulting from activities to which an approved environment management plan relates.
- (2) Without limiting subsection (1), an environmental security may provide security for:
- (a) standardised costs to address specific costs, liabilities and risks associated with environmental impacts and risk of environmental harm resulting from activities to which an approved environment management plan relates, including costs for remediation and rehabilitation; and
  - (b) standardised costs to manage residual risk of environmental harm, including monitoring, after remediation and rehabilitation has been undertaken; and
  - (c) a contingency amount to reduce the risk that the value of the security is inadequate.

- (3) The actual amount or value to be included in or provided by a particular security will be determined by applying an approach or methodology determined by the Environment Minister and published on the Agency's website.
- (4) The Environment Minister may vary or substitute an approach or methodology from time to time.
- (5) A variation or substitution:
  - (a) must be published on the Agency's website; and
  - (b) may, if the Environment Minister so determines, apply in relation to one or more securities for an existing petroleum interest.
- (6) An approach or methodology under this section must reflect:
  - (a) the requirement that the cost of remediation and rehabilitation reflect market conditions; and
  - (b) the circumstances of the Northern Territory petroleum industry.
- (7) The Environment Minister may adopt different approaches or methodologies for different kinds of petroleum interests.

#### **117AR Assessment**

- (1) The Environment Minister will determine the appropriate security or securities when the Environment Minister decides to approve an environment management plan.
- (2) An interest holder must not commence activities under an approved environment management plan without providing security in accordance with a determination of the Environment Minister under subsection (1).
- (3) The Environment Minister may allow an interest holder to provide an amount of security less than would otherwise apply if satisfied that the level of activity or stage in the performance of work does not require the full security.
- (4) The Environment Minister may act under subsection (3) on the condition that the amount of the security will be increased at a later time or times.

**117AS Review**

- (1) An environmental security must be reviewed:
  - (a) if the approved environment management plan is revised; or
  - (b) if required by the Environment Minister.
- (2) An interest holder must review the environmental security in accordance with any requirements specified by the Environment Minister by written notice to the interest holder.
- (3) The Environment Minister may require that a security be varied or substituted, or that a new security be provided, after the completion of a review.

**117AT Release and extension**

- (1) The Environment Minister may release an interest holder from an environmental security when satisfied that:
  - (a) all environmental obligations to which the security relates are satisfied and that the interest holder satisfied all relevant regulatory requirements; or
  - (b) it is appropriate to provide a release in the particular circumstances.
- (2) The Environment Minister may require that an environmental security extend beyond the period for which the approved environment management plan is in force to cover residual remediation or rehabilitation, provide for monitoring or address other relevant circumstances.

**117AU Claim on security**

The Minister may, at the request of the Environment Minister, make a claim on an environmental security in accordance with the terms and conditions of the security.

**Division 3 Petroleum infrastructure decommissioning securities****117AV General provisions**

- (1) A petroleum infrastructure decommissioning security is a form of security to secure costs and liabilities associated with:
  - (a) well decommissioning to which an approved well operations management plan relates; and



- (b) decommissioning petroleum surface infrastructure to which an approved petroleum surface infrastructure plan relates; and
  - (c) decommissioning appraisal production infrastructure.
- (2) Without limiting subsection (1), a petroleum infrastructure decommissioning security may provide security for:
  - (a) standardised costs associated with well decommissioning; and
  - (b) standardised costs associated with petroleum surface infrastructure decommissioning; and
  - (c) standardised costs associated with appraisal production infrastructure decommissioning.
- (3) The actual amount or value to be included in or provided by a particular security will be determined by applying an approach or methodology determined by the Minister and published on the Agency's website.
- (4) The Minister may vary or substitute an approach or methodology from time to time.
- (5) A variation or substitution:
  - (a) must be published on the Agency's website; and
  - (b) may, if the Minister so determines, apply in relation to one or more securities for an existing petroleum interest.
- (6) An approach or methodology under this section must reflect:
  - (a) the requirement that the cost of decommissioning reflect market conditions; and
  - (b) the circumstances of the Northern Territory petroleum industry.
- (7) The Minister may adopt different approaches or methodologies for different kinds of petroleum interests.

**117AW Assessment**

- (1) The Minister will determine the appropriate security or securities when the Minister decides to approve:
  - (a) a well operations management plan or a petroleum surface infrastructure plan; or
  - (b) the recovery of petroleum on an appraisal basis.

- (2) An interest holder must not commence activities under an approved well operations management plan or a petroleum surface infrastructure plan, or to recover petroleum on an appraisal basis, without providing security in accordance with a determination of the Minister under subsection (1).
- (3) The Minister may allow an interest holder to provide a reduced amount of security if satisfied that the interest holder's resources or reserves are large enough that a reduction is reasonable.

#### **117AX Review**

- (1) A petroleum infrastructure decommissioning security must be reviewed:
  - (a) if an approved plan relevant to the security is revised; or
  - (b) if there is a material change in an estimate of petroleum reserves in a relevant field management plan or other plan or report under this Act; or
  - (c) if required by the Minister.
- (2) An interest holder must review the petroleum infrastructure decommissioning security in accordance with any requirements specified by the Minister by written notice to the interest holder.
- (3) The Minister may require that a security be varied or substituted, or that a new security be provided, after the completion of a review.

#### **117AY Release and extension**

The Minister may release an interest holder from a petroleum infrastructure decommissioning security when satisfied:

- (a) that all obligations to which the security relates are satisfied and that the relevant decommissioning satisfied all relevant regulatory requirements; or
- (b) that it is appropriate to provide a release in the particular case.

#### **117AZ Claim on security**

The Minister may make a claim on a petroleum infrastructure decommissioning security in accordance with the terms and conditions of the security.

**Division 4 Common provisions****117AZA Administration of securities**

- (1) The Minister must hold all environmental securities and petroleum infrastructure decommissioning securities.
- (2) An environmental security must be administered by the Minister acting on the advice of the Environment Minister.
- (3) A petroleum infrastructure decommissioning security must be administered by the Minister.
- (4) The Minister must establish a fund for the purpose of holding money under a bond or other security that requires the payment of cash.

**117AZB Mandatory condition**

It is a condition of a petroleum interest that the interest holder must:

- (a) provide the security or securities required under this Part; and
- (b) not commence an activity or work without providing security in accordance with this Part; and
- (c) review a security as required under this Part; and
- (d) comply with any requirement of the Minister or the Environment Minister to vary or substitute a security, or to provide a new security, in accordance with this Part.

**117AZC Action if interest holder in default**

- (1) The CEO may do any act or thing for which a security under this Part was obtained if the relevant interest holder fails to do that act or thing.
- (2) The CEO may, in writing, authorise another person to act on the CEO's behalf under subsection (1).
- (3) If the CEO acts under subsection (1) and the security is insufficient to cover the CEO's reasonable costs and expenses, the CEO may recover from the interest holder the outstanding amount in a court of competent jurisdiction as a debt due and payable to the Territory.

**117AZD Information about securities**

The CEO must publish on the Agency's website:

- (a) a list of all securities held under this Part with sufficient detail to allow members of the public to understand the securities held in relation to each petroleum interest; and
- (b) the total value of securities held from time to time for all petroleum interests.

**Part VD Monitoring and compliance levy****117AZE Definition**

In this Part:

*levy* means the monitoring and compliance levy under this Part.

**117AZF Monitoring and compliance levy**

- (1) There is a monitoring and compliance levy.
- (2) The levy is imposed to provide funding for the following purposes:
  - (a) monitoring activities to ensure that they are consistent with approvals, conditions attached to petroleum interests, plans approved under this Act, and other requirements under this Act;
  - (b) compliance and enforcement activities undertaken by the CEO, the Environment CEO, public sector employees in an Agency involved in the administration of this Act, and inspectors;
  - (c) recovering costs, or raising funds to cover future costs, connected with obtaining information, undertaking studies, making assessments and monitoring activities, outcomes and impacts associated with a petroleum interest or a proposed or potential petroleum interest, or in relation to an area that may be affected by a petroleum interest or a proposed or potential petroleum interest;
  - (d) other activities relating to the administration of this Act (insofar as those activities are not funded by fees and charges collected under this Act).

- (3) The levy is an amount calculated and imposed in relation to activities specified by regulation and approved to be carried on under this Act during each financial year.
- (4) An additional levy may be imposed during a financial year if additional activities are approved during the financial year.
- (5) The levy is imposed from the beginning of the 2023/2024 financial year.
- (6) The levy is payable to the Territory.
- (7) Any unpaid levy may be recovered as a debt due and payable to the Territory.

**117AZG Liability for monitoring and compliance levy**

A person is liable to pay a levy if the person is in a class of persons specified by regulation to be liable to pay the levy.

**117AZH Amount and imposition of levy**

- (1) The amount of levy to be paid by a person must be determined in accordance with the regulations.
- (2) The regulations may deal with matters relevant to the determination, payment and collection of a levy.
- (3) The regulations may provide for the amount of a levy, and the method of calculating a levy, to be different in relation to different classes of actions, factors or circumstances.
- (4) The regulations may allow a particular matter under subsection (1), (2) or (3) about the scope or application of a particular component of the levy to be determined according to the discretion of the Minister.
- (5) A levy paid by a person is not refundable.
- (6) Interest accrues on unpaid levy in accordance with the regulations.

**117AZJ Returns**

A person liable to pay a levy must provide a return, in the approved form, to the Minister at the time of the payment of the levy.

## **Part VE Orphan well levy**

### **117AZK Definitions**

In this Part:

**levy** means the orphan well levy under this Part.

**orphan well**, see section 117AZL.

### **117AZL Meaning of *orphan well***

An **orphan well** is a well where:

- (a) the well is located on an area that has been subject to:
  - (i) a petroleum interest granted under this Act; or
  - (ii) a permit or lease granted under the repealed Act; or
  - (iii) any other form of authority or title under a law applying in the Territory with respect to petroleum exploration, recovery or production; and
- (b) the authority or title under which the well was established has ceased to exist; and
- (c) the Territory has assumed responsibility for the monitoring, maintenance, management or rectification of the well.

### **117AZM Orphan well levy**

- (1) There is an orphan well levy.
- (2) The levy is imposed to provide funding for the following purposes:
  - (a) monitoring and assessing the integrity of orphan wells;
  - (b) obtaining expert reports relating to the integrity of an orphan well;
  - (c) performing, or engaging appropriately qualified persons to perform, maintenance work on orphan wells;
  - (d) preparing remediation plans to rectify the loss of integrity of orphan wells;
  - (e) carrying out work to rectify the loss of integrity of an orphan well;
  - (f) undertaking well and infrastructure decommissioning;

- (g) undertaking other work and activities appropriate in connection with the orphan wells.
- (3) The levy is payable in relation to each financial year.
- (4) The levy is imposed from the beginning of the 2023/2024 financial year.
- (5) The levy is payable to the Minister.
- (6) Any unpaid levy may be recovered as a debt due and payable to the Territory.

**117AZN Liability for orphan well levy**

Each interest holder is liable to pay the orphan well levy.

**117AZP Basis and calculation of levy**

- (1) The levy for each financial year is calculated by reference to the number of blocks held by an interest holder at the beginning of the financial year.
- (2) The levy is imposed at the specified rate per block as at the beginning of the financial year.
- (3) The specified rate is:
  - (a) 84 revenue units; or
  - (b) a prescribed number of revenue units.

**117AZQ Payment of levy**

- (1) A levy must be paid by 31 July of the financial year to which the levy relates.
- (2) A levy paid by a person is not refundable.
- (3) Interest accrues on unpaid levy in accordance with the regulations.

**117AZR Returns**

A person liable to pay a levy must provide a return, in the approved form, to the Minister at the time of the payment of the levy.

**117AZS Payment into Fund**

The Minister must pay money received in payment of the orphan well levy into the Orphan Well Fund.

**117AZT Establishment of Fund**

- (1) The Orphan Well Fund must be established under the *Financial Management Act 1995*.
- (2) The regulations may deal with matters relevant to the Fund.
- (3) The purpose of the Fund is to hold money in trust to be used by the Minister for purposes for which the orphan well levy is imposed.

**117AZU Publication of information**

The Minister must publish on the Agency's website, within 3 months after the end of each financial year, the following information:

- (a) the amount of orphan well levy collected for that financial year;
- (b) the opening and closing balances of the Orphan Well Fund for that financial year;
- (c) an outline of the work and activities funded from the Orphan Well Fund during that financial year.

**Part VF Codes of practice****117AZV Codes of practice**

- (1) The Minister may establish a code of practice for the purposes of this Act and may vary or revoke a code of practice.
- (2) The Minister and the Environment Minister must consult with each other before establishing, varying or revoking a code of practice under subsection (1).
- (3) A code of practice may apply, adopt or incorporate any matter contained in a document formulated, issued or published by a person or body whether:
  - (a) with or without modification; and
  - (b) as in force at a particular time or from time to time.
- (4) A code of practice, or a variation or revocation of a code of practice, takes effect by *Gazette* notice.
- (5) The Minister must ensure that notice of a code of practice, or of a variation or revocation of a code of practice, is published in the *Gazette* and on the Agency's website.



- (6) The CEO must ensure that a copy of each of the following is available for inspection by members of the public without charge at the principal office of the Agency during normal business hours:
- (a) any code of practice currently in effect;
  - (b) any document applied, adopted or incorporated (to any extent) in a code of practice.

### **117AZW Use of codes of practice in proceedings**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) A code of practice is admissible in the proceeding as evidence of whether or not a requirement under this Act was complied with.
- (3) Without limiting subsection (2), a court may have regard to the code of practice as evidence of what is known about:
  - (a) maintaining well or infrastructure integrity; or
  - (b) managing environmental impacts and risks; or
  - (c) ensuring the security of supply.
- (4) Nothing in this section:
  - (a) prevents a person from introducing evidence of compliance with this Act in a manner that is different from a code of practice but provides an outcome that satisfies the relevant requirement; or
  - (b) limits the operation of a code of practice to the extent to which compliance with the code may be mandatory under another provision of this Act.

### **81 Section 117C replaced**

Section 117C

*repeal, insert*

### **117C Guidelines**

- (1) The Minister may issue guidelines for this Act.
- (2) Any guidelines must be published on the Agency's website.

**117D Costs, undertakings and security for costs**

- (1) Subject to subsection (3), this section applies in relation to any proceedings under this Act in which a court or the Tribunal has the ability:
  - (a) to order a party to the proceedings to provide security for the payment of costs that may be awarded against the party if the party's case is unsuccessful; or
  - (b) to order a party to the proceedings to give an undertaking as to the payment of any amount that may be awarded as damages or compensation; or
  - (c) to make an order as to costs.
- (2) Without limiting any other discretion, a court or the Tribunal may, in any proceedings where it considers a party to be acting in the public interest, determine not to do one or more of the following:
  - (a) require security for the payment costs;
  - (b) require an undertaking as to the payment of any amount that may be awarded as damages or compensation;
  - (c) require the payment of costs.
- (3) This section does not apply in relation to criminal proceedings.

**117E Publication of decisions and provision of reasons**

- (1) A failure by the Minister or other person exercising a power or performing a function under this Act to publish a decision, or to give reasons for a decision, in accordance with a requirement under this Act does not affect the validity of the decision.
- (2) The Minister or other person exercising a power or performing a function under this Act may publish a decision, or give reasons for a decision, even if the time specified for doing so under this Act has expired.

**117F Evidentiary**

- (1) In a proceeding for an offence against this Act, a statement of fact may be made in a complaint or information as evidence in respect of the following physical elements of the offence:
  - (a) that a specified person was or was not, at a specified time, the holder of a petroleum interest;

- (b) that a petroleum interest was or was not, at a specified time, subject to a condition or limitation and the nature of the condition or limitation;
  - (c) that a specified notice, order, direction or requirement had been given, made, issued or imposed under this Act;
  - (d) that a person was or was not authorised to exercise a power or perform a function under this Act;
  - (e) that a specified code of practice was an approved code of practice at a specified time.
- (2) In a proceeding for an offence against this Act, a statement of fact may be made in a complaint or information as evidence that, at a specified time, a specified person was an inspector.

### **117G Certificates of evidence**

- (1) A certificate purporting to be signed by the CEO or an inspector specifying a matter referred to in section 117F(1) is evidence of the matter specified in the certificate.
- (2) A certificate purporting to be signed by the CEO specifying that a specified person was at a specified time an inspector is evidence of the matter specified in the certificate.
- (3) A certificate that purports to be signed by an authorised analyst and states the analysis of a substance received from an inspector or the CEO is evidence of the matters specified in the certificate.
- (4) In any proceedings for the recovery of costs or expenses incurred by the Minister or the CEO under this Act, a certificate signed by the Minister or the CEO detailing the costs or expenses and the purpose for which they were incurred is evidence of the matters so certified.

### **117H Contravention of certain provisions not offence**

Section 69A of the *Summary Offences Act 1923* does not apply to a provision of this Act to which, apart from this section, it would otherwise apply.

### **117J Approved forms**

- (1) The Minister may approve forms for this Act.
- (2) The Minister must publish an approved form on the Agency's website.

**117K Electronic processes**

- (1) The regulations may make provision for or in relation to:
  - (a) the lodging of applications, instruments, notices and other documents electronically; and
  - (b) the use of electronic instruments and other documents for any purpose under this Act; and
  - (c) the provision of approvals, instruments, notices and other documents electronically; and
  - (d) allowing the originals or copies of applications, approvals, instruments, notices and other documents to be provided or returned electronically; and
  - (e) requirements for taking any step under this Act electronically, including requirements about the verification of identity or authority, the authentication of information, documents and other matters, the signing or execution of documents and instruments, and the endorsement of documents or approvals; and
  - (f) requirements for the retention of documents supporting or authenticating electronic documents, including periods of retention; and
  - (g) other matters associated with allowing any step, process or requirement under this Act to be undertaken electronically.
- (2) To the extent that the regulations provide for a step under this Act to be taken electronically, taking the step electronically in accordance with the regulations will be taken to be acting under and in compliance with the relevant provision of this Act.

**117L Acquisition of advice**

- (1) The Minister or the CEO may engage a person to give advice in relation to:
  - (a) any application made, or assessment to be undertaken, under this Act; or
  - (b) any plan, proposal, material, information or documents given to the Minister or the CEO:
    - (i) by an interest holder, or by a person who has applied to become an interest holder; or

- (ii) by any other person under, or for the purposes of, this Act.
- (2) The Minister or the CEO must consult with an applicant or other person before acting under subsection (1) if the Minister or CEO proposes that the applicant or other person is to be required to pay the costs of an engagement under that subsection.

### **117M Cost recovery**

- (1) The CEO may recover:
- (a) from an applicant or other person mentioned in section 117L(2) the cost of the engagement by the Minister or the CEO of a person under that section to give the advice envisaged by that section; or
  - (b) from an interest holder, or from a person who has applied to become an interest holder, any costs reasonably incurred by the Minister or the CEO in connection with taking any step or performing any function that directly relates to that interest holder or potential interest holder.
- (2) An amount is not recoverable under subsection (1)(b) to the extent that it appears to the CEO that the cost of taking a step or performing a function was covered by a prescribed fee or charge prescribed by the regulations in relation to the same matter.
- (3) The CEO may recover the costs as a debt due and payable to the Territory.

### **117N Protection from liability**

- (1) A person is not civilly liable for an act done or omitted to be done by the person in good faith in the exercise of a power or the performance of a function as any of the following:
- (a) an inspector;
  - (b) a person assisting an inspector under Part III.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

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

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

**117P Authorised analysts**

The CEO may, by *Gazette* notice, appoint an appropriately qualified person to be an authorised analyst for the purposes of this Act.

**117Q Parallel powers and functions**

(1) The Environment Minister may exercise the powers and perform the functions conferred under the following provisions if the Environment Minister considers that to do so is appropriate for promoting one or more of the objects and outcomes set out in section 3(1)(b) and (c) and (2)(f):

- (a) section 71;
- (b) section 77
- (c) section 117AA;
- (d) section 117ABE;
- (e) section 117ABG;
- (f) section 117AP;
- (g) section 117AZV;
- (h) section 117C;
- (i) section 117G;
- (j) section 117J;
- (k) section 117L;
- (l) section 117R;
- (m) any other provision or regulation specified in an Administrative Arrangements Order.

(2) The Environment CEO may exercise the powers and perform the functions conferred under the following provisions if the Environment CEO considers that to do so is appropriate for promoting one or more of the objects and outcomes set out in section 3(1)(b) and (c) and (2)(f):

- (a) section 72;
- (b) section 87;
- (c) section 88;

- (d) section 89B(4);
- (e) section 89D;
- (f) section 89L(4);
- (g) section 89N;
- (h) section 89R;
- (i) section 89W;
- (j) section 89ZA;
- (k) section 116(2);
- (l) section 117AAE;
- (m) section 117AA;
- (n) section 117ABE;
- (o) section 117ABG;
- (p) section 117ABM;
- (q) section 117ABN;
- (r) section 117ABP;
- (s) section 117ABQ;
- (t) section 117ABR;
- (u) section 117ABS
- (v) section 117ABT;
- (w) section 117ABV;
- (x) section 117ABW;
- (y) section 117ABX;
- (z) section 117ABZA;
- (za) section 117AZC;
- (zb) section 117G;
- (zc) section 117L;

- (zd) section 117M;
  - (ze) section 117P;
  - (zf) section 117S;
  - (zg) any other provision or regulation specified by regulation.
- (3) Nothing in subsection (1) or (2) limits the power or functions of the Minister responsible for the administration of this Act or the CEO from acting under a provision referred to in either of those subsections and the fact that the Minister or the CEO has acted does not prevent the Environment Minister or the Environment CEO from also acting.
- (4) A person with powers or functions under provisions specified in subsection (1) or (2) must take reasonable steps to consult with the other person with the same powers or functions before exercising the power or performing the function if it appears that:
- (a) both persons intend to exercise a power or perform a function under the same provision in relation to the same matter; or
  - (b) one person intends to exercise a power or perform a function under the same provision in relation to the same matter for which the other person has already exercised the power or performed the function.
- (5) In the event of a conflict between an exercise of power by the Minister and the Environment Minister, the CEO and the Environment CEO, or an inspector and an environment inspector, the exercise of the power by the Environment Minister, the Environment CEO or an environment inspector prevails to the extent of the conflict.
- (6) For the purposes of subsection (5), a conflict only exists if a person cannot comply with the power exercised or the function performed by both persons.
- (7) In this section:

***environment inspector*** means an inspector appointed by the Environment CEO under section 87.

### **117R Delegation by Minister**

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



**117S Delegation by CEO**

The CEO may delegate any of the CEO's powers and functions under this Act to a person.

**117T Application to Tribunal in relation to infrastructure facilities**

- (1) A person permitted by section 24MD(6B)(d) of the Native Title Act to object to an act in section 24MD(6B)(b) of the Native Title Act may apply to the Tribunal for a hearing and recommendation in relation to the objection.
- (2) For section 24MD(6B)(f) of the Native Title Act:
  - (a) the Tribunal is an independent body that may hear the application; and
  - (b) the application is taken to be the request for a hearing by an independent body.

**82 Section 118 amended (Regulations)**

- (1) Section 118(2)(pb)

*omit, insert*

- (pb) access to land to comply with a direction or notice given by the Minister, the Environment Minister, the CEO, the Environment CEO or an inspector under this Act; and
- (pc) environmental securities and petroleum infrastructure decommissioning securities; and
- (pd) the giving of notice before a prescribed class of activity or work is commenced; and
- (pe) the keeping and inspection of records in connection with any activity or work undertaken under an approved plan or an approved environment management plan; and
- (pf) the reporting of incidents arising from operations or activities carried out under a permit or licence; and

- (2) Section 118(2)(q), after "fees"

*insert*

or charges

## (3) Section 118(2)(ra) and (s)

*omit, insert*

- (s) the creation of offences including offences of strict or absolute liability; and
- (t) maximum penalties for an offence against a regulation, other than an offence of strict liability or absolute liability, of 2 000 penalty units; and
- (u) maximum penalties for an offence against a regulation that is an offence of strict liability or absolute liability of 200 penalty units; and
- (v) the imposition of interest to be payable, and the rate and method of calculating interest, on amounts due and payable under this Act, but unpaid, to the Territory; and
- (w) the recovery of interest and the ability of the Minister to waive, in whole or in part, interest that is otherwise payable in a particular case; and
- (x) circumstances where the Minister may, on conditions specified by the Minister:
  - (i) determine that particular operations do not need to be covered by an approved plan; or
  - (ii) exempt an interest holder from the requirement to comply with an approved plan in a particular respect; or
  - (iii) agree to the modification of a requirement under an approved plan.

## (4) Section 118(6B) and (7)

*omit, insert*

- (7) In regulations for or in relation to access to land under subsection (2)(pb), the Administrator may provide for any of the following:
  - (a) the persons who may gain access;
  - (b) the requirement to give notice to an owner or occupier of land, and to any other specified person, before access occurs;
  - (c) the action that may be taken after entering land;

- (d) the extent to which equipment, machinery and materials may be brought on to land;
  - (e) the right to leave monitoring and other equipment on land;
  - (f) any requirement or duty in connection with being on land;
  - (g) an entitlement to compensation for loss or damage incurred by an owner or occupier of land;
  - (h) the provision of information and reports in connection with entry on to land or undertaking work or activities in relation to the land.
- (8) A regulation may, in relation to fees or charges mentioned in subsection (2)(q):
- (a) prescribe differential fees or charges; or
  - (b) provide for fees or charges to be determined according to prescribed factors or circumstances or by applying any prescribed methodology.
- (9) The regulations may apply or adopt the following as in force at a particular time or as in force from time to time:
- (a) an approved code of practice;
  - (b) a national standard, guideline, code of practice or other similar instrument;
  - (c) a standard published by Standards Australia.

**83 Section 119 amended (Application, savings and transitional)**

After section 119(13)

*insert*

- (14) The regulations may:
- (a) extend the application of any provision of this Act prescribed by regulation to and in relation to a lease referred to in subsection (1); and
  - (b) extend the application of any regulations under this Act to and in relation to a lease referred to in subsection (1).
- (15) A regulation under subsection (14) has effect according to its terms and despite any inconsistency between the regulation and another provision of this section.

---

**84 Part VII, Division 5 inserted**

After section 135

*insert*

**Division 5 Petroleum Legislation Amendment Act 2022****136 Offence provisions – before and after commencement**

- (1) The offence provisions, as amended by the *Petroleum Legislation Amendment Act 2022*, apply only in relation to offences committed after the commencement of section 78 of that Act (the **commencement**).
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (4) In this section:

**offence provisions** means the provisions of this Act that create or relate to offences including in relation to criminal responsibility, defences and penalties.

**137 Transitional regulations**

- (1) A regulation may provide for a matter of a transitional nature because of the enactment of the *Petroleum Legislation Amendment Act 2022*.
- (2) The regulation may have retrospective operation to a day not earlier than the commencement of this section.
- (3) To the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
  - (a) decreasing the person's rights; or
  - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) This section, and each regulation made under it, is repealed 2 years after the commencement of this section.

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**85 Schedule 1 amended (Decisions subject to principles of ecologically sustainable development)**

(1) Schedule 1, entries for sections 28(2), 41(2) and 55(2)

*omit*

, suspend or waive

(2) Schedule 1, entry for section 57A(5)

*omit*

or condition

(3) Schedule 1

*insert (in numerical order)*

section 57AAA                      A decision to approve an application to recover petroleum on an approval basis

section 57AAA(6)                A decision to approve an application to recover petroleum on an approval basis subject to conditions

section 57AAA(8) or (9)        A decision to vary a condition

section 61A(2)(a)                A decision to approve a plan

section 61B(6)                    A decision relating to the review of an approved plan

section 61C(4)                    A decision to vary a condition of an approved plan

(4) Schedule 1, entry for section 79(1) and (3)

*omit*

**86 Schedule 2 amended (Judicial review of decision or determination)**

(1) Schedule 2, entries for sections 24(4) and (5)(b), 24A(4) and (6), 28(2), 41(2) and (3), 55(2) and (3), 57A(5), 57B(3), 57C(1D), 57K, 57KA(1), 57L(2), 57N(2), (3) and (4)(b)(ii), 61, 72(1), 73(3)(a) and (3)(b), 79(1) and (3), 80(1), 83(1) and 93(11)

*omit*

## (2) Schedule 2

*insert (in numerical order)*

section 25A(1)	A decision to require the number of blocks to be reduced on renewal of exploration permit
section 25A(4)	A decision to defer reduction for a period determined or approved by Minister
section 28(2)	A decision to vary a condition of exploration permit
section 41(3)	A decision to vary a condition of retention licence
section 41(4)	A decision to appoint person to evaluate proposed variation
section 55(3)	A decision to vary a condition of production licence
section 55(4)	A decision to appoint person to evaluate proposed variation
section 57AAB(6)	A decision to approve a transfer of interest in application for petroleum interest
section 57AAD(1)	A decision to vary a condition of a petroleum interest
section 61A(2)(a)	A decision to approve a plan
section 61A(4)	A decision to impose conditions on approval of plan
section 61B(6)(a)	A decision to approve a revised plan
section 61C(1) and (4)	A decision to vary a condition of approved plan
section 62A	A decision to release information
section 72(a)	A decision to cause action to be taken
section 73(9)	A decision to accept a partial surrender
section 93(11)	A decision to require adoption or review of plan or new or additional security
section 104E	Approval of change in control
section 117AZC	Action if interest holder in default

**87 Schedule 3 inserted**

After Schedule 2

*insert***Schedule 3 Reviewable decisions and interested persons**

section 57AB

<b>Reviewable decision</b>	<b>Interested persons</b>
A decision of the Minister to release specified blocks for exploration under section 16A(c)	<p>A person directly affected by the decision</p> <p>The Land Council for the area in relation to which the decision applies</p> <p>A registered native title body corporate in relation to any part of the area to which the decision applies</p> <p>Any registered native title claimant in relation to any part of the area to which the decision applies</p> <p>A person who made a genuine and valid submission under section 16(2)(db) on the release of the blocks, other than an excluded third party submission</p>
A decision of the Minister to grant an exploration permit under section 20	<p>A person directly affected by the decision</p> <p>The Land Council for the exploration permit area</p> <p>A registered native title body corporate in relation to any part of the exploration permit area</p> <p>Any registered native title claimant in relation to any part of the exploration permit area</p> <p>A person who made a genuine and valid submission under section 19</p>

Reviewable decision	Interested persons
	on the application for the grant, other than an excluded third party submission
A determination of the Minister to refuse the grant of an exploration permit under section 20(3)	The applicant for the permit
A decision of the Minister to refuse to renew an exploration permit under section 25(2)	The permittee
A decision of the Minister as to conditions of an exploration permit on the grant of the permit	The applicant for the permit
A decision of the Minister as to conditions of an exploration permit on the renewal of the permit	The permittee
A decision of the Minister not to vary a condition of an exploration permit on an application under section 28	The permittee
A determination of the Minister to refuse to grant a retention licence under section 34(1)	The applicant for the licence
A decision of the Minister to refuse to renew a retention licence under section 38(3)	The licensee
A decision of the Minister as to conditions of a retention licence on the grant of the licence	The applicant for the licence
A decision of the Minister as to conditions of a retention licence on the renewal of the licence	The licensee
A decision of the Minister not to vary a condition of a retention licence on an application under section 41	The licensee
A determination of the Minister to refuse to grant a production licence under section 47	The applicant for the licence



<b>Reviewable decision</b>	<b>Interested persons</b>
A decision of the Minister to refuse to renew a production licence under section 52(3)	The licensee
A decision of the Minister as to conditions of a production licence on the grant of the licence, other than a condition under section 54(2)	The applicant for the licence
A decision of the Minister not to vary a condition of a production licence on an application under section 55	The licensee
A decision of the Minister not to grant an approval under section 57AAA	The permittee or retention licensee
A decision of the Minister under section 57AAA as to conditions of an approval under section 57AAA(6)	The permittee or retention licensee
A decision of the Minister under section 57AAA(8), (9) or (10)	The permittee or retention licensee
A decision of the Minister not to approve a transfer under section 57AAB	The applicant The proposed transferee
A decision of the Minister to vary a condition of a petroleum interest under section 57AAD	The interest holder
A decision of the Minister not to approve a plan under section 61A(2)(b)	The interest holder
A decision of the Minister as to conditions of a plan under section 61A(4)	The interest holder
A direction of the Minister to review a plan under section 61B(2)(e)	The interest holder
A decision of the Minister not to approve a revised plan under section 61B(6)(b)	The interest holder

Reviewable decision	Interested persons
A decision of the Minister not to vary a condition of a plan on an application under section 61C(2)	The interest holder
A decision of the Minister to refuse to accept the partial surrender of a petroleum interest under section 73(8)	The interest holder
A decision of the Minister to refuse to accept the complete surrender of a petroleum interest under section 73(10)	The interest holder
A decision of an inspector to issue a direction under section 89L	The person to whom the direction was issued
A decision of the CEO to issue a compliance direction under section 89N	The person to whom the direction was issued
A decision of the CEO to issue a stop work notice under section 89R	The person to whom the notice was issued
A decision of the Minister not to approve a change in control of a corporation holding a permit or licence under section 104E	The applicant
A decision under this Act prescribed by the regulations	A person prescribed in relation to that decision

### Part 3                      Amendment of Petroleum Regulations 2020

#### 88                      Regulations amended

This Part amends the *Petroleum Regulations 2020*.

#### 89                      Regulation 3 amended (Interpretation)

(1)                      Regulation 3(1), definitions ***approved form***, ***CEO*** and ***Resolution Institute***

*omit*

## (2) Regulation 3(1)

*insert*

**annual fee**, for Part 5D, see regulation 66F.

**hydraulic fracturing** means the underground gas and oil extraction process that involves the injection of fluids at high pressure into a geological formation to induce fractures that conduct hydrocarbons for extraction.

**late lodgement fee**, see regulation 66A(2).

**late lodgement notice**, see regulation 66A(3).

**levy**, for Part 5D, see regulation 66F.

**Mediator Standards Board** means the entity known as the Mediator Standards Board Limited (ACN 145 829 812/ABN 11 145 829 812).

**regulated activity**, see regulation 5 of the *Petroleum (Environment) Regulations 2016*.

**relevant charge**, for Part 5D, see regulation 66F.

**statutory interest rate**, for Part 5D, see regulation 66F.

**title area**, in relation to a petroleum interest, means the area over which the petroleum interest is granted.

**90 Regulation 4 amended (Prescribed fees and amounts)**

## (1) Regulation 4, before "Schedule 1"

*insert*

(1)

## (2) Regulation 4, at the end

*insert*

(2) Schedule 1A prescribes the fees payable under Part III, Division 1, Subdivision 2 of the Act in relation to well operation management plans, field management plans and petroleum surface infrastructure plans.

(3) Schedule 1B prescribes the fees payable under the *Petroleum (Environment) Regulations 2016* in relation to environment management plans.

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**91 Regulation 5 replaced**

Regulation 5

*repeal, insert*

**5 Current datum**

- (1) For section 117AG(b) of the Act, it is declared that the datum surface approximating the shape of the earth's surface defined by the reference frame designated under the *National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017* (Cth) replaces the previous datum.

*Note for subregulation (1)*

*The reference frame designated under the National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017 (Cth) is Geocentric Datum of Australia 2020 (GDA2020) at the Reference Epoch of 2020.0.*

- (2) In this regulation:

***National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017 (Cth)*** means the standard of measurement of that name maintained by the Chief Metrologist under section 8(1) of the *National Measurement Act 1960* (Cth).

**5A Variation of petroleum interests and other instruments**

For section 117AJ of the Act, the Minister is authorised to issue an instrument referred to in that section for a purpose referred to in that section.

**5B Variation of applications for petroleum interests**

For section 117AK of the Act, the Minister is authorised to issue an instrument varying an application for a petroleum interest under the Act for the sole purpose of relabelling a point, line or area by reference to geographic co-ordinates based on the current datum.

**5C Transitional provision**

- (1) An authorised person may:
- (a) require that a person who submits, or who has submitted, a document under the Act confirm that information contained in the document is based on the current datum; and
  - (b) determine that no further step will be taken under the Act until that confirmation is provided.

(2) In this regulation:

**authorised person** means:

- (a) the Minister; or
- (b) the CEO; or
- (c) an inspector; or
- (d) a person authorised by the Minister to act under this regulation.

**92 Regulation 13 amended (Parties)**

After regulation 13(5)

*insert*

- (6) The parties to an approved access agreement must comply with the agreement.

**93 Regulation 21 amended (Appointment to Mediators Panel and term of appointment)**

Regulation 21(1)(a)

*omit (all references)*

Resolution Institute

*insert*

Mediator Standards Board

**94 Regulation 23 amended (Appointment of member for mediation)**

Regulation 23(1), after "regulation 19"

*insert*

or 38(2)

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**95 Regulation 42 amended (Appointment of authorised officers)**

Regulation 42(3), (4) and (5)

*omit, insert*

- (3) A person who ceases to be an authorised officer must return the certificate under subregulation (2) to the Minister within 15 business days after the cessation.
- (4) A person commits an offence if the person ceases to be an authorised officer and fails to return the person's certificate to the Minister within 15 business days after the cessation.

Maximum penalty: 20 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

**96 Regulations 47, 48 and 49 replaced**

Regulations 47, 48 and 49

*repeal, insert*

**47 Requirement for access agreement**

- (1) An interest holder commits an offence if the interest holder commences regulated operations on land and the land is not the subject of an approved access agreement.

Maximum penalty: 200 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

**48 Compliance with access agreement**

- (1) A party to an approved access agreement commits an offence if the party contravenes one of the following provisions set out in Schedule 2:

- (a) item 1 (Minimum notice provisions);
- (b) item 6 (Gates);
- (c) item 10 (Notification of damage).

Maximum penalty: 200 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

**49 Other or additional operations**

- (1) An interest holder commits an offence if:
- (a) the interest holder commences any regulated operations; and
  - (b) the regulated operations are not within the ambit of an approved access agreement or a variation of an approved access agreement.

Maximum penalty: 200 penalty units

- (2) An offence against subregulation (1) is an offence of strict liability.

**97 Regulation 50 amended (CEO to be notified of certain steps and occurrences)**

Regulation 50(4)

*omit, insert*

- (4) An offence against subregulation (3) is an offence of strict liability.

**98 Regulation 51 amended (Owner to be notified of determination, approval or variation of agreement)**

Regulation 51(5)

*omit, insert*

- (5) An offence against subregulation (4) is an offence of strict liability.

**99 Regulation 52 amended (Preliminary activities – notification)**

Regulation 52(5)

*omit, insert*

- (5) An offence against subregulation (4) is an offence of strict liability.

**100 Regulation 53 amended (Responsibilities associated with preliminary activities)**

Regulation 53(3)

*omit, insert*

- (3) An offence against subregulation (2) is an offence of strict liability.

**101 Regulation 54 amended (Airborne surveys – notification)**

Regulation 54(5)

*omit, insert*

- (5) An offence against subregulation (4) is an offence of strict liability.

**102 Regulation 55 amended (Airborne surveys to minimise disturbances)**

- (1) Regulation 55(3)

*omit, insert*

- (3) An offence against subregulation (2) is an offence of strict liability.

- (2) Regulation 55(4), at the end

*insert*

*Note for subregulation (4)*

*The defendant has an evidential burden in relation to the matters in subregulation (4) (see section 43BU of the Criminal Code).*

**103 Parts 5A to 5D inserted**

After regulation 66

*insert*

**Part 5A Reports****66A Late lodgement fee**

- (1) This regulation applies in relation to a person who is liable to pay a late lodgement fee under section 61H(10), 61J(9) or 61K(6) of the Act.
- (2) The **late lodgement fee** is:
- (a) for section 61H(10) – 100 revenue units for each week or part of a week while the person is in default; and
- (b) for sections 61J(9) and 61K(6) – 50 revenue units for each week or part of a week while the person is in default.
- (3) The Minister must give the person a written notice (a **late lodgement notice**) before the Minister acts to recover a late lodgement fee.



- (4) A late lodgement notice must:
- (a) provide information about the default; and
  - (b) state that a late lodgement fee is payable under the Act; and
  - (c) specify the amount of the late lodgement fee payable by the person for each week or part of a week while the person is in default; and
  - (d) state that if the person does not pay the late lodgement fee, the unpaid amount is a debt due and payable to the Territory.
- (5) A late lodgement notice must be given:
- (a) by registered post; or
  - (b) if the contact details of the person to be given the notice include an email address – by email.

## **Part 5B            Monitoring and compliance levy**

### **66B            Liability for levy**

For section 117AZG of the Act, all permittees and licensees are liable to pay a monitoring and compliance levy.

### **66C            Amount of levy**

- (1) For section 117AZH of the Act:
- (a) the amount of a monitoring and compliance levy is determined in accordance with Schedule 4A; and
  - (b) a monitoring and compliance levy is payable in relation to regulated activities; and
  - (c) a monitoring and compliance levy is payable in relation to each environment management plan.
- (2) For Schedule 4A:
- (a) the monetary value of the base fee is 14 548 revenue units; and
  - (b) the monetary value of a unit value is 1 091 revenue units.

**66D Payment of levy**

- (1) Subject to subregulation (2), a monitoring and compliance levy for a financial year must be paid by 31 July of the financial year to which the levy relates.
- (2) If a permittee or licensee obtains approval for a new activity under Part 2 of the *Petroleum (Environment) Regulations 2016*:
  - (a) an additional monitoring and compliance levy is payable in relation to the activity; and
  - (b) the monitoring and compliance levy must be paid within 30 days after the approval is given; and
  - (c) subject to the operation of Schedule 4A, those activities will be taken into account for the ensuing financial year.

**Part 5C Orphan well levy****66E Increase in rate of levy**

For section 117AZP(3)(b) of the Act, the number of revenue units is:

- (a) for the 2024/2025 financial year – the number of revenue units specified in section 117AZP(3)(a) of the Act plus 15 revenue units; and
- (b) for a subsequent financial year up to and including the 2033/2034 financial year – the number of revenue units for the immediately preceding financial year plus 15 revenue units; and
- (c) for the 2034/2035 financial year and each subsequent financial year – 234 revenue units.

**Part 5D Interest****66F Definitions**

In this Part:

**annual fee** means an annual fee under section 26, 39 or 53 of the Act.

**levy** means:

- (a) a monitoring and compliance levy; or

- (b) an orphan well levy.

**relevant charge** means:

- (a) an annual fee; or
- (b) a levy.

**statutory interest rate**, see section 35 of the *Taxation Administration Act 2007*.

#### **66G Application of Part**

This Part applies to:

- (a) a permittee or licensee who fails to pay an annual fee in accordance with the Act; or
- (b) a person who fails to pay a levy in accordance with the Act.

#### **66H Imposition of interest**

- (1) Interest is imposed if a relevant charge is not paid within 1 month after it is payable.
- (2) The interest accrues:
  - (a) on the last day of the month referred to in subregulation (1); and
  - (b) subsequently – on the last day of each month while the relevant charge remains unpaid.
- (3) The interest accrues at the statutory interest rate as in force from time to time on a monthly basis.

#### **66J Related provisions**

- (1) The statutory interest rate applied in relation to a particular month is the rate applying at the beginning of the month.
- (2) Interest is not payable if the amount of accrued interest at the time the relevant charge is paid in full is less than \$20.
- (3) Interest accrued under this Part must be paid at the time the relevant charge is paid and, until it is paid, is a debt due to the Territory.

---

**104 Regulation 69 amended (Transitional period – access agreements)**

(1) Regulation 69(5)

*omit*

(2)

*insert*

(3)

(2) Regulation 69(8)

*omit, insert*

(8) An offence against subregulation (7) is an offence of strict liability.

**105 Schedule 1 replaced**

Schedule 1

*repeal, insert*

**Schedule 1 Fees and amounts for Act and Regulations**

regulation 4(1)

Provision	Description	Revenue units
section 16	Application for grant of permit	15 748
section 23	Application for renewal of permit	8 184
section 26	Annual fee in relation to a permit per block per annum	435
section 28	Variation, suspension or waiver of condition of permit	6 034
section 32	Application for retention licence	17 504
section 37	Application for renewal of retention licence	8 087
section 39	Annual fee in relation to a retention licence per block per annum	9 415

<b>Provision</b>	<b>Description</b>	<b>Revenue units</b>
section 41	Variation of condition of retention licence	6 263
section 45	Application for production licence	36 316
section 51	Application for renewal of production licence	6 671
section 53	Annual fee in relation to a production licence per block or part of a block per annum	11 500
section 55	Variation of condition of production licence	4 847
section 57A	Application for grant of access authority	5 006
section 57AAA	Application to approve recovery of petroleum on appraisal basis	18 158
section 57AAB	Application to approve transfer of interest in application	1 415
section 61(2)	Application for approval of plan	57
section 73	Application to surrender all or part of permit area	761
section 73	Application to surrender all or part of licence area	761
section 93	Application to approve transfer of an interest	1 934
section 94(2)	Entry in Register of name of applicant as permittee or licensee	57
section 96(4)	Approval of instruments relating to interests	165
section 100	Inspection of Register and instruments	19
section 102(2)	Copy of or extract from Register or instrument (per page)	6
section 102(3)	Certificate issued by Registrar	33
section 104E	Application to approve change in control	1 415
regulation 31	Application for approval of access agreement	1 142

Provision	Description	Revenue units
regulation 33	Application for registration of access agreement	666
regulation 35	Application for inspection of register	19
regulation 36	Application for certified copy or certificate	33
regulation 39	Application for approval and registration of variation of access agreement (other than a variation by order of the Tribunal)	1 142
regulation 39	Application for registration of variation of access agreement by order of the Tribunal	666
regulation 69(4)	Application for registration of agreement under transitional provisions	1 142

### Schedule 1A Fees for resource management, activity and infrastructure plans

regulation 4(2)

Description	Revenue units
<p>The fee for an application for the approval of a well operations management plan under section 61(2)(b) of the Act is to be determined by its complexity as follows:</p> <ul style="list-style-type: none"> <li>– <b>high complexity well operations management plan</b>, being a plan that involves the management of a well that includes any of the following: <ul style="list-style-type: none"> <li>○ high pressure – the maximum anticipated surface pressure is greater or equal to 10,000 psi (69 MPa) or needs the deployment of pressure control equipment with a rated working pressure in excess of 10,000 psi (69 MPa));</li> <li>○ high temperature – the undisturbed bottom hole temperature at prospective reservoir depth or total depth is greater or equal to 149 degrees Celsius or (300 degrees</li> </ul> </li> </ul>	11 614

<p>Fahrenheit);</p> <ul style="list-style-type: none"> <li>○ hydraulic fracturing/well stimulation;</li> <li>○ the management of risks arising from the presence of hydrogen sulphide from the reservoir, including by the deployment of additional equipment, plans and emergency procedures;</li> <li>○ managed pressure drilling;</li> <li>○ a well outside known fields, or the first well drilled in an petroleum field where no other petroleum production exists;</li> <li>○ novel drill operations and equipment needing the deployment of specific non-standard or new equipment or techniques not currently in use or approved for use;</li> </ul> <p>– <b>medium complexity</b>, being a plan that is not high complexity and covers the operation of more than one well;</p> <p>– <b>low complexity</b>, being all other plans</p>	<p>7 946</p> <p>6 113</p>
The fee for an application for the approval of a field management plan under section 61(2)(b) of the Act	34 622
The fee for an application for the approval of a petroleum surface infrastructure plan under section 61(2)(b) of the Act	11 397
<p>The fee for an application for the approval of a revised well operations management plan under section 61B(5) of the Act is to be determined by its complexity as follows:</p> <ul style="list-style-type: none"> <li>- high complexity;</li> <li>- medium complexity;</li> <li>- low complexity</li> </ul> <p>The level of complexity is the same as the level of complexity for the approval of the well operations management plan except that the only activities to be taken into account are activities not previously covered by the</p>	<p>8 333</p> <p>5 702</p> <p>4 386</p>

plan.	
<p>The fee for an application for the approval of a revised field management plan under section 61B(5) of the Act is to be determined by its complexity as follows:</p> <ul style="list-style-type: none"> <li>– <b>medium complexity</b>, being a revised plan that is not low complexity; 16 061</li> <li>– <b>low complexity</b>, being a revised plan: 12 354 <ul style="list-style-type: none"> <li>○ with a minimum of 10 years production data; or</li> <li>○ where the permittee or licensee does not propose to make a significant change to development or management strategy of the field covered by the plan</li> </ul> </li> </ul>	
<p>The fee for an application for the approval of a revised petroleum surface infrastructure plan under section 61B(5) of the Act is to be determined by its complexity as follows:</p> <ul style="list-style-type: none"> <li>– <b>high complexity</b>, being a revised plan that includes the development of a new petroleum processing facility; 7 944</li> <li>– <b>medium complexity</b>, being a revised plan that: 5 435 <ul style="list-style-type: none"> <li>○ is not high complexity; and</li> <li>○ includes the development of new well site facilities and pipelines;</li> </ul> </li> <li>– <b>low complexity</b>, being any other revised plan 4 181</li> </ul>	
The fee for an application to vary a condition of an approved plan under section 61C(3)(b) of the Act	4 386

## Schedule 1B Fees for environment management plans

regulation 4(3)

1 In this Schedule:

**assessment rating** means the assessment rating for a particular activity category specified in the Table.



- 
- 2 (1) The monetary value of the **base fee** is 28 047 revenue units.
- (2) The monetary value of a **unit value** is 2 104 revenue units.
- 3 (1) The fee for an application for the approval of an environment management plan has 2 components:
- (a) the base fee; and
- (b) the sum of the assessment ratings for each title area for the regulated activities to which the environment management plan relates, multiplied by the unit value.
- (2) In calculating the component of the fee under subclause (1)(b):
- (a) if 2 or more activities to be undertaken in a particular title area fall into a particular activity category, that category will be counted once in relation to that title area; and
- (b) an activity to be undertaken in 2 or more title areas will be counted once for each title area; and
- (c) for 2 or more seismic surveys to be undertaken in a title area, the total length of seismic surveys in that title area are to be added together for the purposes of the Table.
- (3) The fee for a revision of a current environment management plan, payable when the proposed revision is submitted to the Minister, is the same as the fee for the approval of an environment management plan.

### Table

Activity category	Assessment rating
Land clearing (for any purpose) and earthworks (including cutting, filling, excavating or trenching)	2
Seismic surveys (total length):	
up to 100 km	1
more than 100 km	2
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that does not include hydraulic fracture stimulation activities – up to 3 wells	2
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that does not include hydraulic fracture stimulation activities – 4 or more wells	4

The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that includes hydraulic fracture stimulation activities – up to 3 wells	6
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that includes hydraulic fracture stimulation activities – 4 or more wells	12
The construction, operation, modification, decommissioning, dismantling or removal of other facilities used for the recovery or processing of petroleum	6
The construction, operation, modification, decommissioning, dismantling or removal of any other facilities	3

**106 Schedule 4 amended (Infringement notice offences and prescribed amounts)**

(1) Schedule 4

*omit*

20

*insert*

25

(2) Schedule 4

*insert (in numerical order)*

section 57AA(3)	2	10
section 117AAB(7)	2.5	12.5
sections 64(6), 75(6) and 89E	4	20
sections 57A(16), 61E(3) and (7) and 71(5)	5	25
sections 77(7), 89M(1), 89Q(3), 89S(1), 89Z(3) and 89ZA(5)	6	30
section 105(3) and (7)	20	100

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**107 Schedule 4A inserted**

After Schedule 4

*insert*

## **Schedule 4A Monitoring and compliance levy**

regulation 66C(2)

1 In this Schedule:

**compliance rating** means the compliance rating for a particular activity category specified in the Table.

**designated area** means an exploration permit area or a licence area that falls, wholly or in part, within the Beetaloo sub-basin geological boundary as determined by the Minister.

**uplift factor** – see clause 2(3).

2 (1) A monitoring and compliance levy has the following components:

- (a) the base fee;
- (b) the sum of the compliance ratings for each title area for the regulated activities approved under the environment management plan to which the levy relates, multiplied by the unit value;
- (c) the uplift factor (if applicable).

(2) In calculating the component of a levy under subclause (1)(b):

- (a) if 2 or more activities to be undertaken in a particular title area fall into a particular activity category, that category is to be counted once in relation to that title area; and
- (b) an activity undertaken in 2 or more title areas will only be counted twice; and
- (c) for 2 or more seismic surveys to be undertaken in a title area, the total length of seismic surveys in that title area are to be added together for the purposes of the Table.

(3) The uplift factor under subclause (1)(c):

- (a) is 1.3; and

- (b) applies only if an activity is undertaken (in whole or in part) in any part of the designated area; and
- (c) applies by adding the components under subclause (1)(a) and (b) together and multiplying that sum by 1.3.
- (4) The fee for a monitoring and compliance levy imposed during a financial year under section 117AZF(4) of the Act:
- (a) only applies in relation to activities not previously covered by the relevant environment management plan; and
- (b) is to be calculated on a proportional basis taking into account the number of days remaining in the relevant financial year.
- (5) The fact that an activity ceases to be covered by an approved environment management plan during a particular financial year:
- (a) does not affect a liability as it applies at the beginning of the financial year; and
- (b) does not give rise to an entitlement to a rebate of levy.

### Table

Activity category	Compliance rating
Land clearing (for any purpose) and earthworks (including cutting, filling, excavating or trenching)	4
Seismic surveys (in total length):	
– up to 100 km	2
– more than 100 km	4
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that does not include hydraulic fracture stimulation activities – up to 3 wells	4
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that does not include hydraulic fracture stimulation activities – 4 or more wells	6
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that includes hydraulic fracture stimulation activities – up to 3 wells	6
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that includes hydraulic fracture stimulation activities – 4 or more wells	12

The construction, operation, modification, decommissioning, dismantling or removal of other facilities used for the recovery or processing of petroleum	12
The construction, operation, modification, decommissioning, dismantling or removal of any other facilities	12

## Part 4 Amendment of Petroleum (Environment) Regulations 2016

### 108 Regulations amended

This Part amends the *Petroleum (Environment) Regulations 2016*.

### 109 Regulation 3 amended (Definitions)

- (1) Regulation 3, definitions ***affected person***, ***code of practice***, ***material environmental harm*** and ***serious environmental harm***  
*omit*
- (2) Regulation 3, definition ***environment management plan***, paragraph (a)  
*omit*  
as defined in section 118(7) of the Act
- (3) Regulation 3, definition ***reportable incident***  
*omit*  
serious  
*insert*  
significant

**110 Regulation 4A replaced**

Regulation 4A

*repeal, insert*

**4A Human health risk assessments**

For these Regulations, a full human health risk assessment is an assessment that takes into account the following instruments, as in force from time to time:

- (a) *Environmental Health Risk Assessment: Guidelines for Assessing Human Health Risks from Environmental Hazards* published by the Environmental Health Standing Committee;
- (b) *National Environment Protection (Assessment of Site Contamination) Measure 1999* published by the National Environment Protection Council;
- (c) *National Chemical Risk Assessment Guidance Manual* published by the National Environment Protection Council;
- (d) any other guideline, measure or document specified by the Minister.

**111 Regulation 5 amended (Regulated activity)**

- (1) Regulation 5(2)(h)

*omit*

material

- (2) Regulation 5(4), definitions **contaminant** and **waste material**

*omit*

**112 Regulation 6 amended (Submission of plan for approval)**

After regulation 6(2)

*insert*

- (3) A plan submitted to the Minister must be accompanied by a proposal for the environmental security to be provided in connection with the plan.
- (4) An environmental management plan submitted to the Minister must be accompanied by the prescribed fee.

---

**113 Regulation 14A inserted**

After regulation 14, in Part 2, Division 2

*insert*

**14A Transfer of petroleum interest**

- (1) A current plan continues to apply in relation to a petroleum interest if an interest in the petroleum interest is transferred to another person.
- (2) Subregulation (1) does not prevent a revised plan being approved under Division 3.

**114 Regulation 17 amended (Revision required for new or increased environmental impact or environmental risk)**

Regulation 17(3) and (4)

*omit, insert*

- (3) An interest holder commits an offence if the interest holder is required to comply with subregulation (2) and the interest holder contravenes that requirement.

Maximum penalty: 100 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.

**115 Regulation 18 amended (Revision required at end of each 5 year period)**

Regulation 18(2) and (3)

*omit, insert*

- (2) An interest holder commits an offence if the interest holder is required to comply with subregulation (1) and the interest holder contravenes that requirement.

Maximum penalty: 100 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

---

**116 Regulation 19 amended (Minister may require variation)**

Regulation 19(5) and (6)

*omit, insert*

- (5) An interest holder commits an offence if the interest holder is given a revision notice and the interest holder contravenes that notice.

Maximum penalty: 100 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.

**117 Regulation 20 amended (Submission by interest holder about revision required by Minister)**

Regulation 20(3) and (4)

*omit, insert*

- (3) An interest holder commits an offence if the interest holder is given a notice of a decision under subregulation (2)(b) and the interest holder contravenes a requirement in that notice.

Maximum penalty: 100 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.

**118 Regulation 22 amended (Modification to regulated activity)**

Regulation 22(3) and (4)

*omit, insert*

- (3) An interest holder commits an offence if the interest holder is required to comply with subregulation (2) and the interest holder contravenes that requirement.

Maximum penalty: 100 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.



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**119 Regulation 23 amended (Change in existing environment)**

Regulation 23(3)

*omit, insert*

- (3) An interest holder commits an offence if the interest holder is required to comply with subregulation (2) and the interest holder contravenes that requirement.

Maximum penalty: 100 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.

**120 Regulation 27 amended (Decision to revoke approval)**

Regulation 27(1)(a)(i)

*omit*

117AAC(1), (3), (5), (7) or (9)

*insert*

117AAB(1), (3), (5), (6) or (7)

**121 Regulation 29 replaced**

Regulation 29

*repeal, insert*

**29 Review by Tribunal**

- (1) The Tribunal has jurisdiction to review a decision or determination (a **reviewable decision**) specified in Schedule 2.
- (2) An **interested person**, for a reviewable decision, is a person specified in Schedule 2 for the decision.
- (3) An interested person for a reviewable decision may apply to the Tribunal for review of the reviewable decision.

*Note for subregulation (3)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.*

- (4) A person must not apply for review of a reviewable decision for reasons of commercial competition.

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**122 Regulations 30 and 31 replaced**

Regulations 30 and 31

*repeal, insert*

**30 Requirement for current plan**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
  - (b) the conduct is part of carrying out a regulated activity and the person is reckless in relation to that circumstance; and
  - (c) there is no current plan for the activity.

Maximum penalty: 2 000 penalty units.

- (2) Strict liability applies to subregulation (1)(c).
- (3) A person commits an offence if the person carries out a regulated activity for which there is no current plan.
- Maximum penalty: 200 penalty units.
- (4) An offence against subregulation (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subregulation (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subregulation (5)*

*The defendant has an evidential burden in relation to the matters in subregulation (5) (see section 43BU of the Criminal Code).*

**31 Compliance with current plan**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
  - (b) the conduct is part of carrying out a regulated activity and the person is reckless in relation to that circumstance; and
  - (c) the person is the holder of a current plan for the activity; and
  - (d) the conduct results in a contravention of the plan and the person is reckless in relation to that result.

Maximum penalty: 2 000 penalty units.

- 
- (2) Strict liability applies to subregulation (1)(c).
- (3) A person commits an offence if the person carries out a regulated activity in a manner which contravenes a current plan.

Maximum penalty: 200 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subregulation (1) or (3) if the activity is carried out in a manner that is consistent with a modification notified under regulation 22.

*Note for subregulation (5)*

*The defendant has an evidential burden in relation to the matters in subregulation (5) (see section 43BU of the Criminal Code).*

- (6) It is a defence to a prosecution for an offence against this regulation if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subregulation (6)*

*The defendant has an evidential burden in relation to the matters in subregulation (6) (see section 43BU of the Criminal Code).*

### **123 Regulations 32A inserted**

After regulation 32, in Part 2, Division 8

*insert*

### **32A Criminal liability of executive officer of body corporate**

For section 115(1)(b) of the Act, regulations 30 and 31 are prescribed.

### **124 Regulation 33 amended (Notice of reportable incident)**

- (1) Regulation 33(1) and (2)

*omit, insert*

- (1) An interest holder for a regulated activity must give the Minister notice of a reportable incident in accordance with this regulation.

- (2) Regulation 33(3)(c)(iii)

*omit*

serious

*insert*

significant

- (3) After regulation 33(4)

*insert*

- (5) An interest holder commits an offence if the interest holder is required to give a notice to the Minister under this regulation and the interest holder contravenes that requirement.

Maximum penalty: 200 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.

**125 Regulation 34 amended (Report about reportable incident)**

- (1) Regulation 34(1) and (2)

*omit, insert*

- (1) An interest holder for a regulated activity must give the Minister written reports about a reportable incident in accordance with this regulation.

- (2) Regulation 34(3)(b)(ii)

*omit*

serious

*insert*

significant

- (3) After regulation 34(7)

*insert*

- (8) An interest holder commits an offence if the interest holder is required to give a report to the Minister under this regulation and the interest holder contravenes:

(a) that requirement; or

(b) any other requirement that relates to the report under this regulation.

Maximum penalty: 200 penalty units.

- (9) An offence against subregulation (8) is an offence of strict liability.

**126 Regulation 35 amended (Report about recordable incident)**

- (1) Regulation 35(1) and (2)

*omit, insert*

- (1) An interest holder for a regulated activity must give the Minister a written report about a recordable incident in accordance with this regulation.

- (2) After regulation 35(3)

*insert*

- (3A) An interest holder commits an offence if the interest holder is required to give a report to the Minister under this regulation and the interest holder contravenes that requirement.

Maximum penalty: 100 penalty units.

- (3B) An offence against subregulation (3A) is an offence of strict liability.

**127 Regulation 36 amended (Records to be kept)**

- (1) Regulation 36(1) and (2)

*omit, insert*

- (1) An interest holder for a regulated activity must keep the prescribed records for the activity:

(a) in Australia; and

(b) for the longer of the following periods:

(i) 5 years following the period during which the petroleum interest for the activity is in force;

(ii) 15 years after the record comes into existence; and

(c) in a manner that makes retrieval of the record reasonably practicable.

(2) After regulation 36(4)

*insert*

(5) An interest holder commits an offence if the interest holder fails to keep prescribed records in accordance with the requirements of this regulation.

Maximum penalty: 100 penalty units.

(6) An offence against subregulation (5) is an offence of strict liability.

**128 Regulation 37 amended (Making prescribed records available)**

(1) Regulation 37(1), (2) and (3)

*omit, insert*

(1) The Minister or an inspector may direct an interest holder to make available copies of the prescribed records mentioned in regulation 36(3).

(2) After regulation 37(6)

*insert*

(7) An interest holder commits an offence if:

(a) the interest holder is given a direction under subregulation (1);  
and

(b) the interest holder contravenes the direction.

Maximum penalty: 100 penalty units.

(8) An offence against subregulation (7) is an offence of strict liability.

**129 Regulation 37A amended (Report about flowback fluid)**

Regulation 37A(3)

*omit, insert*

(2A) A report under subregulation (2) must be accompanied by a full human health risk assessment relating to any chemical found in the flowback fluid.

- 
- (3) An interest holder commits an offence if the interest holder is required to give a report and assessment to the Minister under this regulation and the interest holder contravenes that requirement.

Maximum penalty: 200 penalty units.

**130 Regulation 37B amended (Report about produced water)**

Regulation 37B(3)

*omit, insert*

- (2A) A report under subregulation (2) must be accompanied by a full human health risk assessment relating to any chemical found in the produced water.

- (3) An interest holder commits an offence if the interest holder is required to give a report and assessment to the Minister under this regulation and the interest holder contravenes that requirement.

Maximum penalty: 200 penalty units.

**131 Regulation 41 replaced**

Regulation 41

*repeal, insert*

**41 Electronic payment and payment by cheque**

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the bank account of the enforcement agency to which the amount is payable.
- (2) If the person tenders a cheque in payment of the prescribed amount, the payment is not effective unless the cheque is cleared on first presentation.

**132 Schedule 1 amended (Information to be included in environment management plan)**

- (1) Schedule 1, clause 4A, before "If"

*insert*

- (1)

- 
- (2) Schedule 1, clause 4A, note  
*omit*  
clause 4A(e)  
*omit*  
clause 4A(1)(e)
- (3) Schedule 1, clause 4A, at the end  
*insert*
- (2) A plan under subclause (1) must be accompanied by a full human health risk assessment relating to the chemicals or other substances used in the course of hydraulic fracturing.
- (4) Schedule 1, clause 10(2), definition **legislative requirements**  
*omit*  
the code  
*insert*  
an approved code

### **133 Schedule 2 replaced**

Schedule 2  
*repeal, insert*

## **Schedule 2 Reviewable decisions and interested persons**

regulation 29

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Reviewable decision	Interested persons
A decision of the Minister to approve an environment management plan under regulation 11(2)(a) or (3)(a)	<p>A person directly affected by the decision</p> <p>The Land Council for the area in relation to which the plan applies</p> <p>A registered native title body corporate in relation to any part of the area to which the plan applies</p> <p>Any registered native title claimant in relation to any part of the area to</p>



Reviewable decision	Interested persons
	<p>which the plan applies</p> <p>A person who made a genuine and valid submission under regulation 8B, other than an excluded third party submission</p>
<p>A decision of the Minister to issue a resubmission notice under regulation 11(2)(b)</p>	<p>The interest holder who submitted the plan for approval</p>
<p>A decision of the Minister to approve an environment management plan subject to conditions</p>	<p>The interest holder who submitted the plan for approval</p>
<p>A decision of the Minister to refuse to approve an environment management plan under regulation 11</p>	<p>The interest holder who submitted the plan for approval</p>
<p>A decision of the Minister to approve the revision of an environment management plan under regulation 17</p>	<p>A person directly affected by the decision</p> <p>The Land Council for the area in relation to which the plan applies</p> <p>A registered native title body corporate in relation to any part of the area to which the plan applies</p> <p>Any registered native title claimant in relation to any part of the area to which the plan applies</p> <p>A person who made a genuine and valid submission under regulation 8B, other than an excluded third party submission</p>
<p>A decision of the Minister to require a revision of an environment management plan under regulation 20(2)</p>	<p>The interest holder for the plan</p>
<p>A decision of the Minister to revoke the approval of a current plan under regulation 27(1)</p>	<p>The interest holder for the plan</p>

**134 Schedule 3 replaced**

Schedule 3

*repeal, insert***Schedule 3 Infringement notice offences and prescribed amounts**

regulation 38

Provision	Prescribed amount in penalty units	
	for individual	for body corporate
regulation 17(3)	3	15
regulation 18(2)	3	15
regulation 19(5)	3	15
regulation 20(3)	3	15
regulation 22(3)	1	5
regulation 23(3)	1	5
regulation 30(3)	5	25
regulation 31(3)	5	25
regulation 33(5)	5	25
regulation 34(8)	5	25
regulation 35(3A)	3	15
regulation 36(5)	3	15
regulation 37(7)	3	15

**Part 5 Consequential amendment**

**135 Consequential amendment**

The Schedule has effect.

**Part 6 Repeal of Act**

**136 Repeal of Act**

This Act is repealed on the day after it commences.

Schedule      Other law amended

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**Schedule      Other law amended**

section 135

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Provision

Amendment

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*omit*

*insert*

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***Environmental Offences and Penalties Regulations 2011***

Schedule

*Petroleum Act 1984*

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