

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM REGULATIONS 2020

Subordinate Legislation No. 31 of 2020

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 31 of 2020*

Petroleum Regulations 2020

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Petroleum Act 1984*.

Responsible Minister:

N. S. Manison
Minister for Mining and Industry

V. S. O'Halloran
Administrator

Date of making 30 November 2020

* Notified in the *Northern Territory Government Gazette* on 9 December 2020.

Part 1 Preliminary matters

1 Title

These Regulations may be cited as the *Petroleum Regulations 2020*.

2 Commencement

These Regulations commence on 1 January 2021.

3 Interpretation

(1) In these Regulations:

access agreement, see regulation 3(2).

ADR convenor, for Part 4, Division 4, Subdivision 2, see regulation 25(2).

affected person, see regulation 41(2).

approved access agreement means an access agreement that has been approved, or that is taken to be approved, under Part 4 or 6.

approved form means a form approved by the CEO.

CEO means the Chief Executive Officer of the Agency.

designated person, in relation to land, means:

- (a) unless paragraph (b) applies – the owner of the land; or
- (b) if there is a separate occupier of the land and that occupier has, in the land, an interest registered on the land register – the occupier of the land.

infringement notice, see regulation 62.

infringement notice offence, see regulation 61(1).

interest holder means the holder of a petroleum interest.

land register means the land register as defined in section 4 of the *Land Title Act 2000*.

Mediators Panel means the Mediators Panel established by regulation 20.

minimum protection requirements means the requirements mentioned in regulation 14(1) and (2).

negotiation notice means a notice under regulation 15.

owner, in relation to land, includes a mortgagee in possession.

parties, for Part 4, Division 4, Subdivision 2, see regulation 25(3).

preliminary activities means preliminary or preparatory activities that are associated with the commencement of regulated operations and that have no impact, or only a low impact, on land and include:

- (a) taking water samples; and
- (b) taking rock samples without the use of heavy machinery; and
- (c) taking soil samples to a depth that does not exceed 4 metres; and
- (d) carrying out surveys that do not involve:
 - (i) the clearing of any vegetation; or
 - (ii) the permanent installation of any infrastructure or equipment on land; or
- (e) driving a vehicle, other than a heavy vehicle, on land in connection with an activity referred to in paragraphs (a) to (d).

prescribed amount, see regulation 61(2).

prescribed fee means a fee prescribed in Schedule 1.

register means the Access Agreement Register established by the Minister under regulation 32.

regulated operations means any operations for which an exploration permit, retention licence or production licence is required under the Act, other than preliminary activities.

Resolution Institute means the entity known as the Resolution Institute (ABN 69 008 651 232).

reviewable decision, see regulation 41(1).

vacant Crown land means land in relation to which no person is recorded in the land register as a registered owner or registered proprietor.

- (2) A reference in these Regulations to an **access agreement** is a reference to a land access agreement as mentioned in section 118(2)(pa) of the Act.

4 Prescribed fees and amounts

Schedule 1 prescribes the fees and amounts payable under those sections of the Act or these Regulations that are specified in that Schedule.

Part 2 Datums

5 Datums – continued application of *Petroleum (Datum) Regulations 2002* (Cth)

- (1) The Commonwealth Regulations are incorporated as part of these Regulations and, subject to subregulation (2), apply as a law of the Territory as part of these Regulations.
- (2) The Commonwealth Regulations apply and have force in the Territory as if:
- (a) an expression in the Commonwealth Regulations that is the same as an expression defined in the Act has the same meaning as in the Act; and
 - (b) a reference in the Commonwealth Regulations to a provision of the *Petroleum (Submerged Lands) Act 1967* (Cth) is a reference to the corresponding provision of the Act; and
 - (c) a reference in the Commonwealth Regulations to the Designated Authority is a reference to the Minister; and
 - (d) a reference in the Commonwealth Regulations to a title is a reference to a petroleum interest or to a permit or lease granted or renewed under the repealed Act; and
 - (e) a reference in the Commonwealth Regulations to a permit is a reference to an exploration permit; and
 - (f) a reference in the Commonwealth Regulations to a permit area is a reference to an exploration permit area; and
 - (g) a reference in the Commonwealth Regulations to a lease is a reference to a lease granted or renewed under the repealed Act; and

- (h) a reference in the Commonwealth Regulations to a lease area is a reference to the area in respect of which a lease was granted or renewed under the repealed Act; and
 - (i) a reference in the Commonwealth Regulations to the area in respect of which an access authority is in force is a reference to an access authority area.
- (3) In this regulation:

Commonwealth Regulations means the *Petroleum (Submerged Lands) (Datum) Regulations 2002* (Cth) as in force immediately before 29 April 2011, other than regulation 5(4) of those Regulations.

Part 3 Compensation

6 Compensation to owners

- (1) For section 81(1)(c) of the Act, the following circumstances are prescribed:
- (a) the drilling of a well on the land by the interest holder;
 - (b) to the extent of an owner's or occupier's respective interests in the land – any decrease in the market value of the land caused by regulated operations carried out on the land by the interest holder.
- (2) For section 81(7A) of the Act:
- (a) the compensation payable under subregulation (1)(a) may be:
 - (i) an amount for each well; or
 - (ii) an amount represented by improvements or work on the land provided or carried out by the interest holder; and
 - (b) the compensation payable under subregulation (1)(b) may be:
 - (i) an amount equal to the decrease in market value of the owner's or occupier's interest in the land (as the case may be); or
 - (ii) an amount represented by improvements or work on the land provided or carried out by the interest holder.

- (3) The method of compensation under subregulation (2)(a) or (b) will be determined by agreement between the parties or, if they are unable to agree, by the Tribunal.

Part 4 Access agreements

Division 1 Preliminary matters

7 Underground operations

For this Part, any underground operations are taken to be carried out on the land under which they are carried out.

8 Exempt activities

Nothing in this Part requires an approved access agreement to be in place, or for notice to be given, in order for an interest holder to enter any land, or to carry out any operations or preliminary activities:

- (a) for the purpose of preserving life or property, or addressing a threat or risk to life or property; or
- (b) in any emergency situation, or threatened emergency situation; or
- (c) in order to comply with:
 - (i) any Act or law; or
 - (ii) any order or direction of a court or tribunal constituted by law; or
 - (iii) any order or direction of an official acting under a law of the Territory or the Commonwealth.

9 Native title holders and claimants

- (1) Nothing in this Part requires an access agreement to be entered into with a native title holder or registered native title claimant in relation to any land.
- (2) A reference in this Part to an owner or occupier of land is taken not to include a reference to a native title holder or registered native title claimant.

10 Requirement to negotiate in good faith

- (1) For the purpose of obtaining an approved access agreement, an interest holder and a designated person must negotiate on the agreement, and participate in any other process under this Part, in good faith.
- (2) Without limiting subregulation (1), if an interest holder or a designated person provides a report or advice about a particular matter as part of the negotiations, the interest holder or designated person (as the case may be) must take reasonable steps to ensure that the report or advice is in a finalised form.

11 Processes involving 2 or more designated persons

- (1) This regulation applies if:
 - (a) there are 2 or more designated persons in relation to a particular area of land; and
 - (b) at least one of the designated persons has not agreed to an access agreement in relation to the land.
- (2) Subject to subregulation (3), the ADR processes under Division 4 and the Tribunal proceedings under Division 5 only apply in relation to a designated person who has not agreed to an access agreement.
- (3) A facilitator or mediator, or the Tribunal, may allow or request a designated person who has agreed to an access agreement to participate in any process or proceedings in order to ensure consistency with access arrangements over the same land and, for that purpose, the parties may agree to a variation to an access agreement that already exists.

Division 2 Requirement for access agreements

12 Access agreement required before commencement of operations

- (1) Subject to subregulation (2), an interest holder must not commence regulated operations on any particular area of land except in accordance with an approved access agreement.

Note for subregulation (1)

Regulation 47 provides that it is an offence for an interest holder to commence regulated operations on land without the land being the subject of an approved access agreement.

- (2) An approved access agreement is not required:
- (a) if the land where the regulated operations are to be carried out is:
 - (i) Aboriginal land; or
 - (ii) vacant Crown land; or
 - (b) to carry out an airborne survey that does not involve any physical contact with the relevant land.

13 Parties

- (1) The parties to an approved access agreement are:
- (a) the interest holder of the relevant petroleum interest; and
 - (b) the designated person of the relevant land.
- (2) If an interest holder or designated person under an access agreement changes, the person who becomes an interest holder or designated person (as the case may be):
- (a) is taken to be a party to the agreement; and
 - (b) assumes the rights, duties and obligations of the relevant party under the agreement.
- (3) Subregulation (2) has effect without the need for the parties to vary the access agreement.
- (4) Despite subregulations (2) and (3), in the case of a change in the designated person, the person who becomes a designated person:
- (a) is only required to comply with the relevant access agreement after the interest holder has provided the person with a copy of the agreement; and
 - (b) is required to give notice of the change to the CEO in accordance with subregulation (5).
- (5) A notice under subregulation (4)(b) must:
- (a) be in an approved form; and
 - (b) be given within 14 days after the person is provided with a copy of the agreement under subregulation (4)(a).

14 Standard minimum protections

- (1) An access agreement must at least contain provisions that address each of the matters specified in Schedule 2.
- (2) In making provision in relation to these matters, an access agreement must, subject to subregulation (3), adopt the standard minimum protections specified in Schedule 2.
- (3) A provision included in an access agreement may be:
 - (a) a provision expressed in the same, or substantially the same, terms as a provision specified in Schedule 2; or
 - (b) a provision that reflects or satisfies a requirement specified in Schedule 2; or
 - (c) a provision that reflects a standard that is greater than a standard specified in Schedule 2.
- (4) Subject to subregulations (2) and (3), the parties to an access agreement may include such provisions in the agreement as the parties consider appropriate.

Division 3 Initiation of processes to obtain an access agreement

15 Interest holder to seek access agreement

- (1) An interest holder may give notice of the interest holder's intention to obtain an access agreement to each designated person for the area of land in relation to which an access agreement is sought (a ***negotiation notice***).
- (2) A negotiation notice must be in an approved form.
- (3) A negotiation notice must include:
 - (a) a plan and description of the area of land over which access is sought sufficient to enable the ready identification of the area; and
 - (b) information about the petroleum interest held by the interest holder; and
 - (c) a description of the regulated operations proposed to be carried out on the area of land; and

- (d) information about the maximum period of access sought under the access agreement (which must not exceed the balance of the term of the petroleum interest); and
 - (e) the contact details for the interest holder; and
 - (f) a request for the designated person to enter into negotiations to enter into an access agreement; and
 - (g) a statement to the effect that the designated person's reasonable costs, including reasonable legal or accounting costs, and reasonable costs for gaining any advice or report, necessarily incurred in connection with the negotiation between the parties, will be covered by the interest holder.
- (4) An interest holder may provide a draft access agreement when the interest holder gives the designated person a negotiation notice.
- (5) If the designated person is not the owner of the land, a copy of the negotiation notice must also be given to the owner of the land (in addition to an explanation that an access agreement with the designated person is being sought under this Part).
- (6) A copy of a notice under subregulation (5) must be given to the owner of the land within 14 days after the notice is given to the designated person.

16 Negotiation

- (1) On giving a negotiation notice, the interest holder and the designated person must take reasonable steps to negotiate an access agreement.
- (2) The period for the negotiation:
 - (a) must be for a period of at least 60 days from the receipt of the negotiation notice by the designated person; and
 - (b) may be for a longer period agreed between the interest holder and the designated person.
- (3) However, an agreement may be reached before the expiration of the period for the negotiation under subregulation (2).
- (4) An access agreement between the interest holder and the designated person must be in writing.

17 Payment of costs

- (1) The interest holder must pay the reasonable costs of the designated person in participating in a negotiation for an access agreement, including:
 - (a) reasonable legal or accounting costs necessarily incurred by the designated person in connection with participating in the negotiation; and
 - (b) reasonable costs necessarily incurred by the designated person in connection with engaging a suitably qualified person to provide advice or reports on any relevant matter.

Examples for subregulation (1)(b)

Advice or reports as to land valuation, agronomy or land capability or suitability.

- (2) Costs under subregulation (1) must be paid within 30 days after a request for payment is made.
- (3) A request under subregulation (2) must:
 - (a) be in writing; and
 - (b) provide reasonable details and evidence of the costs that are being claimed.
- (4) Subregulations (2) and (3) apply:
 - (a) subject to any agreement between the parties about the payment of costs; and
 - (b) subject to the commencement of any proceedings before the Tribunal because of a dispute about the costs (and in this case the period for payment will be suspended pending the outcome of the proceedings).

18 Interest holder may seek alternative dispute resolution by agreement with designated person

- (1) This regulation applies if an interest holder and a designated person cannot agree on an access agreement within the period for negotiation under regulation 16.
- (2) The interest holder may, by notice in an approved form given to the designated person, ask the designated person to agree to an ADR process under Division 4, Subdivision 2, using a facilitator or mediator to achieve a negotiated outcome for entering into an access agreement.

- (3) The notice must include:
- (a) information about the type of ADR process proposed by the interest holder; and
 - (b) the name of the facilitator or mediator proposed to conduct the ADR process; and
 - (c) a statement that the interest holder agrees to bear the cost of the ADR process; and
 - (d) a request that the designated person agree to participate in the ADR process within a period (at least 14 days) nominated by the interest holder.

19 Inability to reach an agreement on alternative dispute resolution

- (1) This regulation applies if:
- (a) an agreement has not been reached on an ADR process and the facilitator or mediator to be used to achieve a negotiated outcome by the end of the period nominated under regulation 18(3)(d); or
 - (b) the designated person has not responded to a notice given under regulation 18(2) by the end of the period nominated under regulation 18(3)(d).
- (2) The interest holder or the designated person may apply to the CEO for the appointment of a member of the Mediators Panel under Division 4, Subdivision 1, to conduct a mediation under Division 4, Subdivision 2.
- (3) An application under subregulation (2) must be in an approved form.

Division 4 Alternative dispute resolution

Subdivision 1 Mediators Panel

20 Mediators Panel

- (1) There is a Mediators Panel.
- (2) A person may be appointed as a member of the Mediators Panel by the Minister.

21 Appointment to Mediators Panel and term of appointment

- (1) A person is qualified to be appointed as a member of the Mediators Panel if:
 - (a) the person:
 - (i) is an accredited mediator under the National Mediator Accreditation System established and maintained by the Resolution Institute; or
 - (ii) holds practitioner membership (or advanced practitioner membership) with the Resolution Institute; and
 - (b) the person:
 - (i) is a legal practitioner with at least 7 years experience as a legal practitioner; or
 - (ii) has, in the opinion of the Minister, significant experience in primary industry or the resources industry.
- (2) A person is appointed as a member of the Mediators Panel for a term, not exceeding 5 years, specified in the appointment and is eligible for reappointment.

22 Register for Mediators Panel

- (1) The CEO must keep and maintain a register of the following:
 - (a) the name of and contact details for each member of the Mediators Panel;
 - (b) the qualifications and experience of each member (as at the time of the member's most recent appointment).
- (2) The CEO must publish the register on the Agency's website.

23 Appointment of member for mediation

- (1) The CEO may, on application to the CEO under regulation 19, appoint a member of the Mediators Panel to conduct a mediation.
- (2) The member of the Mediators Panel appointed by the CEO is the next member of the panel available for appointment on a rotational basis (after taking into account any actual or potential conflicts of interest and such other matters as the CEO considers appropriate).

Subdivision 2 ADR process

24 Definitions

In this Subdivision:

ADR convenor, see regulation 25(2).

parties, see regulation 25(3).

25 ADR process

- (1) An ADR process may be a dispute resolution process of any type, other than an arbitration.

Examples for subregulation (1)

Conciliation, facilitated negotiation, case appraisal or mediation.

- (2) Depending on any agreement between the interest holder and the designated person under regulation 18(2), or on whether the CEO has appointed a mediator under regulation 23(1), an ADR process will be conducted by a facilitator or a mediator (an **ADR convenor**).
- (3) The ADR convenor must, at the earliest opportunity, fix a day and time, and determine the manner and process, for conducting the ADR process and give notice of these details to the interest holder and the designated person (the **parties**).
- (4) The ADR convenor may, by further notice to the parties, vary the day and time fixed for conducting the ADR process.
- (5) The manner and process for conducting the ADR process may include a meeting in person, or a meeting conducted by telephone, video or other electronic means, or a combination of meetings using any meeting facilities or processes.
- (6) The ADR convenor conducting an ADR process:
- (a) must use the ADR convenor's best endeavours to bring the parties to a negotiated outcome for an access agreement acceptable to all of them; and
 - (b) must give the parties a reasonable opportunity to be heard but otherwise may use any process the ADR convenor considers appropriate in the circumstances, including by communicating with the parties collectively or separately; and

- (c) must allow a party to be represented by a legal practitioner, or may allow a party to be assisted by another person if the ADR convenor considers that this is reasonable and that the person is a suitable person in the circumstances; and
 - (d) must treat information obtained by the ADR convenor from a party with whom the ADR convenor communicates separately as confidential, unless the party otherwise agrees.
- (7) For the purposes of an ADR process:
 - (a) the interest holder must provide a draft access agreement; and
 - (b) the designated person may provide a draft access agreement as well (if the designated person considers it appropriate).

26 Termination of ADR process

- (1) An ADR process is terminated if:
 - (a) it fails to achieve a negotiated outcome for an access agreement after a period of at least 30 days from the date fixed by the ADR convenor for conducting the process and:
 - (i) the interest holder requests that the ADR process be brought to an end; or
 - (ii) the ADR convenor decides, after consultation with the parties, to bring the ADR process to an end because the ADR convenor considers that there is no reasonable prospect that the matter will be settled through the ADR process within a reasonable time; or
 - (b) the parties request that the ADR process be brought to an end; or
 - (c) the parties agree on an access agreement.
- (2) An agreement under subregulation (1)(c) must be in writing.

27 Evidence in ADR process inadmissible

Evidence of anything said or done in the course of an ADR process is inadmissible in a proceeding before the Tribunal except with the consent of all parties to the ADR process.

28 Payment of costs

- (1) The interest holder must pay:
- (a) the reasonable costs of the designated person in participating in an ADR process under this Division, including reasonable legal or accounting costs necessarily incurred by the designated person in connection with participating in the ADR process; and
 - (b) any reasonable costs necessarily incurred in connection with using a suitably qualified person providing advice or reports on any relevant matter for the purposes of an ADR process under this Division; and
 - (c) the costs of the ADR convenor in conducting an ADR process under this Division or otherwise associated with an ADR process.

Examples for subregulation (1)(b)

Advice or reports as to land valuation, agronomy or land capability or suitability.

- (2) Costs under subregulation (1) must be paid within 30 days after a request for payment is made.
- (3) A request under subregulation (2) must:
- (a) be in writing; and
 - (b) provide reasonable details and evidence of the costs that are being claimed.
- (4) Subregulations (2) and (3) apply:
- (a) subject to any agreement between the parties about the payment of costs; and
 - (b) in the case of costs under subregulation (1)(a) or (b) – subject to the commencement of any proceedings before the Tribunal because of a dispute about those costs (and in this case the period for payment will be suspended pending the outcome of the proceedings).

Division 5 Access determination by Tribunal

29 Application to Tribunal – determination of access agreement

- (1) If an ADR process is terminated under regulation 26(1)(a) or (b), the interest holder may apply to the Tribunal for a determination as to the provisions that should form the contents of an access agreement so as to allow the interest holder to gain access to the relevant land.
- (2) The Tribunal may, on an application under subregulation (1), determine the provisions.
- (3) The Tribunal must, in exercising its jurisdiction under this regulation, take into account (and apply) the requirements of regulation 14.
- (4) The provisions determined by the Tribunal under this regulation have effect as if those provisions were embodied in an access agreement that has been signed by each of the parties.

Division 6 Approval and registration of agreements

30 Access agreements to be approved

- (1) An access agreement between an interest holder and a designated person does not allow the interest holder to gain access to the relevant land until it is approved by the Minister.
- (2) An access agreement that applies on account of a determination of the Tribunal under Division 5 is taken to be an approved access agreement (and does not require the approval of the Minister).

31 Approval process

- (1) An interest holder may apply to the Minister for the approval of an access agreement that has been entered into between the interest holder and a designated person under this Part.
- (2) The application must:
 - (a) be in an approved form; and
 - (b) be accompanied by a copy of the access agreement that is verified as being a true copy of the agreement in a manner acceptable to the Minister; and
 - (c) be accompanied by the prescribed fee.

- (3) On receipt of an application for the approval of an access agreement, the Minister must:
 - (a) if reasonably satisfied that the access agreement meets the minimum protection requirements – approve the agreement and give the parties to the agreement a notice of approval; or
 - (b) if not reasonably satisfied that the access agreement at least meets the minimum protection requirements – give the parties to the agreement a notice specifying:
 - (i) that the Minister is not reasonably satisfied that the access agreement meets the minimum protection requirements; and
 - (ii) the reasons why the Minister is not satisfied; and
 - (iii) a reasonable period within which the parties may vary the access agreement and provide for the agreement to be resubmitted for approval.
- (4) The Minister must make a decision under subregulation (3) within 28 days after receiving the agreement or within such longer period as the Minister may reasonably require.
- (5) An access agreement resubmitted under subregulation (3) must be accompanied by a report (approved by the parties of the agreement) on the variations that have been made to the agreement.
- (6) On the resubmission of an access agreement, the Minister must:
 - (a) if reasonably satisfied that the access agreement now meets the minimum protection requirements – approve the agreement and give the parties to the agreement a notice of approval; or
 - (b) if still not reasonably satisfied that the access agreement meets the minimum protection requirements – determine to refuse to approve the agreement and give the parties to the agreement a notice specifying:
 - (i) that the Minister still is not reasonably satisfied that the access agreement meets the minimum protection requirements; and
 - (ii) the reasons why the Minister is not satisfied; and
 - (iii) that the approval of the access agreement is refused.

32 Register

- (1) The Minister must establish and maintain a register of approved access agreements.
- (2) The register is called the Access Agreement Register.
- (3) The register may be in any form (including an electronic form) the Minister considers appropriate.

33 Application for registration

- (1) An interest holder who is a party to an access agreement that applies on account of a determination of the Tribunal under Division 5 must apply to the Minister for the registration of the agreement.
- (2) The interest holder must make the application within 28 days after the Tribunal's determination.
- (3) The application must:
 - (a) be in an approved form; and
 - (b) be accompanied by a copy of the agreement that is verified as being a true copy of the approved access agreement in a manner acceptable to the Minister; and
 - (c) be accompanied by the prescribed fee.

34 Registration of approved access agreement

- (1) In the case of an access agreement that has been approved by the Minister, the Minister must take steps to have the agreement registered within a reasonable time.
- (2) The Minister may register an access agreement in such manner as the Minister considers appropriate but in doing so must ensure that the register includes:
 - (a) details of the parties to the agreement; and
 - (b) information about the petroleum interest held by the interest holder; and
 - (c) a description of the land to which the agreement applies; and
 - (d) the term of the agreement; and

- (e) the date:
 - (i) on which the agreement was approved by the Minister; or
 - (ii) on which the Tribunal made its determination under Division 5.

- (3) The Minister may record or include any other information on the register as the Minister considers appropriate.

35 Inspection of register

- (1) Subject to subregulation (2), a person is entitled to inspect the register in a manner approved by the Minister.
- (2) Subregulation (1) does not extend to the inspection of:
 - (a) an access agreement that is registered on the register; or
 - (b) any other document, instrument or information that the Minister considers should be kept confidential.
- (3) An application under subregulation (1) must:
 - (a) be in an approved form; and
 - (b) be accompanied by the prescribed fee.

36 Certification of matters recorded on register

- (1) On application by a person, the Minister may produce:
 - (a) a certified copy of any document or instrument that has been registered on the register; or
 - (b) a certificate recording information that has been recorded or included on the register.
- (2) Subregulation (1) does not extend to the provision of:
 - (a) an access agreement that is registered on the register; or
 - (b) any other document, instrument or information that the Minister considers should be kept confidential.
- (3) An application under subregulation (1) must:
 - (a) be in an approved form; and
 - (b) be accompanied by the prescribed fee.

Division 7 Variation of approved access agreements

37 Ability to vary

- (1) An approved access agreement may be varied:
 - (a) in accordance with the terms of the access agreement relating to its variation; or
 - (b) by an agreement between the parties to the access agreement; or
 - (c) by further processes and proceedings under this Part.
- (2) For subregulation (1)(c), a party to an access agreement may, by notice in an approved form given to each other party, request the parties to agree to an ADR process, consistent with the scheme set out in Division 4, using a facilitator or mediator to achieve a negotiated outcome for varying the access agreement.
- (3) A notice under subregulation (2) must include:
 - (a) information about the type of ADR process proposed by the party giving the notice; and
 - (b) the name of the facilitator or mediator proposed to conduct the ADR process; and
 - (c) a statement that the party agrees to bear the cost of the ADR process; and
 - (d) a request that the other party or parties agree to participate in the ADR process within a period (at least 14 days) nominated by the party giving the notice.

38 Appointment of member of Mediators Panel and ADR process if agreement not reached

- (1) This regulation applies if:
 - (a) an agreement has not been reached on an ADR process and the facilitator or mediator to be used to achieve a negotiated outcome by the end of the period nominated under regulation 37(3)(d); or
 - (b) a party has not responded to a notice given under regulation 37(2) by the end of the period nominated under regulation 37(3)(d).

- (2) The party who gave the notice may apply to the CEO for the appointment of a member of the Mediators Panel under Division 4, Subdivision 1, to conduct a mediation under Division 4, Subdivision 2.
- (3) If an ADR process is to be conducted, Division 4 applies with the following modifications:
 - (a) the party seeking the variation must provide a draft of the variation, or of the access agreement as varied, for the purposes of the ADR process;
 - (b) the reference in regulation 26(1)(a)(i) to the interest holder will be taken to be a reference to the party seeking the variation;
 - (c) the party seeking the variation will be responsible for any costs referred to in regulation 28(1) (and a reference to the designated person will be taken to be a reference to the other party or parties to the access agreement).
- (4) If an ADR process terminates under Division 4 without the parties agreeing on a variation, the party who proposed the variation may apply to the Tribunal under Division 8 for the resolution of the matter.

39 Approval and registration of variation

- (1) If an access agreement is varied, the party who proposed the variation must apply to the Minister for the approval and registration of the variation on the register.
- (2) The party must make the application within 28 days after the variation is made (including by order of the Tribunal under Division 8).
- (3) The application must:
 - (a) be in an approved form; and
 - (b) be accompanied by a copy of the agreement between the parties that varies the approved access agreement that is verified in a manner acceptable to the Minister; and
 - (c) be accompanied by the prescribed fee.
- (4) A variation does not have effect until it is approved by the Minister.

- (5) The Minister is not required to approve a variation of an access agreement if the access agreement, as varied, would not be able to be approved by the Minister if it were an original access agreement under this Part.
- (6) A variation that is made by order of the Tribunal does not require the approval of the Minister.
- (7) The Minister must take steps to have a variation registered within a reasonable time.
- (8) The Minister may register a variation in such manner as the Minister considers appropriate.

Division 8 Resolution of disputes and review of decisions by Tribunal

Subdivision 1 Resolution of disputes

40 Applications to Tribunal – general

- (1) The following matters may be dealt with by the Tribunal:
 - (a) an application to the Tribunal by a party to an approved access agreement to determine a dispute between the parties about the operation or effect of the agreement, including a dispute as to any amount payable under the agreement;
 - (b) an application to the Tribunal by a party to an approved access agreement to address an alleged breach of the agreement;
 - (c) an application to the Tribunal by a designated person for the payment of costs under this Part;
 - (d) an application to the Tribunal by an interest holder as to whether any costs claimed by a designated person under this Part are reasonable costs or were necessarily incurred;
 - (e) an application to the Tribunal by a party to an approved access agreement to vary the agreement after complying with the processes under Division 7.
- (2) The Tribunal may, on an application under this regulation, do one or more of the following:
 - (a) make any determination as to the operation or effect of an approved access agreement;

- (b) order or direct a party to an approved access agreement to take such action as the Tribunal considers appropriate, or to refrain (temporarily or permanently) from any action or activity as the Tribunal considers appropriate, including an order to pay an amount that, according to a determination of the Tribunal, is payable under the agreement;
 - (c) if the Tribunal finds that there has been a material breach of an approved access agreement and that in the circumstances the agreement should be brought to an end – determine that the agreement be terminated;
 - (d) without limiting paragraph (b) or (c), make an order for the payment of compensation under the provisions of an approved access agreement or for the payment of damages on account of a breach of an approved access agreement;
 - (e) make a determination as to whether any costs are reasonable costs or were necessarily incurred;
 - (f) make an order for the payment of costs to which a person is entitled under this Part (other than costs under regulation 28(1)(c));
 - (g) make an order for the variation of an approved access agreement;
 - (h) make any consequential or ancillary order or direction that the Tribunal considers necessary or expedient.
- (3) A reference in subregulation (1)(c) or (d) to a designated person or an interest holder will be taken to include a reference to a party to an access agreement who has a right to the payment of costs, or who is responsible for the payment of costs (as the case requires) under Division 7.

Subdivision 2 Review of decisions

41 Review by Tribunal

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

Division 9 Authorised officers

42 Appointment of authorised officers

- (1) The Minister may appoint a person to be an authorised officer for the purposes of this Part.
- (2) The Minister must give to an authorised officer a certificate stating that the person is an authorised officer for the purposes of this Part.
- (3) If the appointment of an authorised officer expires or is revoked, the person must, as soon as possible, return to the Minister the certificate given under subregulation (2).
- (4) A person commits an offence if the person does not return the certificate in accordance with subregulation (3).

Maximum penalty: 20 penalty units.

- (5) An offence against subregulation (4) is a regulatory offence.

43 Functions of authorised officers

An authorised officer may, at the request of a party or parties to an approved access agreement:

- (a) conduct an inspection on the land where regulated operations have been, or are being, carried out in order to assess compliance with the provisions of the agreement; or
- (b) conduct a conference to assist in the resolution of a dispute between 2 or more parties to the agreement.

44 Inspections conducted by authorised officers

- (1) This regulation applies in relation to a request that an authorised officer conduct an inspection on land where regulated operations have been, or are being, carried out under an approved access agreement.
- (2) The request must be made to the CEO in an approved form.
- (3) The CEO may, on a request being made under subregulation (2), appoint an authorised officer to conduct an inspection of the land.
- (4) The authorised officer may, after taking reasonable steps to consult with the interest holder and the designated person, enter the relevant land and carry out an inspection (and, if reasonably necessary, may enter and inspect the land on more than one occasion).

- (5) The purpose of an inspection is to assess the extent to which the parties to the access agreement have complied with the provisions of the agreement after taking into account the matters raised in the request made to the CEO under subregulation (2) (and any other matter considered relevant by the authorised officer).
- (6) The authorised officer must prepare a report on the outcome of the inspection that has, or inspections that have, been conducted by the authorised officer.
- (7) The report may include recommendations about securing or ensuring compliance with the provisions of the access agreement.
- (8) The authorised officer must give a copy of the report to:
 - (a) each party to the access agreement; and
 - (b) the CEO.
- (9) The report is not binding.

45 Conferences conducted by authorised officers

- (1) This regulation applies in relation to a request that an authorised officer conduct a conference to assist in the resolution of a dispute between 2 or more parties to an approved access agreement.
- (2) The request must not be made if:
 - (a) an ADR process is being undertaken under Division 7 in relation to a proposed variation of the access agreement; or
 - (b) proceedings are before the Tribunal under Division 8, Subdivision 1 in relation to the access agreement.
- (3) The request must be made to the CEO in an approved form.
- (4) The CEO may, on a request being made under subregulation (3), appoint an authorised officer to conduct a conference between the relevant parties.
- (5) The authorised officer appointed to conduct the conference must take reasonable steps to convene the conference as quickly as possible.

46 Conference procedures

- (1) Subject to subregulation (2), the authorised officer may adopt such processes for the purposes of the conference as the authorised officer considers appropriate.

- (2) The authorised officer:
 - (a) must use the authorised officer's best endeavours to bring the parties to a resolution acceptable to all of them; and
 - (b) must give the parties a reasonable opportunity to be heard.
- (3) A party is not entitled to be represented by a legal practitioner in the conduct of a conference unless:
 - (a) the other party agrees; or
 - (b) the authorised officer is satisfied there is no disadvantage to the other party.
- (4) The authorised officer may adjourn a conference from time to time.
- (5) The authorised officer may bring a conference to an end at any time if the authorised officer considers that there is no reasonable prospect that the matter or matters in dispute will be resolved through the conference process.
- (6) The authorised officer may, at the conclusion of the conference (including where the authorised officer has acted under subregulation (5)), prepare a report on the outcome of the conference.
- (7) The report may include such recommendations as the authorised officer considers appropriate.
- (8) The authorised officer must give a copy of the report to:
 - (a) each party to the conference; and
 - (b) the CEO.
- (9) The report is not binding.

Division 10 Offences

47 Requirement for an access agreement

- (1) An interest holder who commences regulated operations on land without the land being the subject of an approved access agreement commits an offence.

Maximum penalty: 200 penalty units.
- (2) An offence against subregulation (1) is a regulatory offence.

48 Compliance with access agreement

- (1) This regulation applies to the following provisions set out in Schedule 2:

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

- (2) A party to an approved access agreement commits an offence if the party contravenes a provision mentioned in subregulation (1).

Maximum penalty: 200 penalty units.

- (3) An offence against subregulation (2) is a regulatory offence.

49 Other or additional operations

- (1) This regulation applies if an interest holder proposes to carry out regulated operations that are not within the ambit of an approved access agreement or a variation of the access agreement to take into account the proposed regulated operations.

- (2) The interest holder commits an offence if the interest holder commences the regulated operations.

Maximum penalty: 200 penalty units.

- (3) An offence against subregulation (2) is a regulatory offence.

50 CEO to be notified of certain steps and occurrences

- (1) A person must give notice to the CEO, in accordance with subregulation (2), when the person:

- (a) gives a negotiation notice under regulation 15; or
- (b) gives a notice seeking an ADR process under regulation 18 or 37; or
- (c) makes an application to the Tribunal under regulation 29 or 40; or
- (d) gives a notice under regulation 52(1) or 54(1).

- (2) A notice under subregulation (1) must:

- (a) be in an approved form; and

(b) be given within 7 days after the notice is given or the application is made (as the case may be).

- (3) A person commits an offence if the person does not give notice in accordance with this regulation.

Maximum penalty: 50 penalty units.

- (4) An offence against subregulation (3) is a regulatory offence.

51 Owner to be notified of determination, approval or variation of agreement

- (1) This regulation applies if the designated person under an access agreement is not the owner of the land to which the agreement relates.

- (2) The interest holder must, in accordance with subregulation (3), notify the owner of the land of any notifiable occurrence.

- (3) The notification must be:

(a) by a notice in an approved form; and

(b) given within 7 days after the notifiable occurrence occurs.

- (4) The interest holder commits an offence if the interest holder does not notify the owner of the land in accordance with this regulation.

Maximum penalty: 50 penalty units.

- (5) An offence against subregulation (4) is a regulatory offence.

- (6) In this regulation:

notifiable occurrence means any of the following:

- (a) when the Tribunal makes a determination under Division 5;
- (b) when the Minister approves an access agreement under Division 6;
- (c) when the Minister approves the variation of an access agreement under Division 7;
- (d) when the Tribunal makes an order for the variation of an access agreement under Division 8.

52 Preliminary activities – notification

- (1) An interest holder who is intending to carry out preliminary activities on land must, in accordance with subregulation (2), notify each designated person for the area of land in relation to which the preliminary activities are to be carried out of the interest holder's intention to carry out the preliminary activities.
- (2) The notification must be:
 - (a) by a notice in an approved form; and
 - (b) include the information specified in subregulation (3); and
 - (c) given at least 14 days before the preliminary activities are due to be carried out.
- (3) The following information is specified:
 - (a) a plan and description of the area of land over which the preliminary activities will be carried out sufficient to enable the ready identification of the area;
 - (b) information about the petroleum interest held by the interest holder;
 - (c) a description of the preliminary activities that are to be carried out;
 - (d) information about:
 - (i) any vehicle or equipment proposed to be used on the land for the purposes of the preliminary activities; and
 - (ii) the number of people expected to be involved;
 - (e) information about when the preliminary activities are proposed to be carried out and their expected duration;
 - (f) the contact details for the interest holder.
- (4) The interest holder commits an offence if the interest holder does not notify a designated person in accordance with this regulation.

Maximum penalty: 50 penalty units.
- (5) An offence against subregulation (4) is a regulatory offence.
- (6) This regulation does not apply in relation to an airborne survey that does not involve any physical contact with the relevant land.

53 Responsibilities associated with preliminary activities

- (1) Despite any other regulation:
 - (a) an interest holder must ensure that a vehicle is not driven off an existing road or track on land where preliminary activities are to be carried out, for the purposes of those preliminary activities, without the written consent of a designated person; and
 - (b) if a hole is created as part of carrying out preliminary activities, the interest holder must ensure that the hole is filled with the soil or other material extracted to create the hole as soon as reasonably practicable after the activity for which the hole was created is completed.
- (2) The interest holder commits an offence if the interest holder fails to comply with subregulation (1).

Maximum penalty: 150 penalty units.

- (3) An offence against subregulation (2) is a regulatory offence.

54 Airborne surveys – notification

- (1) An interest holder who is intending to carry out an airborne survey over land must, in accordance with subregulation (2), notify each designated person for the area of land in relation to which the survey is to be carried out of the interest holder's intention to carry out the survey.
- (2) The notification must be:
 - (a) by a notice in an approved form; and
 - (b) include the information specified in subregulation (3); and
 - (c) given at least 14 days before the airborne survey is due to be carried out.
- (3) The following information is specified:
 - (a) a plan and description of the area of land over which the survey will be carried out sufficient to enable the ready identification of the area;
 - (b) information about the petroleum interest held by the interest holder;
 - (c) a description of the survey that is to be carried out;

- (d) information about:
 - (i) the type of aircraft to be used, or other way in which the survey is to be carried out; and
 - (ii) the altitude or altitudes at which the survey will be carried out;
 - (e) information about when the survey is proposed to be carried out and its expected duration;
 - (f) the contact details for the interest holder.
- (4) The interest holder commits an offence if the interest holder does not notify a designated person in accordance with this regulation.

Maximum penalty: 50 penalty units.

- (5) An offence against subregulation (4) is a regulatory offence.

55 Airborne surveys to minimise disturbances

- (1) The interest holder must ensure that an airborne survey is carried out in a way the minimises the disturbance of any livestock or pastoral operations associated with livestock.
- (2) The interest holder commits an offence if the interest holder does not carry out the airborne survey in accordance with subregulation (1).

Maximum penalty: 150 penalty units.

- (3) An offence against subregulation (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence under subregulation (2) if the defendant establishes that the disturbance could not reasonably have been avoided.

Division 11 Miscellaneous matters

56 Costs of proceedings before Tribunal

- (1) The Tribunal may, in exercising its powers in relation to costs, take into account the intention that an interest holder will be responsible for the reasonable costs of a designated person in any proceedings before the Tribunal.

(2) Subregulation (1) does not apply to the following circumstances:

- (a) a designated person has, in the opinion of the Tribunal, acted unreasonably or in a way intended to frustrate or delay proceedings before the Tribunal;
- (b) the Tribunal otherwise considers that it would be inappropriate or unfair for the Tribunal to make an order as to costs against the interest holder.

57 Tribunal to balance interests

(1) This regulation applies when the Tribunal is considering a matter that relates to:

- (a) the creation or variation of an access agreement under this Part; or
- (b) a dispute between the parties about the operation or effect of an access agreement.

(2) The Tribunal must seek to find a reasonable balance between the interests of an interest holder and the interests of a designated person.

(3) In seeking to find the reasonable balance, the Tribunal must ensure that the interest holder is not prevented from carrying out any operations:

- (a) authorised under the relevant petroleum interest in a manner that is consistent with, or authorised by or under, the Act, any Regulations under the Act, or a condition of an exploration permit or licence; or
- (b) required by or under the Act, any Regulations under the Act, or a condition of an exploration permit or a licence; or
- (c) required by or under any other Act or law.

(4) Subregulation (3) does not derogate from the requirement to have an access agreement in place in accordance with these Regulations.

58 Inconsistency with Act, regulations or conditions of permit or licence

(1) This regulation applies if there is an inconsistency between:

- (a) a provision of an approved access agreement; and

- (b) a provision of the Act, any Regulations under the Act, or a condition of an exploration permit or a licence.
- (2) The provision or condition referred to in subregulation (1)(b) prevails and the agreement is unenforceable to the extent of the inconsistency.

59 Giving notices and other documents

- (1) If a person is required by or under these Regulations to give a notice or other document to another person, the person may, in addition to acting under section 117B of the Act, give the notice or document:
 - (a) in a manner mentioned in section 25 of the *Interpretation Act 1978*; or
 - (b) by sending it to an email address known to be used by the other person.
- (2) For subregulation (1)(b), the notice or document will be taken to have been given to the other person at the time of transmission.

60 Delegation

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

Part 5 Infringement notice offences

61 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 4.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 4.

62 When infringement notice may be given

If an inspector believes on reasonable grounds that a person has committed an infringement notice offence, the inspector may give a notice (an ***infringement notice***) to the person.

63 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;

- (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

64 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 amount is not effected unless the cheque is cleared on first presentation.

65 Withdrawal of infringement notice

- (1) The CEO may withdraw the infringement notice by notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

66 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 6 Repeals and transitional matters

Division 1 Repeals

67 Regulations repealed

The Regulations specified in Schedule 5 are repealed.

Division 2 Transitional matters for Petroleum Regulations 2020

68 Definition

commencement means the commencement of regulation 5 of these Regulations.

69 Transition period – access agreements

- (1) If regulated operations commenced before the commencement, an approved access agreement is not required in order to continue the regulated operations during the transition period.
- (2) However, an interest holder requires:
 - (a) an agreement with a designated person about access to the relevant land in order to continue regulated operations during the transition period; and
 - (b) an approved access agreement in order to continue regulated operations after the end of the transition period.
- (3) A party to an agreement entered into before the commencement may, during the transition period, apply to the Minister for the registration of the agreement under Part 4 as if it were an approved access agreement.
- (4) An application under subregulation (3) must:
 - (a) be in an approved form; and
 - (b) be accompanied by a copy of the agreement that is verified as being a true copy of the agreement in a manner acceptable to the Minister; and
 - (c) be accompanied by the prescribed fee.

- (5) The Minister may, on application under subregulation (2), register the agreement if the Minister is satisfied that the agreement makes reasonable provision about access to land for the purposes of carrying out regulated operations (and the Minister is not required to be satisfied that the agreement meets the minimum protection requirements).
- (6) An agreement registered under subregulation (5) is taken to be an approved access agreement that continues for the balance of its term.
- (7) An interest holder commits an offence if the interest holder carries out regulated operations in contravention of subregulation (2)(b).

Maximum penalty: 200 penalty units.

- (8) An offence against subregulation (7) is a regulatory offence.
- (9) In this regulation:

transition period means the period of 12 months starting on the commencement.

70 Negotiations

- (1) This regulation applies if negotiations were commenced by an interest holder before the commencement for an agreement with a designated person about access to the relevant land in order to commence regulated operations.
- (2) The CEO may, on application by the interest holder, appoint a member of the Mediators Panel to conduct a mediation under these Regulations if satisfied:
 - (a) that the period since the negotiations started is at least 60 days; and
 - (b) that over the period of the negotiations the interest holder has acted in good faith in the conduct of the negotiations.
- (3) An application under subregulation (2) must be in an approved form.
- (4) A mediation will proceed (and the other provisions of these Regulations will apply) as if the mediator had been appointed under regulation 23(1).

71 Processes relating to datums

- (1) For regulation 5 of these Regulations:
- (a) any instrument issued by the Minister under regulation 5 of the repealed Regulations before the commencement continues to have effect after the commencement; and
 - (b) the Minister may take action under these Regulations in relation to any record or document, or any other instrument, applying under regulation 5 of the repealed Regulations before the commencement.
- (2) In this regulation:

repealed Regulations mean the *Petroleum Regulations 1994* as in force immediately before the commencement.

Schedule 1 Fees and amounts for Act and Regulations

regulation 4

| Provision | Description | Revenue units |
|------------------|---------------------------------------------------------------------------------------|----------------------|
| section 16 | Application for grant of permit | 4 592 |
| section 23 | Application for renewal of permit | 1 809 |
| section 26 | Annual fee in relation to a permit per block per annum | 435 |
| section 28 | Variation, suspension or waiver of condition of permit | 761 |
| section 32 | Application for retention licence | 9 680 |
| section 37 | Application for renewal of retention licence | 1 809 |
| section 39 | Annual fee in relation to a retention licence per block per annum | 9 415 |
| section 41 | Variation, suspension or waiver of condition of retention licence | 761 |
| section 45 | Application for production licence | 9 680 |
| section 51 | Application for renewal of production licence | 2 285 |
| section 53 | Annual fee in relation to a production licence per block or part of a block per annum | 11 500 |
| section 55 | Variation, suspension or waiver of condition of production licence | 761 |
| section 57A | Application for grant of access authority | 761 |
| section 61(2) | Making available information contained in or accompanying application | 57 |
| section 73(1) | Application to surrender all or part of permit area | 761 |
| section 73(1A) | Application to surrender all or part of licence area | 761 |
| section 93A(1) | Entry in Register of memorial of transfer | 1 142 |

| Provision | Description | Revenue units |
|------------------|----------------------------------------------------------------------------|----------------------|
| section 94(2) | Entry in Register of name of applicant as permittee or licensee | 57 |
| section 96(7) | Entry in Register of approval of instrument | 666 |
| 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 |
| regulation 31 | Application for approval of access agreement | 1 142 |
| 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 | 1 142 |
| regulation 69(4) | Application for registration of agreement under transitional provisions | 1 142 |

Schedule 2 Standard minimum protections

regulation 14

Notes for Schedule 2

- 1 *A reference in this Schedule to an owner/occupier is a reference to the person who is the designated person under these Regulations.*
- 2 *For the purposes of an access agreement, the parties should determine whether the references should be to an owner or to an occupier.*
- 3 *The parties should also determine whether the agreement should refer to a permit or to a licence (depending on the kind of petroleum interest held by the interest holder).*

| Matters to be addressed | | Standard minimum protections |
|-------------------------|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Minimum notice periods | (1) Unless otherwise agreed with the owner/occupier, the interest holder must give at least 14 days notice of the interest holder's intention to commence regulated operations on the land. |
| | | (2) A notice to a party will be sent to the address nominated by the party for the service of notices under the agreement. |
| | | (3) The requirement to give a notice under this clause does not apply if the interest holder is acting: <ol style="list-style-type: none"> (a) for the purpose of preserving life or property, or addressing a threat or risk to life or property; or (b) in an emergency situation, or threatened emergency; or (c) in order to comply with any Act or law, order or direction of a court or tribunal constituted by law, or order or direction of an official acting under a law of the Territory or the Commonwealth. |
| | | (4) If the interest holder acts under subclause (3), the interest holder must take reasonable steps to notify the owner/occupier of the interest holder's entry to the land before entry. |
| | | |

| Matters to be addressed | Standard minimum protections |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 Minimise disturbance | The interest holder must do everything that is reasonably practicable to minimise disturbance to the owner/occupier's livestock (if any) and existing uses of the land. |
| 3 Weeds, pests and diseases | The interest holder must take all reasonable measures to prevent the introduction or spread of weeds, feral pests or diseases on account of the interest holder's activities under the permit/licence. |
| 4 Induction | <p>The interest holder must take reasonable steps to ensure that the interest holder's employees and contractors have received information and training on the obligations that apply in relation to carrying out operations or work on the land under:</p> <ul style="list-style-type: none"> (a) the agreement; and (b) the Act and the Regulations made under the Act; and (c) any other Act. |
| 5 Access points | <ul style="list-style-type: none"> (1) The parties must take reasonable steps to agree on the location of access points to the land. (2) To the extent that agreement is not reached under subclause (1): <ul style="list-style-type: none"> (a) if reasonably practicable – the interest holder must use an existing access point to the land (whether a road, track or otherwise); or (b) to the extent that paragraph (a) does not apply – the interest holder must design and construct any necessary access point in a way that minimises (so far as is reasonably practicable) disturbance to the owner/occupier's existing uses of the land. (3) The interest holder must maintain any access point (whether a road, track or otherwise) used by the interest holder in a safe condition. |

| Matters to be addressed | Standard minimum protections |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 Gates | Unless otherwise agreed with the owner/occupier in a specific case, the interest holder must, after using a gate, return the gate to its original position. |
| 7 Consent to fence | <p>(1) Subject to the Act and the interest holder's obligations under the <i>Work Health and Safety (National Uniform Legislation) Act 2011</i> or under any other regulatory requirements, the interest holder must not construct a fence, gate, grid or other barrier on the land without the consent of the owner/occupier.</p> <p>(2) Unless otherwise agreed with the owner/occupier, any fence, gate, grid or other barrier constructed on the land must be stock-proof.</p> |
| 8 Camps | If the interest holder proposes to construct a camp on the land, the parties agree to take reasonable steps to agree on the location, size and management of the camp. |
| 9 Obligation to repair | <p>If a fence, gate, grid or other barrier is damaged on account of any activities carried out under the permit/licence, the interest holder must:</p> <p>(a) promptly notify the owner/occupier providing reasonable details of the damage; and</p> <p>(b) promptly notify the Agency; and</p> <p>(c) either:</p> <p>(i) in consultation with the owner/occupier, repair the damage; or</p> <p>(ii) with the agreement of the owner/occupier, pay the owner/occupier the reasonable cost of repair, being an amount agreed between the parties.</p> |
| 10 Notification of damage | (1) This clause applies if any loss, harm or damage is caused to any of the owner/occupier's land, infrastructure or livestock on account of an activity carried out under the permit/licence, other than damage referred to in clause 9. |

| Matters to be addressed | Standard minimum protections |
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| 11 Rehabilitation and remediation | <p>(2) If this clause applies, the interest holder must, as soon as practicable after the incident and in any event within 14 days:</p> <p>(a) notify the owner/occupier, providing reasonable details of the loss, harm or damage; and</p> <p>(b) unless the incident is a reportable incident under the <i>Petroleum (Environment) Regulations 2016</i>, notify the Agency.</p> |
| | <p>(3) The interest holder must use the interest holder's best endeavours to ensure that a notification under subclause (2)(a) is given at the same time as, or before, a notification is given under subclause (2)(b).</p> |
| | <p>(1) The interest holder must consult with the owner/occupier about the rehabilitation and remediation of the land and, subject to any regulatory requirements, have reasonable regard to the owner/occupier's proposals relating to rehabilitation and remediation of the land.</p> |
| | <p>(2) The interest holder must:</p> <p>(a) confer with the owner/occupier about leaving in place improvements that are of use to the owner/occupier (if they can be lawfully left in place); and</p> <p>(b) within 3 months after completing the rehabilitation and remediation required under the Act or Regulations made under the Act, engage a suitably qualified person, who is independent of the parties, to prepare and provide a report that assesses the extent and effectiveness of the rehabilitation and remediation.</p> |
| | <p>(3) The interest holder must, within 1 month after receiving a report under subclause (2), provide a copy of the report to:</p> <p>(a) the owner/occupier; and</p> <p>(b) the Agency.</p> |
| | |

| | | Matters to be addressed | | Standard minimum protections |
|----|--------------------------------------------|--------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 | Compensation for drilling | (1) | | The minimum amount of compensation payable for the drilling of a well on the land must be set out under this clause. |
| | | (2) | | This clause does not limit any right under any provision of the Act as to the provision or payment of compensation, or any right to apply to the Tribunal with respect to a dispute about compensation. |
| 13 | Compensation for decrease in value of land | (1) | | This clause must indicate whether it is anticipated that any activities carried out on the land will lead to a decrease in the market value of land and, if so, a preliminary assessment of the amount of the decrease. |
| | | (2) | | This clause does not limit any right under the Act as to the provision or payment of compensation, or any right to apply to the Tribunal if there is a dispute about compensation. |
| 14 | General obligation to make good | (1) | | Subject to a more specific provision relating to compensation and repair in the event of any harm or damage, the interest holder has a general obligation to make good any harm or damage caused to the owner/occupier's land, any water on or under the owner/occupier's land, infrastructure or other improvements, or operations relating to the use of the land, on account of any activities carried out under the permit/licence. |
| | | (2) | | The owner/occupier will give notice to the interest holder of any harm or damage that must be addressed under this clause. |
| | | (3) | | The interest holder must immediately notify the owner/occupier if the interest holder disputes the interest holder's liability under this clause. |
| | | (4) | | If it is reasonably possible for any harm or damage to be rectified or repaired, the interest holder may, in consultation with the owner/occupier, take steps to rectify or repair the harm or damage. |

| Matters to be addressed | Standard minimum protections |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15 Indemnification | <p>(5) If it is not reasonably possible for any harm or damage to be rectified or repaired, the interest holder must pay reasonable compensation to the owner/occupier on account of the harm or damage.</p> <p>(1) The interest holder indemnifies the owner/occupier with respect to any harm or damage caused to the owner/occupier's land, any water on or under the owner/occupier's land, infrastructure or other improvements, or operations relating to the use of the land, on account of any activities carried out under the permit/licence.</p> <p>(2) The indemnity extends to the acts and omissions of any of the interest holder's agents or contractors.</p> <p>(3) The indemnity does not apply to the extent that:</p> <ul style="list-style-type: none"> (a) compensation is provided under another clause; or (b) a grossly negligent or wilful act or omission of the owner/occupier has contributed to the harm or damage. |
| 16 Release to extent permitted by law | <p>(1) To the extent permitted by a law of the Territory, the interest holder releases the owner/occupier from any claim in respect of:</p> <ul style="list-style-type: none"> (a) death or injury of any person employed or engaged by the interest holder; or (b) loss or damage caused to the interest holder's personal property, and any consequential loss. <p>(2) Subclause (1) does not apply to the extent that a grossly negligent or wilful act or omission of the owner/occupier has contributed to the death, injury, loss or damage.</p> |

| Matters to be addressed | | Standard minimum protections |
|--------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17 | Payment of legal, accounting and technical fees | The parties agree to pay any costs under regulation 17 or 28. |
| 18 | Payment of duties | <p>(1) Any amount specified in the agreement will be GST exclusive.</p> <p>(2) If GST is payable on an amount, it must be paid at the same time.</p> <p>(3) The owner/occupier is responsible for any tax that may be payable on any compensation or other amount paid to the owner/occupier under the agreement.</p> <p>(4) The interest holder is responsible for any duty payable on the agreement.</p> |
| 19 | Assignments | <p>(1) Each party agrees to give the other party or parties notice of the following:</p> <p>(a) in the case of the interest holder – notice of an intention to transfer or assign the interest holder's interest in the petroleum interest to another person;</p> <p>(b) in the case of an owner/occupier – notice of an intention to transfer or assign any interest in the land (including by way of lease or sublease);</p> <p>(c) in the case of a party that is a body corporate – any material change in the ownership or management of the party.</p> <p>(2) The parties agree that a period of notice under subclause (1) will be at least 30 days.</p> <p>(3) Each party agrees to give a copy of the agreement to any successor or assign before, or at the time of, the transfer or assignment of the party's relevant interest.</p> |
| 20 | Appropriate guarantees | <p>(1) If there are 2 or more interest holders who are parties to an access agreement, each interest holder is jointly and severally liable under the agreement.</p> |

| Matters to be addressed | | Standard minimum protections | |
|-------------------------|------------------------------|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21 | Guarantee in favour of owner | (2) | The interest holder is liable for any act or omission of a person acting on behalf of the interest holder in carrying out any activities under the permit/licence. |
| | | (1) | The interest holder agrees that the owner of the land does not need to be a party to the agreement to gain the benefit of the provisions of the agreement that relate to: (a) the repair of any gate, fence, grid or other barrier; or (b) the making good of any harm or damage caused to the land, any water associated with the land, infrastructure or other improvements; or (c) the rehabilitation or remediation of the land. |
| | | (2) | The interest holder agrees to enter into a binding enforceable agreement in favour of the owner of the land to provide for the matters specified in subclause (1) (and to provide a copy of that agreement to the owner). |
| | | | |
| 22 | Confidentiality | (1) | Subject to any agreement between the parties that some or all of the terms and conditions of the agreement will be kept confidential, the agreement will not be confidential. |
| | | (2) | An agreement to keep any terms or conditions confidential is subject to the following exceptions: (a) the release, provision or disclosure of information with the consent of the parties, and that consent will not be unreasonably withheld; (b) the provision of information to a party's legal, financial or accounting representative or adviser, or to any other person who has been engaged by a party and the release is relevant to the reason for their engagement; |
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| Matters to be addressed | Standard minimum protections |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> (c) the release, provision or disclosure of information to a financial institution; (d) the release, provision or disclosure of information required by law (including the disclosure of information to a stock exchange); (e) the release, provision or disclosure of information required by an order, direction or other requirement of a court or tribunal constituted by law, or as required by an official acting under a law of the Territory or the Commonwealth; (f) the release, provision or disclosure of information to a related body corporate; (g) the release, provision or disclosure of information in connection with any transfer or assignment, or potential transfer or assignment, of an interest in the petroleum interest or land. |
| 23 Re-negotiation of agreement | If the permit/licence is renewed and the agreement is still relevant to activities carried out, or to be carried out, under the permit/licence, the parties agree to use their best endeavours to agree on an extension to the agreement. |
| 24 Dispute resolution | <ul style="list-style-type: none"> (1) In the event of a dispute that arises out of, or in relation to, the agreement, the parties agree: <ul style="list-style-type: none"> (a) that the party raising the matter in dispute will give notice to the other relevant party or parties; and (b) that the parties will act in good faith and use reasonable endeavours to resolve the dispute in a timely manner. (2) Subclause (1) does not prevent a party seeking relief in a matter of urgency. |

| | | Matters to be addressed | Standard minimum protections |
|----|-------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25 | Termination | (1) | <p>The agreement terminates:</p> <ul style="list-style-type: none"> (a) by mutual agreement between the parties; or (b) on the expiration of the term of the agreement (unless the term is extended by mutual agreement between the parties); or (c) on the expiration of the petroleum interest (unless the agreement is extended by mutual agreement between the parties); or (d) if the Tribunal determines that the agreement be terminated. |
| | | (2) | The termination of the agreement does not affect any right or liability accrued before the termination of the agreement. |

Schedule 3 Reviewable decisions and affected persons

regulation 41

| Reviewable decision | Affected person |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Refusal under regulation 31 to approve an access agreement | The interest holder who submitted the access agreement for approval |
| Refusal under regulation 39 to approve a variation to an approved access agreement | The party to the access agreement who submitted the variation for approval |
| Refusal under regulation 69 to register an agreement | The party to the access agreement who submitted the access agreement for registration |

Schedule 4 Infringement notice offences and prescribed amounts

regulation 61

| Provision | Prescribed amount in penalty units | |
|-------------------------------|---------------------------------------|-----------------------|
| | for individual | for body corporate |
| regulations 50, 51, 52 and 54 | 1 | 5 |
| regulations 47, 48, 49 and 53 | 5 | 20 |

Schedule 5 Repealed Regulations

regulation 67

| | |
|----------------------------------------------------|-------------------------------------------|
| <i>Petroleum Regulations 1994</i> | Subordinate Legislation No. 32 of 1994 |
| <i>Amendment of Petroleum Regulations 2000</i> | Subordinate Legislation No. 35 of 2000 |
| <i>Amendments of Petroleum Regulations 2003</i> | Subordinate Legislation No. 31 of 2003 |
| <i>Petroleum Amendment (Fees) Regulations 2013</i> | Subordinate Legislation No. 13 of 2013 |
