



Petroleum (Submerged Lands) Act 1967

Act No. 118 of 1967 as amended

This compilation was prepared on 4 June 2004
taking into account amendments up to Act No. 47 of 2004

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated
may be affected by application provisions that are set out in
the Notes section

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An Act relating to the Exploration for, and the Exploitation of, the Petroleum Resources, and certain other Resources, of, and to the transfer of Petroleum Resources (wherever recovered) across, the Continental Shelf of Australia and of certain Territories of the Commonwealth and certain other Submerged Land

Preamble

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

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

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

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

- (a) legislation of the Parliament of the Commonwealth in respect of the exploration for and the exploitation of the petroleum resources of submerged lands should be limited to the resources of lands beneath waters that are beyond the outer limits of the territorial sea adjacent to the States and the Northern Territory (being outer limits based, unless and until otherwise agreed, on the breadth of that sea being three nautical miles), and that the States and the Northern Territory should share, in the manner provided in this Act, in the administration of that legislation;
- (b) legislation of the Parliament of each State should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the State as is on the landward side of the waters referred to in paragraph (a);
- (c) legislation of the Legislative Assembly of the Northern Territory should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the Northern Territory as is on the landward side of the waters referred to in paragraph (a); and
- (d) the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands referred to above that are on the seaward side of the inner limits of the territorial sea of Australia:

BE IT THEREFORE enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Petroleum (Submerged Lands) Act 1967*.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

5 Interpretation

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

access authority means an access authority under Part III.

adjacent area means an adjacent area in respect of a State or Territory ascertained in accordance with section 5A and *the adjacent area* means the adjacent area in respect of the State or Territory concerned.

application for a primary licence means an application under subsection 40(1) or (2) or 40B(2) or (3) and *primary licence* means a licence granted on such an application.

application for a secondary licence means an application under subsection 40(3) or 40B(4) and *secondary licence* means a licence granted on such an application.

approved means approved by the Designated Authority.

block means a block constituted as provided by section 17 or 149.

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

Section 5

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

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

document includes any map, book, record or writing.

facility includes a structure or installation of any kind.

Gas Pipelines Access Law has the same meaning as in subsection 5(1) of the *Gas Pipelines Access (Commonwealth) Act 1998*.

gas pipelines access legislation has the same meaning as in the Gas Pipelines Access Law.

geographic co-ordinate includes:

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

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

good processing and transport practices means all those things that are generally accepted as good and safe in the processing and storage of petroleum and the preparation of petroleum for transport.

graticular section means a section referred to in section 17.

infrastructure facilities has the meaning given by section 5AAB.

infrastructure licence means an infrastructure licence under Part III.

infrastructure licence area, in relation to an infrastructure licence, means the place in respect of which the infrastructure licence is in force.

infrastructure licensee means the registered holder of an infrastructure licence.

inspector means a person appointed under section 125.

Joint Petroleum Development Area has the same meaning as in the *Petroleum (Timor Sea Treaty) Act 2003*.

lease means a retention lease under Part III.

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

lessee means the registered holder of a lease.

licence means a production licence for petroleum under Part III.

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

licensee means the registered holder of a licence.

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

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

operation means an activity to which Part III applies.

partly cancelled means:

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

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

permit means an exploration permit for petroleum under Part III.

Section 5

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

permittee means the registered holder of a permit.

petroleum means:

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

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

petroleum pool means a naturally occurring discrete accumulation of petroleum.

pipeline means a pipe or system of pipes in an adjacent area for conveying petroleum, whether the petroleum is petroleum recovered from an adjacent area or not, but does not include a pipe or system of pipes:

- (a) for returning petroleum to a natural reservoir;
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;
- (c) for conveying petroleum that is to be flared or vented; or
- (d) for conveying petroleum from a well, wherever located, to a terminal station in an adjacent area without passing through another terminal station.

pipeline licence means a licence under Part III to construct and operate a pipeline.

pipeline licensee means the registered holder of a pipeline licence.

primary entitlement means:

- (a) in relation to a permittee—the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under subsection 40(1); and
- (b) in relation to a lessee—the number of blocks in the lease area in respect of which that lessee may make an application under subsection 40B(2).

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

Register means a Register kept in pursuance of Division 5 of Part III and ***the Register***, in relation to the Designated Authority in respect of an adjacent area, means the Register so kept by that Designated Authority.

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

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

special prospecting authority means a special prospecting authority under Part III.

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

terminal station means a pumping station, a tank station or a valve station declared to be a terminal station under section 63.

Territory means Territory in which this Act applies or to which this Act extends.

Section 5

the applied provisions means the provisions applied in accordance with section 9, or the laws and instruments applied in accordance with section 11, as the case may be.

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

the Commonwealth Minister means the Minister for the time being administering this Act, and includes another Minister for the time being acting for and on behalf of that Minister.

the Designated Authority, in relation to:

- (a) an act, matter, circumstance or thing touching, concerning, arising out of or connected with:
 - (i) the exploration of the sea-bed or subsoil of an adjacent area, or of part of an adjacent area, for petroleum; or
 - (ii) the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil; or
 - (iii) the construction or operation of pipelines in an adjacent area; or
 - (b) petroleum recovered in an adjacent area;
- means the Designated Authority in respect of that adjacent area.

the Joint Authority, in relation to:

- (a) an act, matter, circumstance or thing touching, concerning, arising out of or connected with:
 - (i) the exploration of the sea-bed or subsoil of an adjacent area, or of part of an adjacent area, for petroleum;
 - (ii) the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil; or
 - (iii) the construction or operation of pipelines in an adjacent area; or
 - (b) petroleum recovered in an adjacent area;
- means the Joint Authority established by this Act in respect of that adjacent area.

the Registration Fees Act means the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.

the relinquished area means:

- (a) in relation to a permit, lease or licence that has expired—the area constituted by the blocks in respect of which the permit, lease or licence was in force but has not been renewed; and
- (b) in relation to a permit or lease that has been wholly determined or partly determined—the area constituted by the blocks as to which the permit or lease was so determined; and
- (c) in relation to a permit or licence that has been wholly cancelled or partly cancelled—the area constituted by the blocks as to which the permit or licence was so cancelled; and
- (ca) in relation to a lease that has been wholly cancelled—the area constituted by the blocks in respect of which the lease was in force; and
- (cb) in relation to an infrastructure licence that has been surrendered, cancelled or terminated—the place that constituted the infrastructure licence area; and
- (d) in relation to a pipeline licence that is no longer in force the part of the adjacent area in which the pipeline was constructed; and
- (e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled—the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and
- (f) in relation to a special prospecting authority or access authority that has been surrendered or cancelled or has expired—the area constituted by the blocks in respect of which that authority was in force.

the Royalty Act means the *Petroleum (Submerged Lands) (Royalty) Act 1967*.

the State Minister, in relation to a State, means the Minister of the State who is for the time being authorized under the law of the

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State to perform the functions of a Designated Authority under this Act.

the Northern Territory Minister means the Minister of the Northern Territory who is for the time being authorized under the law of the Northern Territory to perform the functions of a Designated Authority under this Act.

Third Party Access Code means:

- (a) the National Third Party Access Code for Natural Gas Pipeline Systems, a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in Schedule 2 to the *Gas Pipelines Access (South Australia) Act 1997* of South Australia; or
- (b) if that Code is amended in accordance with Schedule 1 to that Act, that Code as so amended and in force for the time being;

as it applies in the area where the pipeline concerned is situated.

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

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

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

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

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

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

- (2) In this Act, a reference to the term of a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority is a reference to the period during which the permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority remains in force and a reference to the date of expiration of a permit, lease, licence, special prospecting authority or access authority is a reference to the day on which the permit, lease, licence, special prospecting authority or access authority ceases to be in force.
- (3) In this Act, a reference to a year of the term of a permit, lease, licence, infrastructure licence or pipeline licence is a reference to a period of one year commencing on the day on which the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force or on any anniversary of that day.
- (4) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first-mentioned permit to commence on the day after the date of expiration of the first-mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first-mentioned permit.
- (4A) In this Act, a reference to the renewal, or the grant of a renewal, of a lease is a reference to the grant of a lease in respect of the blocks in respect of which the first-mentioned lease was in force to commence on the day after the date of expiration of the first-mentioned lease or on the day after the date of expiration of the lease granted upon a previous renewal of the first-mentioned lease.
- (5) In this Act, a reference to the renewal, or to the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first-mentioned licence or on the day after the date of expiration of

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the licence granted upon a previous renewal of the first-mentioned licence.

- (7) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.
- (8) In this Act, a reference to a permit, lease, licence, infrastructure licence, pipeline licence or access authority is a reference to the permit, lease, licence, infrastructure licence, pipeline licence or access authority as varied for the time being under this Act.

5A Adjacent areas

- (1) For the purposes of this Act, but subject to subsection (2), the adjacent area in respect of a State other than Western Australia is so much of the area described in Schedule 2 under the heading that refers to that State as comprises waters of the sea that:
 - (a) are not within the outer limits of the territorial sea of Australia (including the territorial sea adjacent to any island forming part of Australia); and
 - (b) are within the outer limits of the continental shelf.
- (1A) For the purposes of this Act, but subject to subsections (2) and (10), the adjacent area in respect of Western Australia or the Northern Territory is so much of the area described in Schedule 2 under the heading that refers to that State or Territory as comprises waters of the sea that:
 - (a) are not within the outer limits of the territorial sea of Australia (including the territorial sea adjacent to any island forming part of Australia); and
 - (b) are within the outer limits of the continental shelf; and
 - (c) are not within the Joint Petroleum Development Area.
- (2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, subsections (1) and (1A) continue to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.
- (3) For the purposes of this Act, but subject to subsection (10), the adjacent area in respect of the Territory of Ashmore and Cartier

Islands is so much of the area described in Schedule 2 under the heading that refers to that Territory as comprises land and water that:

- (a) are within the outer limits of the continental shelf; and
 - (b) are not within the Joint Petroleum Development Area.
- (4) This Act, and any Act with which this Act is incorporated, have effect in relation to so much of the adjacent area in respect of the Territory of Ashmore and Cartier Islands as consists of land as though that land were beneath the sea and were portion of the sea-bed and subsoil of that adjacent area.
- (5) For the purposes of this Act, the adjacent area in respect of Norfolk Island is the area the boundaries of which are:
- (a) the coastline at mean low water of Norfolk Island; and
 - (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coast of Norfolk Island.
- (6) For the purposes of this Act, the adjacent area in respect of the Territory of Heard Island and McDonald Islands is the area the boundaries of which are:
- (a) the coast lines at mean low water of the islands comprising that Territory; and
 - (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coasts of those islands.
- (6A) For the purposes of this Act, the adjacent area in respect of the Territory of Christmas Island is the area whose boundaries are:
- (a) the coastline at mean low water of Christmas Island; and
 - (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coast of Christmas Island.
- (6B) For the purposes of this Act, the adjacent area in respect of the Territory of Cocos (Keeling) Islands comprises the following areas:
- (a) the area whose boundaries are:
 - (i) the coastline at mean low water of the north atoll of the Territory (otherwise called North Keeling Island); and

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- (ii) the outer limit of the superjacent waters of the continental shelf adjacent to the coast of that Island;
 - (b) the area whose boundaries are:
 - (i) the coastlines at mean low water of the remaining islands of the Territory; and
 - (ii) the outer limit of the superjacent waters of the continental shelf adjacent to the coasts of those islands.
- (7) For the purposes of this Act, the Coral Sea area is so much of the area to the east of the adjacent area in respect of Queensland as comprises waters of the sea that are within the outer limits of the continental shelf, other than any part of that area that is to the south of the parallel of Latitude 25° South or that is on the landward side of the coastline of any island at mean low water.
- Note: For datum, see section 150M.
- (8) This Act, and any Act with which this Act is incorporated, apply in relation to the Coral Sea area as if that area were part of the adjacent area in respect of Queensland and references in this Act, and in any Act with which this Act is incorporated, to the adjacent area in respect of a State, shall, in relation to Queensland, be read as including references to the Coral Sea area.
- (9) For the purposes of subsections (5), (6) and (7), the continental shelf does not include any area of seabed and subsoil that, by virtue of an agreement in force between Australia and another country, is not an area over which Australia exercises sovereign rights.
- (10) For the purposes of an Act to which this subsection applies, this section has effect as if paragraphs (1A)(c) and (3)(b) were omitted.
- (11) The regulations may prescribe the Acts to which subsection (10) applies.

5AAA Effect of changes to, or reassessment of the location of, the baseline of Australia's territorial sea on permits, leases, licences, infrastructure licences or pipeline licences

- (1) If:

- (a) a petroleum mining instrument has been granted on the basis that an area is within the adjacent area in respect of a State or the Northern Territory; and
 - (b) there is a change to the baseline of Australia's territorial sea or, because new data are obtained or existing data are reconsidered, the location of the baseline is reassessed; and
 - (c) as a result of the change to, or reassessment of the location of, the baseline, the area:
 - (i) ceases to be within the adjacent area in respect of the State or Territory; and
 - (ii) falls within the coastal waters of the State or Territory;
- this Act applies in relation to the petroleum mining instrument as if the first-mentioned area were still within the adjacent area in respect of the State or Territory.
- (2) Subsection (1) continues to apply to the area only while the petroleum mining instrument remains in force.
- (3) If:
- (a) a petroleum mining instrument has been granted by a State or the Northern Territory on the basis that an area is within the coastal waters of the State or Territory; and
 - (b) there is a change to the baseline of Australia's territorial sea or, because new data are obtained or existing data are reconsidered, the location of the baseline is reassessed; and
 - (c) as a result of the change to, or reassessment of the location of, the baseline, the area:
 - (i) ceases to be within the coastal waters of the State or Territory; and
 - (ii) falls within the adjacent area in respect of the State or Territory;
- then, so far as the petroleum mining instrument is concerned, this Act does not apply to the first-mentioned area.
- (4) Subsection (3) continues to apply to the area only while the petroleum mining instrument granted by the State or the Northern Territory remains in force.
- (5) In this section:
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coastal waters, in relation to a State or the Northern Territory, means so much of the area off the coast of the State or Territory that is described in Schedule 2 as is constituted by:

- (a) the first 3 nautical miles of the territorial sea from the baseline; and
- (b) any waters that are within the baseline and not within the limit of the State or Territory.

petroleum mining instrument means a permit, lease, licence, infrastructure licence or pipeline licence.

5AAB Infrastructure facilities

- (1) In this Act:

infrastructure facilities means facilities for engaging in any of the activities mentioned in subsection (2), being:

- (a) facilities that are resting on the seabed; or
 - (b) facilities (including facilities that are floating) that are fixed or connected to the seabed; or
 - (c) facilities that are attached or tethered to facilities referred to in paragraph (a) or (b).
- (2) The activities referred to in subsection (1) are the following:
- (a) remote control of facilities used for the recovery of petroleum in a licence area;
 - (b) processing petroleum recovered in any place, including:
 - (i) converting petroleum into another form by physical or chemical means or both (for example, converting it into liquefied natural gas or methanol); and
 - (ii) partial processing of petroleum (for example, by the removal of water);
 - (c) storing petroleum before it is transported to another place;
 - (d) preparing petroleum (for example, by operations such as pumping or compressing) for transport to another place;
 - (e) activities related to any of the above;
- but, except as mentioned in paragraph (a), do not include engaging in the exploration for, or recovery of, petroleum.

5AA Definitions relating to occupational health and safety

Expressions in Schedule 7 have the meanings defined in Part 1 of that Schedule.

6 Spaces above and below adjacent areas

For the purposes of this Act and the regulations:

- (a) the space above or below an adjacent area shall be deemed to be in that area; and
- (b) the space above or below an area that is part of an adjacent area shall be deemed to be in that part.

6A Petroleum pool extending into two licence areas

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

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- (4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the Joint Authority or, in the absence of agreement, by the Supreme Court of a State on the application of the licensee or the Joint Authority.
- (5) Where a petroleum pool is partly in a licence area and partly in an area (in this subsection referred to as *the State licence area*) in which the licensee has authority under the law of a State to explore for, or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the State licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (6).
- (6) The proportion to be determined for the purposes of subsection (5) may be determined by agreement between the licensee, the Joint Authority and the State Minister administering the law of the State corresponding to this Act or, in the absence of agreement, may be determined by the Supreme Court of a State on the application of the licensee, the Joint Authority or that State Minister.
- (7) Where:
 - (a) a petroleum pool is partly in a licence area and partly in another area, whether in the adjacent area or not, in respect of which another person has authority, whether under this Act or under the law of a State, to explore for or recover petroleum;
 - (b) a unit development agreement in accordance with section 59 is in force between the licensee and that other person; and
 - (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both;there shall be deemed to have been recovered in that licence area such proportion of all petroleum so recovered as is specified in, or determined in accordance with, the agreement.
- (8) In this section:

- (a) a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee or a permit area and a lease area;
- (b) a reference to a State shall be read as including a reference to the Northern Territory; and
- (c) a reference to the Supreme Court of a State shall be read as a reference to the Supreme Court of the State, or of one of the States, in the adjacent area in respect of which the petroleum pool is wholly or partly situated.

7 Extension to certain Territories

This Act extends to the following Territories:

- (a) Norfolk Island;
- (b) the Territory of Christmas Island;
- (c) the Territory of Cocos (Keeling) Islands;
- (d) the Territory of Ashmore and Cartier Islands;
- (e) the Territory of Heard Island and McDonald Islands.

8 Application of Act

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

8AA Act to apply subject to international obligations

The provisions of this Act relating to pipelines referred to in subsection 65(2A) have effect subject to the obligations of Australia under international law, including obligations under any agreement between Australia and any other country or countries.

8AB Application of the *Criminal Code*

- (1) Subject to subsection (2), Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

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Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) Part 2.5 of the *Criminal Code* does not apply to offences created by Schedule 7 to this Act.

Part IA—The Joint Authorities

8A Establishment of Joint Authorities

- (1) For the purposes of this Act, there is established in respect of the adjacent area in respect of each State a Joint Authority consisting of the Commonwealth Minister and the State Minister.
- (2) The Joint Authority in respect of the adjacent area in respect of New South Wales shall be known as the Commonwealth–New South Wales Off-shore Petroleum Joint Authority, and the Joint Authority in respect of the adjacent area in respect of each other State shall have a corresponding name.
- (3) For the purposes of this Act, there is established in respect of the adjacent area in respect of the Northern Territory a Joint Authority consisting of the Commonwealth Minister and the Territory Minister, and that Joint Authority shall be known as the Commonwealth–Northern Territory Off-shore Petroleum Joint Authority.

8B Acting Ministers

- (1) The functions and powers of the Commonwealth Minister under this Part, including his functions and powers as a member of a Joint Authority, may be performed and exercised by another Minister of the Commonwealth acting for and on behalf of the Commonwealth Minister, and references in this Part to the Commonwealth Minister or to the members of a Joint Authority shall be read as including references to a Minister so acting.
- (2) The functions and powers of the State Minister of a State or of the Northern Territory Minister under this Part as a member of a Joint Authority may be performed and exercised by a Minister of the State or of the Northern Territory acting for and on behalf of the State Minister or the Northern Territory Minister, and references in this Part to the State Minister, the Northern Territory Minister or

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the Members of a Joint Authority shall be read as including references to a Minister so acting.

8C Functions of Joint Authorities

A Joint Authority has such functions as are conferred on it by this Act in relation to the operation of this Act in respect of the adjacent area in respect of which the Joint Authority is established.

8D Procedure of Joint Authorities

- (1) The business of a Joint Authority may be conducted at meetings of the Joint Authority or by written or other communication between the members of the Joint Authority.
- (2) If the members of a Joint Authority disagree with respect to the decision to be made on a matter within the functions of the Joint Authority or the State Minister or the Northern Territory Minister (as the case may be) has not stated to the Commonwealth Minister his opinion as to the decision to be made on such a matter after having been given by the Commonwealth Minister not less than 30 days notice in writing of the opinion of the Commonwealth Minister as to the decision that should be made on the matter, the Commonwealth Minister may decide the matter and that decision shall have effect as the decision of the Joint Authority.
- (3) A reference in this Act to the opinion or state of mind of the Joint Authority shall be read as a reference to the opinion or state of mind of the 2 members of the Joint Authority or, in the event of their disagreement, the opinion or state of mind of the Commonwealth Minister.
- (4) The Designated Authority shall cause written records to be kept of the decisions of a Joint Authority and such a record, if signed by a person who was a member of the Joint Authority at the time of the decision, is *prima facie* evidence that the decision, as recorded, was duly made.
- (5) A document signed, on behalf of the Joint Authority, by the Designated Authority shall be deemed to be duly executed by the

Joint Authority and, unless the contrary is proved, shall be deemed to be in accordance with a decision of the Joint Authority.

- (6) All communications to or by the Joint Authority shall be made through the Designated Authority.
- (7) All courts shall take judicial notice of the signature of a person who is or has been a member of a Joint Authority and of the fact that he is, or was at a particular time, such a member.
- (8) In this section, *court* includes any Federal or State court or a court of a Territory and all persons authorized by the law of the Commonwealth, of a State, or of a Territory or by consent of parties to receive evidence.

8F Notification by Designated Authority of decisions by Joint Authority

Where, under this Act, any instrument is required or permitted to be executed or issued by the Joint Authority or any action is required or permitted to be taken by the Joint Authority by way of notification, communication or service of any matter or instrument, that instrument shall be executed or issued, or that action shall be taken, by the Designated Authority on behalf of the Joint Authority in accordance with a decision of the Joint Authority and, for the purposes of any proceedings, any instrument executed or issued by the Designated Authority, or any action taken by the Designated Authority by way of notification, communication or service of any matter or instrument, purporting to be executed, issued or taken on behalf of the Joint Authority, shall, unless the contrary is proved, be deemed to be in accordance with a decision of the Joint Authority.

8G Certain Territories

- (1) The Designated Authority in respect of the adjacent area in respect of a Territory referred to in section 7 has, and may perform and exercise, in relation to that adjacent area, all the functions and powers conferred by this Act, or by an Act with which this Act is incorporated, upon the Joint Authority in respect of the adjacent

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area in respect of a State and, for the purpose of the performance of those functions and the exercise of those powers by that

Designated Authority:

- (a) a reference in this Act other than in this Part, or in an Act with which this Act is incorporated, to the Joint Authority in respect of an adjacent area shall be read as a reference to that Designated Authority; and
 - (b) a reference in this Act other than in this section, or in an Act with which this Act is incorporated, to a State in relation to which the Joint Authority in respect of an adjacent area is established shall be read as a reference to that Territory.
- (2) The provisions of this Part, other than this section, have no application in relation to the adjacent area in respect of a Territory referred to in section 7.

8H Delegation

- (1) Subject to this section, a Joint Authority may, by instrument in writing, delegate its powers under this Act, or under an Act that incorporates this Act, to two persons together.
- (2) An instrument of delegation under this section:
 - (a) must specify one person as representing the Commonwealth Minister; and
 - (b) must specify the other person as representing the State Minister or Northern Territory Minister of the Joint Authority; and
 - (c) must be signed by both members of the Joint Authority.
- (2A) Without limiting subsection (2), the delegation may be made to any person from time to time holding, occupying or performing the duties of a specified office or position.
- (3) Where a delegation is made under this section, subsections 8D(2) and (3) do not apply.
- (4) Where the delegates are unable to agree on a matter requiring decision, they must refer the matter to the Joint Authority.

- (5) In the application to the delegates of a provision of this Act containing a reference to the opinion or state of mind of the Joint Authority, the reference is to be read as a reference to the opinion or state of mind of the two delegates of the Joint Authority unless they disagree.

Part II—Application of laws

9 Application of laws in areas adjacent to States

- (1) Subject to this Act and the regulations, the provisions of the laws, whether written or unwritten, in force in a State for the time being (other than laws of the Commonwealth) and the provisions of any instrument having effect under any of those laws, apply, as provided by this section, in the adjacent area and so apply as if that area were part of that State and of the Commonwealth.
- (1A) Subject to section 73, if the gas pipelines access legislation of a State is not in force, whether with or without modifications, in the area referred to in subsection (1B), then, in spite of any law that is in force as a law of the Commonwealth in the adjacent area in respect of the State because of subsection (1), the *Gas Pipelines Access (Commonwealth) Act 1998* applies as a law of the Commonwealth in that adjacent area.
- (1B) For the purposes of subsection (1A), the area referred to in this subsection in relation to a State is the part of the area described in Schedule 2 under the heading that refers to that State that is on the landward side of the adjacent area in respect of that State.
- (2) The laws referred to in subsection (1) do not include laws that are substantive criminal laws, or laws of criminal investigation, procedure and evidence, within the meaning of Schedule 1 to the *Crimes at Sea Act 2000*, but nothing in this Act derogates from the operation of that Act.
- (3) A law shall be taken to be a law in force in a State notwithstanding that that law applies to part only of the State.
- (4) The provisions referred to in subsection (1) apply in relation to all acts, omissions, matters, circumstances and things touching, concerning, arising out of or connected with:
 - (a) the exploration of the sea-bed or subsoil of the adjacent area for petroleum, and the exploitation of the natural resources (consisting of petroleum) of that sea-bed or subsoil; or

- (b) the conveyance of petroleum (wherever recovered) across the adjacent area.
- (5) Without limiting the operation of subsection (4), the provisions referred to in subsection (1) apply:
- (a) to and in relation to:
 - (i) an act or omission that takes place in, on, above, below or in the vicinity of; and
 - (ii) a matter, circumstance or thing that exists or arises with respect to or in connection with:
a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason touching, concerning, arising out of or connected with:
 - (iii) the exploration of the sea-bed or subsoil of the adjacent area for petroleum, or the exploitation of the natural resources (consisting of petroleum) of that sea-bed or subsoil; or
 - (iv) the conveyance of petroleum (wherever recovered) across the adjacent area;
 - (b) to and in relation to a person who:
 - (i) is in the adjacent area for a reason of the kind referred to in paragraph (a); or
 - (ii) is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of the kind referred to in paragraph (a); and
 - (c) to and in relation to a person in respect of his carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).
- (6) This section does not:
- (a) give to the provisions of a law of a State an operation, as law of the Commonwealth, that they would not have, as law of the State, if the adjacent area were within the part of the area described in Schedule 2 under the heading that refers to that State that is on the landward side of the adjacent area;
 - (b) extend to the provisions of any law or instrument in so far as those provisions, as applied by this Act, would be

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- inconsistent with a law of the Commonwealth, including this Act;
- (c) apply so as to impose any tax;
 - (d) apply so as to confer or purport to confer any part of the judicial power of the Commonwealth on a court, tribunal, authority or officer of a State; or
 - (e) apply so as to purport to confer on a court of a State any power that cannot, under the Constitution, be conferred by the Parliament on such a Court.
- (7) This section does not limit the operation that any law or instrument has apart from this section.
 - (8) The regulations may provide that such of the provisions referred to in subsection (1) as are specified in the regulations do not apply by reason of this section or so apply with such modifications as are specified in the regulations.
 - (9) For the purposes of subsection (8), *modification* includes the omission or addition of a provision or the substitution of a provision for another provision.
 - (10) Notwithstanding anything in this section or in section 10, the regulations that may be made for the purposes of subsection (8) include regulations having the effect that provisions as modified by the regulations make provision for and in relation to investing a court of a State with federal jurisdiction.

10 Jurisdiction of State courts

- (1) Except as otherwise prescribed, the several courts of a State are invested with federal jurisdiction in all matters arising under the applied provisions having effect in accordance with section 9 in the adjacent area.
- (2) The jurisdiction with which courts are invested by subsection (1) is invested within the limits, other than limits having effect by reference to localities of their several jurisdictions (whether those limits are as to subject-matter or otherwise).

11 Application of laws in areas adjacent to Territories

- (1) Subject to this Act, the laws, whether written or unwritten, in force in a Territory for the time being (other than laws of the Commonwealth), and any instrument having effect under any of those laws, apply, as provided by this section, in the adjacent area and so apply as if that area were part of that Territory.
- (1A) Subject to section 73, if the gas pipelines access legislation of the Northern Territory is not in force, whether with or without modifications, in the area referred to in subsection (1B), then, in spite of any law that is in force as a law of the Commonwealth in the adjacent area in respect of the Territory because of subsection (1), the *Gas Pipelines Access (Commonwealth) Act 1998* applies as a law of the Commonwealth in that adjacent area.
- (1B) For the purposes of subsection (1A), the area referred to in this subsection in relation to the Northern Territory is the part of the area described in Schedule 2 under the heading that refers to that Territory that is on the landward side of the adjacent area in respect of that Territory.
- (2) The laws referred to in subsection (1) do not include laws that are substantive criminal laws, or laws of criminal investigation, procedure and evidence, within the meaning of Schedule 1 to the *Crimes at Sea Act 2000*, but nothing in this Act derogates from the operation of that Act.
- (3) A law shall be taken to be a law in force in a Territory notwithstanding that that law applies to part only of that Territory.
- (4) The provisions referred to in subsection (1) apply in relation to all acts, omissions, matters, circumstances and things touching, concerning, arising out of or connected with:
 - (a) the exploration of the sea-bed or subsoil of the adjacent area for petroleum, or the exploitation of the natural resources (consisting of petroleum) of that sea-bed or subsoil; or
 - (b) the conveyance of petroleum (wherever recovered) across the adjacent area.

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- (5) Without limiting the operation of subsection (4), the laws and instruments referred to in subsection (1) apply:
- (a) to and in relation to:
 - (i) an act or omission that takes place in, on, above, below or in the vicinity of; and
 - (ii) a matter, circumstance or thing that exists or arises with respect to or in connection with:
a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason touching, concerning, arising out of or connected with:
 - (iii) the exploration of the sea-bed or subsoil of the adjacent area for petroleum, or the exploitation of the natural resources (consisting of petroleum) of that sea-bed or subsoil; or
 - (iv) the conveyance of petroleum (wherever recovered) across the adjacent area;
 - (b) to and in relation to a person who:
 - (i) is in the adjacent area for a reason of the kind referred to in paragraph (a); or
 - (ii) is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of the kind referred to in paragraph (a); and
 - (c) to and in relation to a person in respect of his carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).
- (6) This section does not:
- (a) give to the provisions of a law of the Northern Territory an operation, as law of the Commonwealth, that they would not have, as law of the Territory, if the adjacent area were within the part of the area described in Schedule 2 under the heading that refers to that Territory that is on the landward side of the adjacent area;
 - (b) extend to the provisions of any law or instrument in so far as those provisions, as applied by this Act, would be inconsistent with a law of the Commonwealth, including this Act;

- (c) apply so as to impose any tax;
 - (d) apply so as to appropriate any public moneys of a Territory;
or
 - (e) apply so as to confer or purport to confer any part of the judicial power of the Commonwealth on a court, tribunal, authority or officer of a Territory.
- (7) This section does not limit the operation that any law or instrument has apart from this section.
- (8) The regulations may provide that such of the laws or instruments referred to in subsection (1) as are specified in the regulations do not apply by reason of this section or so apply with such modifications as are specified in the regulations.
- (9) For the purposes of subsection (8), *modification* includes the omission or addition of a provision or the substitution of a provision for another provision.

12 Jurisdiction of Territory courts

- (1) Jurisdiction is conferred on the several courts having jurisdiction in a Territory in all matters arising under the applied provisions having effect in accordance with section 11 in the adjacent area.
- (2) The jurisdiction conferred on courts by subsection (1) is conferred within the limits, other than limits having effect by reference to localities, of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

13 Parts III and IV not affected by this Part

Parts III and IV have effect notwithstanding anything in this Part.

Part III—Mining for petroleum

Division 1—Preliminary

14 Designated Authorities

- (1) For the purposes of this Act, there shall be, in respect of each adjacent area, a Designated Authority.
- (2) The Designated Authority in respect of the adjacent area in respect of a State is the State Minister.
- (3) The functions and powers of a State Minister as Designated Authority may be performed and exercised by another State Minister acting for and on behalf of that Minister.
- (4) The Designated Authority in respect of the adjacent area in respect of a Territory referred to in section 7 is the Minister.
- (5) The Designated Authority in respect of the adjacent area in respect of the Northern Territory is the Northern Territory Minister.
- (6) The functions and powers of the Northern Territory Minister as Designated Authority may be performed and exercised by another Northern Territory Minister acting for and on behalf of that Minister.

15 Delegation

- (1) A Designated Authority may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act (including the Acts with which this Act is incorporated) or the regulations, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, or of an Act with which this Act is incorporated or the regulations, be deemed to have been exercised by the Designated Authority.

- (3) A delegation under this section may be expressed as a delegation to the person for the time being holding, or performing the duties of, a specified office under the Commonwealth, a State or a Territory.
- (4) A delegation under this section made by a person holding an office of Designated Authority continues in force notwithstanding a vacancy in that office or change in the identity of the holder of that office, but such a delegation may be revoked by the same or a subsequent holder of that office.
- (5) A delegation under this section does not prevent the exercise of a power by the Designated Authority.
- (6) A copy of each instrument making, varying or revoking a delegation under this section shall be published in the *Gazette*.

17 Graticulation of Earth's surface and constitution of blocks

- (1) For the purposes of this Act, the surface of the Earth shall be deemed to be divided:
 - (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and
 - (b) by the equator and by parallels of latitude that are at a distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude;into sections, each of which is bounded:
 - (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude; and
 - (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.
- (2) For the purposes of this Act:
 - (a) a graticular section that is wholly within an adjacent area constitutes a block; and
 - (b) if a part only of a graticular section is, or parts only of a graticular section are, within an adjacent area, the area of that part, or of those parts, constitutes a block.

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(3) In this Act:

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

Note: For datum, see section 150M.

18 Reservation of blocks

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

Division 2—Exploration permits for petroleum

19 Exploration for petroleum

- (1) A person shall not explore for petroleum in an adjacent area except:
 - (a) under and in accordance with a permit; or
 - (b) as otherwise permitted by this Part.

Penalty: Imprisonment for 5 years.

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

20 Advertisement of blocks

- (1) The Joint Authority may, by instrument published in the *Gazette*:
 - (a) invite applications for the grant by the Joint Authority of a permit in respect of the block or blocks specified in the instrument; and
 - (b) specify a period within which applications may be made.
- (1A) A block that has been specified in an instrument under subsection 22A(1) inviting applications for the grant of a permit in respect of the block shall not be specified in an instrument under subsection (1) of this section at any time during the period specified in the first-mentioned instrument.
- (2) The Joint Authority may, for reasons that it thinks sufficient, in an instrument under subsection (1), direct that subsection 21(2) or (3) does not apply, or that both of those subsections do not apply, to or in relation to the applications.

21 Application for permit

- (1) An application under section 20:
 - (b) shall be made in an approved manner;

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- (c) shall be in respect of not more than 400 blocks;
 - (d) shall be accompanied by particulars of:
 - (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application;
 - (ii) the technical qualifications of the applicant and of his employees;
 - (iii) the technical advice available to the applicant; and
 - (iv) the financial resources available to the applicant;
 - (e) may set out any other matters that the applicant wishes to be considered; and
 - (f) shall be accompanied by the prescribed fee.
- (2) The number of blocks specified in the application:
- (a) if 16 blocks or more are available—shall not be less than 16; or
 - (b) if less than 16 blocks are available—shall be the number available.
- (3) The blocks specified in the application shall be blocks that are constituted by graticular sections that:
- (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Designated Authority may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connexion with his application.

21A Where 2 or more applications are made in respect of the same block or blocks

- (1) This section applies if 2 or more applications have been made under section 20 for the grant of a permit in respect of the same block or blocks.
- (2) The Joint Authority may grant the permit to whichever applicant, in the Authority's opinion, is most deserving of the grant of the

permit having regard to criteria made publicly available by the Authority.

- (3) For the purposes of subsection (2), the Authority may rank the applicants in the order in which they are deserving of the grant, the most deserving applicant being ranked highest.
- (4) The Joint Authority may exclude from the ranking any applicant that, in the Authority's opinion, is not deserving of the grant of the permit.
- (5) If the Joint Authority is of the opinion that, after considering the information accompanying the applications, 2 or more of the applicants are equally deserving of the grant of the permit, the Authority may, by written notice served on each of those applicants, invite them to give to the Authority, within a period stated in the notice, particulars of the applicant's proposals for additional work and expenditure in respect of the block or blocks specified in the application, being particulars that the Authority considers to be relevant in determining which of the applicants is most deserving of the grant of the permit.
- (6) If any particulars are given by applicants to the Joint Authority in accordance with the invitations contained in the notices served under subsection (5), the Authority must have regard to the particulars in determining whichever of the applicants is most deserving of the grant of the permit.

22 Grant or refusal of permit in relation to application

- (1) Where an application has been made under section 20, the Joint Authority may:
 - (a) by instrument in writing served on the applicant, inform the applicant that it is prepared to grant to the applicant a permit in respect of the block or blocks specified in the instrument;
or
 - (b) refuse to grant a permit to the applicant.
- (2) An instrument under subsection (1) shall contain:

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- (a) a summary of the conditions subject to which the permit is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the permit.
- (3) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him, or within such further period, not exceeding one month, as the Designated Authority, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by instrument in writing served on the Designated Authority, request the Joint Authority to grant to the applicant the permit referred to in the first-mentioned instrument.
- (4) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Joint Authority shall grant to him an exploration permit for petroleum in respect of the block or blocks specified in the instrument.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period.

22AA Withdrawal by a joint applicant

If:

- (a) an application made under section 20 for the grant of a permit was a joint application; and
- (b) all of the joint applicants, by written notice served on the Joint Authority, tell the Authority that one or more, but not all, of them, as specified in the notice, withdraw from the application;

the following paragraphs have effect:

- (c) the application continues in force as if it had been made by the remaining applicant or applicants;

- (d) if the Joint Authority had informed the joint applicants that it was prepared to grant to the applicants a permit in respect of the block or blocks to which the application relates—the Joint Authority is taken not to have so informed the applicants.

22AB Withdrawal of application

The person who has made, or all the persons who have jointly made, an application under section 20 for the grant of a permit may, by written notice served on the Joint Authority, withdraw the application at any time before a permit is granted in respect of the application.

22AC Effect of withdrawal or lapse of application

If:

- (a) 2 or more applications have been made under section 20 for the grant of a permit in respect of the same block or blocks; and
- (b) one or more, but not all, of the applications are withdrawn or have lapsed;

the following paragraphs have effect:

- (c) the withdrawn or lapsed application or applications are taken not to have been made;
- (d) if the Joint Authority had informed the applicant or one of the applicants whose application had been withdrawn or had lapsed that it was prepared to grant to that applicant a permit in respect of the block or blocks—the Joint Authority is taken not to have so informed the applicant concerned;
- (e) if the applicant or one of the applicants whose application had been withdrawn had requested the Joint Authority under subsection 22(3) to grant a permit to the applicant concerned—the request is taken not to have been made;
- (f) if the Joint Authority had refused to grant a permit to the remaining applicant or to any of the remaining applicants—the refusal or refusals are taken not to have occurred.

Section 22A

22A Application for permits by way of cash bidding

- (1) The Joint Authority may, by instrument published in the *Gazette*, invite applications by way of cash bidding for the grant by the Joint Authority of a permit in respect of the block or blocks specified in the instrument.
- (2) A block that has been specified in an instrument under subsection 20(1) inviting applications for the grant of a permit in respect of the block shall not be specified in an instrument under subsection (1) of this section at any time during the period specified in the first-mentioned instrument.
- (3) An instrument published under subsection (1) shall:
 - (a) specify a period within which applications may be made;
 - (b) state whether the permit to be granted will be able to be renewed;
 - (c) contain a summary of the conditions subject to which the permit is to be granted; and
 - (d) specify the matters that the Joint Authority will take into account in determining whether to reject an application.
- (4) Where an instrument published under subsection (1) specifies more than one block, those blocks shall be constituted by graticular sections that:
 - (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (5) An application under this section:
 - (a) shall be made within the period specified in the instrument published under subsection (1);
 - (b) shall be in accordance with an approved form;
 - (c) shall be made in an approved manner;
 - (d) shall, where the instrument published under subsection (1) specifies more than one block, be an application for the grant of a permit in respect of all the blocks so specified;
 - (e) shall be accompanied by particulars of:

- (i) the technical qualifications of the applicant and of the employees of the applicant;
 - (ii) the technical advice available to the applicant; and
 - (iii) the financial resources available to the applicant;
 - (f) shall specify an amount that the applicant is prepared to pay in a single payment to the Commonwealth, in addition to the fee referred to in paragraph (h), in respect of the grant of a permit to the applicant on the application;
 - (g) may set out any other matters that the applicant wishes to be considered; and
 - (h) shall be accompanied by the prescribed fee.
- (6) The Designated Authority may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the application.

22B Grant or refusal of permit in relation to application

- (1) Where, at the end of the period specified in an instrument published under subsection 22A(1), only one application has been made under section 22A in respect of the block or blocks specified in the instrument, the Joint Authority may reject the application or may, by instrument in writing served on the applicant, inform the applicant that it is prepared to grant to the applicant a permit in respect of that block or those blocks.
- (2) Where, at the end of the period specified in an instrument published under subsection 22A(1), 2 or more applications have been made under section 22A in respect of the block or blocks specified in the instrument, the Joint Authority may reject any or all of the applications and, if it does not reject all of the applications, may:
- (a) if only one application remains unrejected—by instrument in writing served on the applicant; or
 - (b) if 2 or more applications remain unrejected—by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified for the purposes of paragraph 22A(5)(f) an

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amount that is not less than the amount so specified by any other applicant whose application has not been rejected; inform the applicant that it is prepared to grant to the applicant a permit in respect of that block or those blocks.

- (3) An instrument served on an applicant under subsection (1) or (2) shall contain:
 - (a) a summary of the conditions subject to which the permit is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) and pay to the Commonwealth the amount to be paid in respect of the grant of the permit to the applicant.
- (4) An applicant on whom there has been served an instrument under subsection (1) or (2) may, within the period of one month after the date of service of the instrument on the applicant:
 - (a) by instrument in writing served on the Designated Authority, request the Joint Authority to grant to the applicant the permit referred to in the first-mentioned instrument; and
 - (b) pay to the Commonwealth the amount specified by the applicant for the purposes of paragraph 22A(5)(f) in respect of the grant of the permit to the applicant.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) or (2):
 - (a) has made a request under paragraph (4)(a); and
 - (b) has paid to the Commonwealth the amount specified by the applicant for the purposes of paragraph 22A(5)(f) in respect of the grant of the permit to the applicant;within the period of one month after the date of service of the instrument on the applicant, the Joint Authority shall, as soon as practicable after the amount referred to in paragraph (b) is paid to the Commonwealth, grant to the applicant an exploration permit for petroleum in respect of the block or blocks specified in the instrument.
- (6) Where an applicant on whom there has been served an instrument under subsection (1) or (2):

- (a) has not made a request under paragraph (4)(a); or
 - (b) has not paid to the Commonwealth the amount specified by the applicant for the purposes of paragraph 22A(5)(f) in respect of the grant of the permit to the applicant;
- within the period of one month after the date of service of the instrument on the applicant, the application lapses at the end of that period.
- (7) Where the application of an applicant on whom there has been served an instrument under subsection (2) lapses as provided by subsection (6), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

22C Permit under section 22B to continue in force in certain cases

Where:

- (a) a permit granted under section 22B, being:
 - (i) a permit in relation to which an instrument published under subsection 22A(1) stated that the permit would not be able to be renewed; or
 - (ii) a permit that has been renewed;expires; and
- (b) before the expiry of the permit:
 - (i) a block or blocks in respect of which the permit was in force had been nominated under section 36;
 - (ii) except where subparagraph (i) applies, the Designated Authority had required the permittee to nominate, under section 36, a block or blocks in respect of which the permit was in force; or
 - (iii) a declaration under section 37 had been made in relation to a block or blocks in respect of which the permit was in force and the permittee had not requested that the declaration be revoked;

the permit continues in force in respect of that block or those blocks, as the case may be:

- (c) where the Designated Authority has required the permittee to nominate, under section 36, a block or blocks in respect of which the permit was in force, and the permittee does not

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comply with the requirement, until the expiration of the period allowed for compliance with the requirement; or

- (d) in any other case, until:
- (i) a declaration under section 37 in relation to the block or blocks is revoked;
 - (ii) a lease or licence is granted in relation to the block or blocks;
 - (iii) the application period referred to in subsection 38A(4) in respect of the block or blocks expires without an application under section 38A for a lease in respect of the block or blocks having been made by the permittee; or
 - (iv) the application period referred to in subsection 39A(5) or 40(4) in respect of the block or blocks expires without an application under section 39A or 40 for a licence in respect of the block or blocks having been made by the permittee;
- whichever first occurs.

23 Application for permit in respect of surrendered blocks etc.

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

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

- (4) An application under this section:
- (b) shall be made in an approved manner;

- (c) shall be accompanied by the particulars referred to in paragraph 21(1)(d);
 - (d) shall specify an amount that the applicant is prepared to pay to the Designated Authority, in addition to the fee referred to in paragraph 24(1)(a), in respect of the grant of a permit to him on the application; and
 - (e) may set out any other matters that the applicant wishes to be considered.
- (5) The Designated Authority may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connexion with his application.

24 Application fee etc.

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

25 Consideration of application

- (1) Where, at the expiration of the period specified in an instrument under subsection 23(1), only one application has been made under that subsection in respect of the block or blocks specified in the instrument, the Joint Authority may reject the application or may, by instrument in writing served on the applicant, inform the applicant that it is prepared to grant to him a permit in respect of that block or those blocks.

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- (2) Where, at the expiration of the period specified in an instrument under subsection 23(1), 2 or more applications have been made under that subsection in respect of the block or blocks specified in the instrument, the Joint Authority may reject any or all of the applications and, if it does not reject all of the applications, may:
- (a) if only one application remains unrejected—by instrument in writing served on the applicant; or
 - (b) if 2 or more applications remain unrejected—by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified as the amount that he is prepared to pay in respect of the grant of a permit to him an amount that is not less than the amount specified by any other applicant whose application has not been rejected;
- inform him that it is prepared to grant to him a permit in respect of that block or those blocks.
- (5) An instrument under this section shall contain:
- (a) a summary of the conditions subject to which the permit is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not:
 - (i) make a request under subsection 26(1); and
 - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant.

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

- (1) An applicant on whom there has been served an instrument under section 25 may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Designated Authority, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows:
- (a) by instrument in writing served on the Designated Authority, request the Joint Authority to grant to him the permit referred to in the first-mentioned instrument; and

- (b) pay the balance of the amount to be paid in respect of the grant of the permit to him.
- (2) Where an applicant on whom there has been served an instrument under section 25:
 - (a) has not made a request under subsection (1); and
 - (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to him;within the period applicable under subsection (1), the application lapses upon the expiration of that period.
- (3) Where the application of an applicant on whom there has been served an instrument under subsection 25(2) lapses as provided by subsection (2), subsection 25(2) applies in respect of the application or applications, if any, then remaining unrejected.

27 Grant of permit on request

Where a person on whom there has been served an instrument under section 25:

- (a) has made a request under subsection 26(1); and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to him;

within the period applicable under that subsection, the Joint Authority shall grant to that person an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

28 Rights conferred by permit

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

29 Term of permit

- (1) Subject to this Part, a permit remains in force:

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

Extension of permit in respect of block included in location when lease or licence applied for

(2) If:

- (a) a permit in respect of a block or blocks cannot be renewed or further renewed; and
- (b) before the time when the permit would, apart from this subsection, expire, the permittee has duly made an application to the Designated Authority for the grant by the Joint Authority of a lease or licence in respect of the block, or one or more of the blocks, being a block or blocks that are included in a location;

the permit continues in force in respect of the block or blocks to which the application relates until:

- (c) if the Joint Authority tells the permittee that it is prepared to grant to the permittee a lease or licence in respect of the block or one or more of the blocks—such a lease or licence is granted, the permittee withdraws the application or the application lapses; or
- (d) if the Joint Authority decides not to grant to the permittee such a lease—the end of the period of one year after the day of the service under subsection 38B(2) or (2A) of the instrument or notice refusing to grant the lease; or
- (e) if the Joint Authority decides not to grant to the permittee such a licence—notice of the decision is served on the permittee.

30 Application for renewal of permit

- (1) Subject to subsection (1A) and to sections 31 and 31A, a permittee may, from time to time, make an application to the Designated Authority for the renewal by the Joint Authority of the permit in respect of such of the blocks the subject of the permit as are specified in the application.
- (1A) A permittee shall not make an application for the renewal of a permit granted under section 22B if:
 - (a) the instrument published under subsection 22A(1) in relation to the grant of the permit stated that the permit was not able to be renewed; or
 - (b) a renewal of the permit has previously been granted by the Joint Authority.
- (2) An application for the renewal of the permit:
 - (b) subject to subsection (3), shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and
 - (c) shall be accompanied by the prescribed fee.
- (3) The Designated Authority may, for reasons that he thinks sufficient, receive an application for the renewal of the permit less than 3 months before, but not in any case after, the date of expiration of the permit.

30A Renewal of permit in respect of blocks constituted by graticular sections wholly or partly in Area A of the Zone of Cooperation

- (1) This section applies to any permit that was, immediately before the commencement of this section, in force in respect of blocks all or a number of which were blocks constituted by graticular sections wholly or partly in Area A of the Zone of Cooperation.
- (2) Where, as a result of the amendments of section 5A made by the *Petroleum (Australia-Indonesia Zone of Cooperation) (Consequential Provisions) Act 1990* (which removed Area A from the adjacent areas) and of the operation of subsection 17(2):

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- (a) a block specified in the permit has ceased to exist; or
 - (b) the boundaries of a block specified in the permit have changed;
- the permit is taken not to specify any block referred to in paragraph (a), to specify each block referred to in paragraph (b) as that block exists immediately after the commencement of the amendments, and to specify each block unaffected by the amendments.
- (3) Where:
 - (a) before the commencement of this section, an application had been made under section 30 for the renewal of a permit; and
 - (b) at that commencement, no decision has been taken to renew, or to refuse to renew, the permit;the application is taken to specify the blocks which, as a result of the operation of subsection (2), constitute the permit area.
 - (4) Where, immediately before the commencement of this section, there was in force under section 103A an instrument of suspension in respect of a permit, then, on the commencement of this section:
 - (a) the instrument is by force of this section revoked; and
 - (b) the permittee is taken to have made an application under section 30 for the renewal by the Joint Authority of the permit in respect of the blocks which, as a result of the operation of subsection (2), constitute the permit area.
 - (5) Section 31 does not apply to or in relation to an application:
 - (a) that is referred to in subsection (3); or
 - (b) that a permittee is taken to have made under subsection (4).

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

- (1) Subject to subsections (2A), (3), (4) and (5), the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows:
 - (a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder—one-half of that number; or

- (b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder—one-half of that last-mentioned number.
- (2) A block that is, or is included in, a location and in respect of which the permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1).
- (2A) An application for the renewal of a permit may include, in addition to the blocks referred to in subsection (1), a block that is, or is included in, a location and in respect to which the permit is in force, or 2 or more such blocks.
- (3) An application cannot be made for the renewal of a permit in respect of only one block.
- (4) If a permit is in force in respect of 5 or 6 blocks, an application may be made for the renewal of the permit in respect of 4 of those blocks.
- (5) If a permit is in force in respect of 2, 3 or 4 blocks, an application may be made for the renewal of the permit in respect of all those blocks.
- (6) An application may not be made for the further renewal of a permit that was renewed as a result of an application referred to in subsection (5).

Note: The operation of this section is affected by a saving provision set out in item 32 of Schedule 1 to the *Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000*. The saving provision applies in relation to the first application after the commencement of item 31 of that Schedule (on 7 March 2000) for the renewal of a permit that was granted before that commencement.

31A Certain permits cannot be renewed more than twice

Scope

- (1) This section applies to an application for the renewal of a permit, where:

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- (a) the original permit was granted under section 22:
 - (i) on or after 1 January 2003; and
 - (ii) as a result of an application made in response to an invitation in an instrument that was published under subsection 20(1) on or after 1 January 2003; or
- (b) the original permit was granted under section 27 on or after 1 January 2003.

Permit cannot be renewed more than twice

- (2) A permittee must not make the application if it could result in the original permit being renewed more than twice.

32 Grant or refusal of renewal of permit

- (1) Where an application has been made under section 30 for the renewal of a permit, the Joint Authority:
 - (a) shall, if the conditions to which the permit is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
 - (b) may, if:
 - (i) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and
 - (ii) the Joint Authority is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the permit;by instrument in writing served on the person who is then the permittee inform the person that it is prepared to grant to the person the renewal of the permit.
- (2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Joint Authority is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Joint Authority shall, subject to subsection (3), by instrument in writing served on the

person who is then the permittee, refuse to grant the renewal of the permit.

- (3) The Joint Authority shall not refuse to grant the renewal of the permit unless:
- (a) it has, by instrument in writing served on the permittee, given not less than one month's notice of its intention to refuse to grant the renewal of the permit;
 - (b) it has served a copy of the instrument on such other persons, if any, as it thinks fit;
 - (c) it has, in the instrument:
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Designated Authority, submit any matters that he wishes to be considered; and
 - (d) it has taken into account any matters so submitted on or before the specified date by the permittee or by a person on whom a copy of the first-mentioned instrument has been served.
- (4) An instrument referred to in subsection (1) shall contain:
- (a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and
 - (b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5).
- (5) A permittee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the permittee, by instrument in writing served on the Designated Authority, request the Joint Authority to grant to the permittee the renewal of the permit.
- (6) Where a permittee on whom there has been served an instrument under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Joint Authority shall grant to him the renewal of the permit.

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- (7) Where a permittee on whom there has been served an instrument under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that period.
- (8) Where:
- (a) an application for the renewal of a permit has been made; and
 - (b) the permit expires:
 - (i) before the Joint Authority grants, or refuses to grant, the renewal of the permit; or
 - (ii) before the application lapses as provided by subsection (7);
- the permit shall be deemed to continue in force in all respects:
- (c) until the Joint Authority grants, or refuses to grant, the renewal of the permit; or
 - (d) until the application so lapses;
- whichever first happens.

33 Conditions of permit

- (1) A permit may be granted subject to such conditions as the Joint Authority thinks fit and are specified in the permit.
- (2) Subject to subsection (2A), the conditions referred to in subsection (1) may include all or any of the following:
- (a) conditions with respect to work to be carried out by the permittee in or in relation to the permit area during the term of the permit, including conditions that require the permittee to carry out the work during a period or periods consisting of one or more years; or
 - (b) conditions with respect to amounts to be expended by the permittee in the carrying out of such work; or
 - (c) conditions requiring the permittee to comply with directions given in accordance with the permit concerning the matters referred to in paragraphs (a) and (b).
- (2A) A permit granted under section 22B shall not be granted subject to conditions requiring work to be carried out by the permittee in or in

relation to the permit area or requiring the permittee to expend amounts in the carrying out of work in or in relation to the permit area.

- (3) A permit to which the Royalty Act applies (whether granted before or after the commencement of this subsection) shall be deemed to contain a condition that the permittee will comply with the provisions of the Royalty Act as in force from time to time.

34 Discovery of petroleum to be notified

- (1) Where petroleum is discovered in a permit area, the permittee:
 - (a) shall forthwith inform the Designated Authority of the discovery; and
 - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Designated Authority particulars in writing of the discovery.

Penalty: 100 penalty units.

36 Nomination of blocks as location

- (1) Where a petroleum pool is identified in a permit area, the permittee may nominate the block in which the pool is situated, or the blocks (being blocks within the permit area) to which the pool extends, for declaration as a location.
- (2) Where 2 or more petroleum pools are identified in a permit area, the permittee may, instead of making a nomination under subsection (1) in relation to each pool, nominate all of the blocks to which the pools extend, or to which any 2 or more of the pools extend, for declaration as a single location.
- (3) A nomination may not be made under subsection (2) unless, in the case of each of the pools to which the nomination relates, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.
- (4) A nomination by a permittee shall be in writing and served on the Designated Authority.

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

37 Declaration of location

- (1) Where:
- (a) a permittee has made a nomination under section 36; and
 - (b) the Designated Authority is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination;
- the Designated Authority shall, by notice published in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.

- (2) Where the Designated Authority has made a nomination under subsection 36(9), the Designated Authority shall, by notice published in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.
- (3) The Designated Authority may, at the request of the permittee, revoke a declaration.
- (4) The Designated Authority may vary a declaration:
 - (a) by adding to the location a block in the permit area to which, in the opinion of the Designated Authority, a petroleum pool within the location extends; or
 - (b) deleting from the location a block to which, in the opinion of the Designated Authority, no petroleum pool within the location extends.
- (5) The Designated Authority may not vary a declaration unless:
 - (a) the Designated Authority has caused to be served on the permittee notice in writing of the proposed variation, identifying the block to be added to, or deleted from, the location;
 - (b) the period of 30 days after the date of service of the notice has expired; and
 - (c) the Designated Authority has considered any matters submitted to it by the permittee in relation to the proposed variation.
- (6) Subsection (5) does not apply where a variation is made at the request of the permittee.
- (7) The Designated Authority may form an opinion for the purposes of this section if it considers that there are reasonable grounds for forming the opinion having regard to any information in its possession, whether provided by the permittee or otherwise.

38 Immediately adjoining blocks

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

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that block and the graticular section that constitutes or includes that other block:

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

Division 2A—Retention leases for petroleum

38A Application by permittee for lease

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

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

38B Grant or refusal of lease in relation to application

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

the Joint Authority must, by written notice served on the applicant, tell the applicant that it is prepared to grant to the applicant a lease in respect of the block or blocks as to which the Joint Authority is satisfied as mentioned in paragraph (c).

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

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

- (2A) If:

- (a) an application has been made under section 38A specifying 2 or more blocks; and
 - (b) the Joint Authority is not satisfied as to the matters referred to in paragraph (1)(c) in relation to one or more, but not all, of the blocks;
- the Joint Authority must, by notice in writing served on the applicant, refuse to grant a lease to the applicant in respect of the block or blocks as to which it is not satisfied as mentioned in paragraph (1)(c).
- (3) An instrument under subsection (1) shall contain:
 - (a) a summary of the conditions subject to which the lease is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.
 - (4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Designated Authority, on application in writing served on the Designated Authority before the end of the first-mentioned period of one month, allows, by instrument in writing served on the Designated Authority, request the Joint Authority to grant the lease to the applicant.
 - (5) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4), the Joint Authority shall grant to the applicant a retention lease in respect of the block or blocks specified in the instrument.
 - (6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.
 - (7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit in respect of the block or blocks ceases to be in force in respect of those blocks.
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38BA Application of sections 38A and 38B where permit is transferred

Where:

- (a) after an application has been made under subsection 38A(1) in relation to a block or blocks in respect of which a permit is in force; and
 - (b) before a decision has been made by the Joint Authority under subsection 38B(1) or (2) in relation to the application;
- a transfer of the permit is registered under section 78, sections 38A and 38B have effect, after the time of the transfer, as if any reference in those sections to the applicant were a reference to the transferee.

38BB Application by licensee for lease

- (1) If:
 - (a) a licence is in force under paragraph 53(1)(c) or subsection 53(2) in respect of a block or blocks; and
 - (b) no operations for the recovery of petroleum are being carried on under the licence in respect of an area (the *unused area*):
 - (i) that consists of, or consists of part of, the block or blocks; and
 - (ii) in which petroleum has been found to exist;

the licensee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a lease in respect of the unused area.
- (2) An application under subsection (1):
 - (a) is to be in accordance with an approved form; and
 - (b) is to be made in an approved manner; and
 - (c) is to be accompanied by particulars of:
 - (i) the proposals of the applicant for work and expenditure in respect of the unused area; and
 - (ii) the commercial viability of the recovery of petroleum from the unused area at the time of the application, and

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- particulars of the possible future commercial viability of the recovery of petroleum from that area; and
- (d) may set out any other matters that the applicant wishes to be considered; and
 - (e) is to be accompanied by the prescribed fee.
- (3) The Designated Authority may, at any time, by written notice served on the applicant, require the applicant to give, within the period stated in the notice, further written information in connection with the application.
 - (4) The application period in respect of an application under this section by a licensee is the period of 5 years that began on:
 - (a) the day on which the licence was granted; or
 - (b) if any operations for the recovery of petroleum have been carried on under the licence in respect of the unused area—the last day on which any such operations were so carried on.

38BC Grant or refusal of lease in relation to application by licensee

- (1) If:
 - (a) an application has been made under section 38BB; and
 - (b) the applicant has given any further information as and when required by the Designated Authority under subsection 38BB(3); and
 - (c) the Joint Authority is satisfied that recovery of petroleum from the unused area:
 - (i) is not, at the time of the application, commercially viable; and
 - (ii) is likely to become commercially viable within the period of 15 years after that time;the Joint Authority must, by written notice served on the applicant, inform the applicant that it is prepared to grant to the applicant a lease in respect of the unused area.
- (2) If an application has been made under section 38BB and:

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- (a) the applicant has not given further information as and when required by the Designated Authority under subsection 38BB(3); or
 - (b) the Joint Authority is not satisfied as to the matters referred to in paragraph (1)(c) in relation to the unused area;
- the Joint Authority must, by written notice served on the applicant, refuse to grant a lease to the applicant.
- (3) A notice under subsection (1) must contain:
 - (a) a summary of the conditions subject to which the lease is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.
 - (4) An applicant on whom a notice has been served under subsection (1) may, within one month after the date on which the notice was served, or within such further period, not exceeding one month, as the Designated Authority, on written application made to the Designated Authority before the end of the first-mentioned period of one month, allows, request the Joint Authority in writing to grant the lease to the applicant.
 - (5) If an applicant on whom a notice has been served under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4), the Joint Authority must grant to the applicant a retention lease in respect of the unused area.
 - (6) If an applicant on whom a notice has been served under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses at the end of that period.
 - (7) On the day on which a lease granted under this section in respect of an unused area comes into force, the licence in respect of the block or blocks of which the area consists or in which the area is included ceases to be in force in respect of the area.

38BD Application of sections 38BB and 38BC where licence is transferred

If:

- (a) after an application has been made under subsection 38BB(1) in relation to an area consisting of or included in a block or blocks in respect of which a licence is in force; and
 - (b) before a decision has been made by the Joint Authority under subsection 38BC(1) or (2) in relation to the application;
- a transfer of the licence is registered under section 78, sections 38BB and 38BC have effect, after the time of the transfer, as if any reference in those sections to the applicant were a reference to the transferee.

38C Rights conferred by lease

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

38D Term of lease

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

38E Notice of intention to cancel lease

- (1) Where:
 - (a) a lessee has been given a notice of the kind referred to in paragraph 38H(3)(b) during the term of the lease and has carried out, and has informed the Designated Authority of the results of, the re-evaluation required by the notice;

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- (b) the lessee has not made an application for the renewal of the lease; and
- (c) after consideration of the results of the re-evaluation referred to in paragraph (a) and such other matters as the Joint Authority thinks fit, the Joint Authority is of the opinion that recovery of petroleum from the lease area is commercially viable;

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

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

(2) Where:

- (a) an instrument under subsection (1) is served on a lessee; and
- (b) the lessee does not, within the period referred to in paragraph (1)(e), serve on the Designated Authority an instrument setting out matters that the lessee wishes to be considered or the Joint Authority, after consideration of matters set out in an instrument served on the Designated Authority by the lessee within that period, determines that the lease should be cancelled;

the Joint Authority shall, by instrument in writing served on the lessee, cancel the lease.

(3) The cancellation of a lease under subsection (2) has effect:

- (a) in a case to which paragraph (b) does not apply—at the end of the period of 12 months commencing on the date of service of the instrument of cancellation; or

- (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph (a)—when the Joint Authority grants, or refuses to grant, the licence or when the application lapses, whichever first happens.
- (4) Where a lease is cancelled under subsection (2), the lease shall be deemed to continue in force in all respects until the cancellation has effect in accordance with subsection (3).

38F Application for renewal of lease

- (1) A lessee may, from time to time, make an application to the Designated Authority for the renewal by the Joint Authority of the lease.
- (2) An application for the renewal of a lease:
 - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force;
 - (c) shall be accompanied by particulars of:
 - (i) the proposals of the applicant for work and expenditure in respect of the lease area; and
 - (ii) particulars of the commercial viability of recovery of petroleum from the lease at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area; and
 - (d) shall be accompanied by the prescribed fee.
- (3) The Designated Authority may, for reasons that the Designated Authority thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.
- (4) Where an application has been made for the renewal of a lease, the Designated Authority may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

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38G Grant or refusal of renewal of lease

(1) Where:

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

the Joint Authority:

- (d) shall, if the conditions to which the lease is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
- (e) may, if:
 - (i) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and
 - (ii) the Joint Authority is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the lease;

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

(2) Subject to subsection (3), where an application for the renewal of a lease has been made under section 38F and:

- (a) any further information required by the Designated Authority under subsection 38F(4) has not been furnished in accordance with that subsection;
- (b) the Joint Authority is not satisfied as to the matters referred to in paragraph (1)(c); or

- (c) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with and the Joint Authority is not satisfied that special circumstances exist that justify the granting of the renewal of the lease;
- the Joint Authority shall, by instrument in writing served on the person who is then the lessee, refuse to grant the renewal of the lease.
- (3) The Joint Authority shall not refuse to grant the renewal of the lease unless:
- (a) it has, by instrument in writing served on the lessee, given not less than one month's notice of its intention to refuse to grant the renewal of the lease;
 - (b) it has served a copy of the instrument on such other persons, if any, as it thinks fit;
 - (c) it has, in the instrument:
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the lessee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Designated Authority, submit any matters that the lessee wishes to be considered; and
 - (d) it has taken into account any matters so submitted on or before the specified date by the lessee or by a person on whom a copy of the first-mentioned instrument has been served.
- (4) An instrument referred to in subsection (1) shall contain:
- (a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject; and
 - (b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6).
- (5) An instrument under subsection (2) shall, where the Joint Authority refuses to grant the renewal of a lease by reason only that the Joint Authority is not satisfied as to the matter referred to in subparagraph (1)(c)(i), contain a statement to the effect that the lessee may, within the period of 12 months after the date of service

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of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.

- (6) A lessee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the lessee, by instrument in writing served on the Designated Authority, request the Joint Authority to grant the renewal of the lease to the lessee.
- (7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Joint Authority shall grant to the lessee the renewal of the lease.
- (8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period.
- (9) Where:
- (a) an application for the renewal of a lease has been made; and
 - (b) the lease expires:
 - (i) before the Joint Authority grants, or refuses to grant, the renewal of the lease; or
 - (ii) before the application lapses as provided by subsection (8);
- the lease shall be deemed to continue in force in all respects:
- (c) until the Joint Authority grants, or refuses to grant, the renewal of the lease; or
 - (d) until the application so lapses;
- whichever first happens.
- (10) Where the Joint Authority refuses to grant the renewal of a lease by reason only that the Joint Authority is not satisfied as to the matter referred to in subparagraph (1)(c)(i), the lease shall be deemed to continue in force in all respects:
- (a) in a case to which paragraph (b) does not apply—until 12 months after the date of service of the instrument under subsection (2); or

- (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph (a)—until the Joint Authority grants, or refuses to grant, the licence or until the application lapses, whichever first happens.

38H Conditions of lease

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

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38J Discovery of petroleum to be notified

- (1) Where petroleum is discovered in a lease area, the lessee:
 - (a) shall forthwith inform the Designated Authority of the discovery; and
 - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Designated Authority particulars in writing of the discovery.

Penalty: 100 penalty units.

Division 3—Production licences for petroleum

39 Recovery of petroleum in adjacent area

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

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

Penalty: Imprisonment for 5 years.

39A Application for licence by holder of permit to which Royalty Act does not apply

- (1) This section applies to a permit to which the Royalty Act does not apply.
- (2) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (3) An applicant under subsection (2) may, for the purposes only of varying the number of blocks specified in the application, at any time before an instrument under subsection 43(1) informing the applicant that the Joint Authority is prepared to grant to the applicant a licence is served on the applicant, withdraw the application and make a fresh application under subsection (2).
- (4) Paragraph 41(1)(e) does not apply in relation to such a fresh application.
- (5) Subject to subsection (6), the application period in respect of a block under this section by a permittee is:
 - (a) the period of 2 years after the day on which the block that constitutes the location concerned was, or the blocks that

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constitute the location concerned were, declared to be a location; or

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

(6) Where:

- (a) a permittee applies for the grant by the Joint Authority of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 38A; and
- (b) an instrument refusing to grant the lease is served on the permittee pursuant to subsection 38B(2);

the application period is whichever of the following periods last expires:

- (c) the period that is applicable under subsection (5);
- (d) the period of 12 months after the day of service of the instrument.

40 Application for licence by holder of permit to which Royalty Act applies

(1A) This section applies to a permit to which the Royalty Act applies.

- (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location, may within the application period, make an application to the Designated Authority for the grant by the Joint Authority of a licence:
 - (a) where 9 or more blocks constitute the location concerned—in respect of 5 of those blocks;
 - (b) where 8 or 7 blocks constitute the location concerned—in respect of 4 of those blocks;
 - (c) where 6 or 5 blocks constitute the location concerned—in respect of 3 of those blocks;
 - (d) where 4 or 3 blocks constitute the location concerned—in respect of 2 of those blocks;

- (e) where 2 blocks constitute the location concerned—in respect of one of those blocks; or
 - (f) where one block constitutes the location concerned—in respect of that block.
- (2) A permittee whose permit is in force in respect of blocks that constitute a location:
- (a) instead of making an application under subsection (1) in respect of his primary entitlement, may, within the application period, make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of a number of those blocks that is less than his primary entitlement; and
 - (b) being the holder of a licence referred to in paragraph (a), may, from time to time within that period, make an application to the Designated Authority for the variation of that licence to include in the licence area a number of those blocks that does not exceed the number, if any, by which his primary entitlement exceeds the number of blocks in respect of which that licence was granted and the number of blocks, if any, included in that licence by reason of any previous variations of that licence.
- (3) Where:
- (a) a permittee makes an application under subsection (1) in respect of his primary entitlement; or
 - (b) a permittee who is the holder of a licence in respect of a number of blocks that is less than his primary entitlement makes an application under subsection (2) for a variation of that licence, and the number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is his primary entitlement;
- the permittee may, within the application period, make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of any of the other blocks forming part of the location concerned.

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- (4) Subject to subsection (5), the application period in respect of an application under this section by a permittee is:
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
 - (b) such other period, not less than 2 years or more than 4 years after that date, as the Designated Authority, on application by the permittee, in writing, served on the Designated Authority before the expiration of the first-mentioned period of 2 years, allows.
- (5) Where:
- (a) a permittee applies for the grant by the Joint Authority of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 38A; and
 - (b) an instrument refusing to grant the lease is served on the permittee pursuant to subsection 38B(2);
- the application period is whichever of the following periods last expires:
- (c) the period that is applicable under subsection (4);
 - (d) the period of 12 months after the day of service of the instrument.

40A Application for licence by holder of lease to which Royalty Act does not apply

- (1) This section applies to a lease to which the Royalty Act does not apply.
- (2) A lessee whose lease is in force in respect of a block or blocks may make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of that block, or in respect of one or more of those blocks, as the case may be.

40B Application for licence by holder of lease to which Royalty Act applies

- (1) This section applies to a lease to which the Royalty Act applies.
- (2) A lessee whose lease is in force may make an application to the Designated Authority for the grant by the Joint Authority of a licence:
 - (a) where the lease is in respect of 9 or more blocks—in respect of 5 of those blocks;
 - (b) where the lease is in respect of 8 or 7 blocks—in respect of 4 of those blocks;
 - (c) where the lease is in respect of 6 or 5 blocks—in respect of 3 of those blocks;
 - (d) where the lease is in respect of 4 or 3 blocks—in respect of 2 of those blocks;
 - (e) where the lease is in respect of 2 blocks—in respect of one of those blocks; or
 - (f) where the lease is in respect of one block—in respect of that block.
- (3) At any time while a lease is in force, the lessee may, instead of making an application under subsection (2) in respect of the lessee's primary entitlement, make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of a number of blocks that is less than the lessee's primary entitlement.
- (4) Where an application has been made under subsection (2) in respect of the lessee's primary entitlement, the lessee may, at any time while the lease concerned is in force, make an application to the Designated Authority for the grant by the Joint Authority of a licence in respect of any of the other blocks forming part of the lease.

41 Application for licence

- (1) An application under section 39A, 40, 40A or 40B:
 - (b) shall be made in an approved manner;

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- (c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application;
 - (d) may set out any other matters that the applicant wishes to be considered; and
 - (e) shall, in the case of an application for the grant of a licence, be accompanied by the prescribed fee.
- (2) The Designated Authority may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period specified in the instrument, further information in writing in connexion with his application.
- (3) If the Designated Authority receives an application, or further information, the Designated Authority must, within 28 days, determine whether or not sufficient information has been received to determine the application. If the Designated Authority considers that sufficient information has been provided, the Designated Authority must issue the applicant with a notice to that effect specifying the last date on which information was provided.
- (4) The issuing of a notice under subsection (3) does not prevent the Designated Authority from later requiring further information under subsection (2). However, the later request does not affect the notice under subsection (3).
- (5) If an application is finalised without a licence being granted, any notice issued under subsection (3) in relation to that application is taken never to have been issued.

Examples: An application may be finalised because it is withdrawn or because it is refused.

42 Determination of rate of royalty

- (1) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Joint Authority shall determine a rate at which royalty is to be payable in respect of petroleum recovered, whether under the primary licence or under

the secondary licence, being a rate that is not less than 11% nor more than 12¹/₂% of the value at the well-head of that petroleum.

- (2) The Joint Authority shall not, under subsection (1), determine the rate at which royalty is to be payable unless it has given to the applicant an opportunity to confer with the Designated Authority concerning that rate and the Designated Authority has reported to it concerning any such conferring.

43 Notification as to grant of licence

- (1) This section applies if an application for the grant of a licence has been made under section 39A, 40, 40A or 40B.

(1A) If:

- (a) the applicant has given any further information as and when required by the Designated Authority under subsection 41(2); and
(b) the Joint Authority is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum;

the Joint Authority must, by written notice served on the applicant, tell the applicant that it is prepared to grant to the applicant a licence in respect of the block or blocks as to which the Joint Authority is satisfied as mentioned in paragraph (b).

- (2) A notice under subsection (1A) shall:
- (a) contain a summary of the conditions subject to which the licence is to be granted;
- (b) if the instrument relates to an application for a secondary licence—specify the rate of royalty determined by the Joint Authority in pursuance of subsection 42(1); and
- (c) contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection 44(1) in respect of the grant of the licence.
- (3) If the Joint Authority decides not to grant to the applicant a licence in respect of the block, or any of the blocks, specified in the application because:

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- (a) the applicant has failed to comply with a requirement made by the Designated Authority under subsection 41(2); or
 - (b) the Joint Authority is not satisfied that the area comprised in the block, or any of the blocks, contains petroleum;
- the Joint Authority must, by written notice served on the applicant, tell the applicant of its decision and the reasons for the decision.

44 Grant of licence

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

- (5) On the day on which a licence granted under this section comes into force, the permit or lease in respect of the blocks in respect of which the licence was granted ceases to be in force in respect of those blocks.

44A Application of sections 39A and 41 to 44 where permit etc. transferred

Where:

- (a) after an application has been made:
- (i) under section 39A or 40 for the grant of a licence in respect of a block in respect of which a permit is in force; or
 - (ii) under section 40A or 40B for the grant of a licence in respect of a block in respect of which a lease is in force; and
- (b) before a decision has been made by the Joint Authority under subsection 43(1A) in relation to the application;
- a transfer of the permit or lease (as the case may be) is registered under section 78, then, after the time of the transfer:
- (c) in the case of an application under section 39A—that section has effect in relation to the application as if any reference in subsection (3) to the applicant were a reference to the transferee; and
 - (d) in all cases—sections 41 to 44 (inclusive) have effect in relation to the application as if any reference in those sections to the applicant were a reference to the transferee.

45 Variation of licence area

- (1) Where an application is made under subsection 40(2) for a variation of a licence, the Designated Authority shall, by instrument in writing served on the licensee, vary the licence to include in the licence area such of the blocks specified in the application as are blocks as to which the Joint Authority is satisfied as mentioned in paragraph 43(1A)(b).

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- (2) On and from the day on and from which a variation of a licence under this section has effect:
- (a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and
 - (b) the permit that is in force in respect of the blocks so included ceases to be in force in respect of those blocks.

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

- (1) Subject to subsection (2), where:
- (a) a permittee who may make an application under section 39A or 40 in respect of a block does not, within the application period, make the application; or
 - (b) an application made by a permittee under section 39A in respect of a block lapses or all applications made by a permittee under section 40 in respect of a block have lapsed;
- the permit is determined as to that block and the determination has effect:
- (c) in a case referred to in paragraph (a)—upon the expiration of the application period; and
 - (d) in a case referred to in paragraph (b):
 - (i) upon the expiration of the application period; or
 - (ii) upon the lapsing of the application, or of the last of the applications, referred to in that paragraph;
- whichever is the later.
- (1A) Where an application made by a lessee under section 40A in respect of a block lapses, the lease is determined as to that block.
- (1B) Subject to subsection (2), where all applications made by a lessee under section 40B in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.
- (2) Where a permittee or lessee makes an application for a secondary licence:

- (a) the permit or lease determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
 - (b) the determination has effect upon the making of the application.
- (3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Designated Authority shall, by instrument published in the *Gazette*:
 - (a) in a case where that block or those blocks constitutes or constitute that location—revoke the declaration made under section 37 in respect of that location; or
 - (b) in a case where that block or those blocks form part of that location—revoke the declaration made under section 37 in respect of that location to the extent that it relates to that block or those blocks.
- (4) Subsection (3) does not apply in relation to a block:
 - (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Joint Authority; or
 - (b) in respect of which a lease or licence is in force.
- (5) Where a lease is granted in respect of a block or blocks forming part of a location, the Designated Authority shall, by instrument published in the *Gazette*, revoke the declaration made under section 37 to the extent that it relates to the block or blocks that is or are not within the lease area.
- (6) Where:
 - (a) the Joint Authority refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and

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(b) the reason, or one of the reasons, for the refusal is that the Joint Authority is not satisfied as to the matter referred to in subparagraph 38B(1)(c)(ii);
the Designated Authority shall, by instrument published in the *Gazette*, revoke the declaration made under section 37 in respect of that location.

47 Application for licence in respect of surrendered blocks etc.

- (1) Where:
- (a) a licence is surrendered or cancelled as to a block; or
 - (b) a permit or lease is surrendered, cancelled or determined as to a block:
 - (i) that, at the time of the surrender, cancellation or determination, was, or was included in, a location; and
 - (ii) in which, in the opinion of the Joint Authority, there is petroleum;
- the Joint Authority may, at any subsequent time, by instrument published in the *Gazette*:
- (c) invite applications for the grant by the Joint Authority of a licence in respect of that block; and
 - (d) specify a period within which applications may be made.
- (2) The Joint Authority shall, in an instrument under subsection (1), state that an applicant is required to specify an amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the application.
- (6) An application under this section:
- (b) shall be made in an approved manner;
 - (c) shall be accompanied by the particulars referred to in paragraph 41(1)(c);
 - (d) shall specify the amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the application; and
 - (f) may set out any other matters that the applicant wishes to be considered.

- (7) The Designated Authority may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period specified in the instrument, further information in connexion with his application.

48 Application fee etc.

- (1) An application under section 47 shall be accompanied by:
- (a) the prescribed fee; and
 - (b) a deposit of 10% of the amount that the applicant has specified as the amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the application.
- (2) Where a licence is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.
- (3) Where an applicant on whom there has been served an instrument under subsection 49(1) does not, under subsection 49(6), request the grant to him of the licence referred to in the instrument, the deposit shall not be refunded to the applicant.

49 Request by applicant for grant of licence

- (1) Where, at the expiration of the period specified in an instrument under subsection 47(1), only one application has been made under that subsection in respect of the block specified in the instrument, the Joint Authority may reject the application or may, by instrument in writing served on the applicant, inform him that it is prepared to grant to him a licence in respect of that block.
- (2) Where, at the expiration of the period specified in an instrument under subsection 47(1), 2 or more applications have been made under that subsection in respect of the block specified in the instrument, the Joint Authority may reject any or all of the applications and, if it does not reject all of the applications, may:
- (a) if only one application remains unrejected—by instrument in writing served on the applicant; or

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- (b) if 2 or more applications remain unrejected—by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified in his application an amount that he would be prepared to pay that is not less than the amount specified in the application of any other applicant whose application has not been rejected;
inform him that it is prepared to grant to him a licence in respect of that block and that he will be required to pay the amount specified in the application.
- (5) An instrument under any of the preceding provisions of this section shall contain:
 - (a) a summary of the conditions subject to which the licence is to be granted;
 - (b) a statement of the balance of the amount, if any, that the applicant will be required to pay in respect of the grant of the licence to him; and
 - (c) a statement to the effect that the application will lapse:
 - (i) if the applicant does not make a request under subsection (6); or
 - (ii) in a case where the instrument contains a statement referred to in paragraph (b)—if the applicant does not pay the balance of the amount referred to in that statement.
- (6) An applicant on whom there has been served an instrument under any of the preceding provisions of this section may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Designated Authority, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows:
 - (a) by instrument in writing served on the Designated Authority, request the Joint Authority to grant to him the licence; and
 - (b) if the first-mentioned instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to him—pay that balance.

- (7) Where an applicant on whom there has been served an instrument under subsection (1) or (2):
- (a) has not made a request under subsection (6); or
 - (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him—has not paid that balance;
- within the period applicable under subsection (6), the application lapses upon the expiration of that period.
- (8) Where the application of an applicant on whom there has been served an instrument under subsection (2) lapses as provided by subsection (7), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

50 Grant of licence on request

Where an applicant on whom there has been served an instrument under section 49:

- (a) has made a request under subsection 49(6); and
 - (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him—has paid that balance;
- within the period applicable under subsection 49(6), the Joint Authority shall grant to him a production licence for petroleum in respect of the block specified in the instrument.

51 Grant of licences in respect of individual blocks

- (1) Where a licence (in this section called *the original licence*) is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the licensee may make an application to the Joint Authority for the grant to him of 2 or more licences in respect of the blocks the subject of the original licence in exchange for the original licence.
- (2) An application under subsection (1):
- (b) shall be made in an approved manner;
 - (c) shall specify the number of licences required;

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- (d) shall specify the block or blocks the subject of the original licence in respect of which each licence is sought; and
 - (e) shall be accompanied by the prescribed fee.
- (4) Where a licensee has made an application under this section, the Joint Authority shall grant to the licensee production licences for petroleum in accordance with the application.
- (5) A licence granted on an application under this section:
- (a) remains in force, subject to this Part, but notwithstanding section 53, for the remainder of the term of the original licence; and
 - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject.
- (6) Where licences are granted on an application under this section:
- (a) the original licence is, by force of this subsection, determined; and
 - (b) the determination has effect on and from the day on which those licences come into force.

52 Rights conferred by licence

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

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

53 Term of licence

- (1) Subject to this Part, a licence granted before the commencement of subsection (2) remains in force:

- (a) in the case of a licence granted otherwise than by way of renewal of a licence—for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day;
 - (b) in the case of a licence granted by way of the first renewal of a licence—for the period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day; and
 - (c) in the case of a licence granted by way of the second renewal of a licence—indefinitely.
- (2) Subject to this Part, a licence granted after the commencement of this subsection remains in force indefinitely.

53A Termination of licence if no operations for 5 years

- (1) If no operations for the recovery of petroleum under a licence referred to in paragraph 53(1)(c) or subsection 53(2) have been carried on for a continuous period of at least 5 years, the Joint Authority may, by written notice served on the licensee, inform the licensee that the Joint Authority proposes to terminate the licence after the end of one month after the notice is served.
- (2) At any time after the end of one month after the notice referred to in subsection (1) is served on the licensee, the Joint Authority may, by written notice served on the licensee, terminate the licence.
- (3) In working out for the purposes of subsection (1) the duration of the period in which no operations for the recovery of petroleum were carried on under a licence, any period in which no such operations were carried on because of circumstances beyond the licensee's control is to be disregarded.

54 Application for renewal of licence

- (1) A licensee under a licence to which paragraph 53(1)(a) or (b) applies may, from time to time, make an application to the

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Designated Authority for the renewal by the Joint Authority of the licence.

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

55 Grant or refusal of renewal of licence

- (1) Where:
 - (a) an application for the renewal of a licence has been made under section 54; and
 - (b) the conditions to which the licence is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with;the Joint Authority:
 - (c) must if:
 - (i) the application is in respect of the first renewal of the licence; or
 - (ii) the application is in respect of a renewal of the licence other than the first renewal and operations for the recovery of petroleum have been carried on in the licence area within 5 years before the application for the renewal was made; or
 - (d) may in any other case;by instrument in writing served on the person who is then the licensee, inform the person that it is prepared to grant to the person the renewal of the licence.

- (2) Where:
- (a) an application for the renewal of a licence has been made under section 54; and
 - (b) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, but the Joint Authority is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the licence;
- the Joint Authority may, by instrument in writing served on the person who is then the licensee, inform the person that it is prepared to grant to the person the renewal of the licence.
- (3) If any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Joint Authority is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Joint Authority shall, subject to subsection (4), by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- (4) The Joint Authority shall not, under subsection (3), refuse to grant the renewal of a licence unless:
- (a) it has, by instrument in writing served on the licensee, given not less than one month's notice of its intention to refuse to grant the renewal of the licence;
 - (b) it has served a copy of the instrument on such other persons, if any, as it thinks fit;
 - (c) it has, in the instrument:
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Designated Authority, submit any matters that he wishes to be considered; and
 - (d) it has taken into account any matters so submitted on or before the specified date by the licensee or by a person on

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whom a copy of the first-mentioned instrument has been served.

- (5) Where an application has been made under section 54 in respect of a renewal other than the first renewal of the licence, the Joint Authority may, by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- (7) An instrument under subsection (1) or (2) shall contain:
 - (a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (8).
- (8) A licensee on whom there has been served an instrument under subsection (1) or (2) may, within a period of one month after the date of service of the instrument on the licensee, by instrument in writing served on the Designated Authority, request the Joint Authority to grant the renewal of the licence to the licensee.
- (9) Where a licensee on whom there has been served an instrument under subsection (1) or (2) has made a request under subsection (8) within the period referred to in subsection (8), the Joint Authority shall grant to him the renewal of the licence.
- (10) Where a licensee on whom there has been served an instrument under subsection (1) or (2) has not made a request under subsection (8) within the period referred to in subsection (8), the application lapses upon the expiration of that period.
- (11) Where:
 - (a) an application for the renewal of a licence is made under section 54; and
 - (b) the licence expires:
 - (i) before the Joint Authority grants, or refuses to grant, the renewal of the licence; or
 - (ii) before the application lapses as provided by subsection (10);the licence shall be deemed to continue in force in all respects:

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

56 Conditions of licences

- (1) A licence may be granted subject to such conditions as the Joint Authority thinks fit and are specified in the licence.
- (2) A licence to which the Royalty Act applies (whether granted before or after the commencement of this subsection) shall be deemed to contain a condition that the licensee will comply with the provisions of the Royalty Act, as in force from time to time.

58 Directions as to recovery of petroleum

- (1) Where petroleum is not being recovered in a licence area and the Joint Authority is satisfied that there is recoverable petroleum in that area, it may, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.
- (2) Where the Joint Authority is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Joint Authority may, by instrument in writing served on the licensee, give to the licensee such directions as the Joint Authority thinks necessary for or in relation to the recovery of petroleum in the licence area.
- (3) Where petroleum is being recovered in a licence area, the Joint Authority may, for reasons that it thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Joint Authority specifies in the instrument.
- (4) Where the Joint Authority is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under

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subsection (3), the Joint Authority may, by instrument in writing served on the licensee, give to the licensee such directions as the Joint Authority thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area.

- (5) Without limiting the matters that may be taken into account by the Joint Authority in determining whether to give a direction under subsection (3) or (4), the Joint Authority may take into account matters relating to the effects on Commonwealth revenue of the proposed direction, but the Joint Authority shall not give a direction under subsection (3) or (4) if the direction would require action to be taken that is contrary to good oil-field practice.

59 Unit development

- (1) In this section, the expression *unit development*:
- (a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee and partly in a licence area of another licensee or in an area that is not within an adjacent area but in which a person other than the first-mentioned licensee is lawfully entitled to carry on operations for the recovery of petroleum from the pool; and
 - (b) means the carrying on of operations for the recovery of petroleum from that pool under co-operative arrangements between the persons entitled to carry on such operations in each of those areas.
- (2) A licensee may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum pool but nothing in this subsection derogates from the operation of subsection 81(2).
- (3) The Joint Authority, of its own motion or on application made to the Joint Authority in writing by:
- (a) a licensee in whose licence area there is a part of a particular petroleum pool; or
 - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside the adjacent area

that includes part of a particular petroleum pool that extends into the adjacent area;

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

(4) Where:

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

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

- (5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Joint Authority may, by instrument in writing served on the licensee, give to the licensee such directions as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the Joint Authority may, by instrument in writing served on the licensee, give to the licensee such directions as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

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- (7) Where an agreement under this section is in force or the Joint Authority has given directions under subsection (5) or (6), the Joint Authority may, having regard to additional information that has become available, by instrument in writing served on the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (8) The Joint Authority shall not give a direction under subsection (6) or (7) unless the Designated Authority has given to the licensee or licensees concerned an opportunity to confer with the Designated Authority concerning the proposed direction.
- (9) Directions under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.
- (10) In this section, *dealing* means a dealing to which section 81 applies.
- (11) If a petroleum pool extends, or is reasonably believed by the Designated Authority to extend, from the adjacent area in respect of a State or Territory into:
 - (a) lands to which the laws of that State or Territory or of another State or Territory relating to the exploitation of petroleum resources apply; or
 - (b) the adjacent area of an adjoining State or Territory;each Designated Authority concerned shall consult concerning the exploitation of the petroleum pool with any other Designated Authority concerned and with the appropriate authority of a State or Territory referred to in paragraph (a).
- (12) Where subsection (11) applies in relation to a petroleum pool, a Joint Authority shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool except with the approval of any other Joint Authority concerned and any State or Territory authority concerned.

Division 3A—Infrastructure licences

59A Construction etc. of infrastructure facilities

A person must not, in the adjacent area:

- (a) begin or continue the construction, or the alteration or reconstruction, of any infrastructure facilities; or
- (b) operate any infrastructure facilities;

except:

- (c) under and in accordance with an infrastructure licence; or
- (d) as otherwise permitted by this Part.

Penalty: Imprisonment for 5 years.

59B Application for infrastructure licence

- (1) A person may apply to the Designated Authority for the grant by the Joint Authority of an infrastructure licence.
- (2) The application:
 - (a) is to be made in an approved manner; and
 - (b) is to be accompanied by particulars of the proposals of the applicant for the construction and operation of facilities at a place in an adjacent area, being a place described in the application; and
 - (c) may set out any other matters that the applicant wishes to be considered; and
 - (d) is to be accompanied by the prescribed fee.
- (3) The Designated Authority may, at any time, by written notice served on the applicant, require the applicant to give, within the period stated in the notice, further written information in connection with the application.

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59C Notification as to grant of an infrastructure licence

- (1) If an application for the grant of an infrastructure licence has been made under section 59B and the applicant has given any further information as and when required by the Designated Authority under subsection 59B(3), then, subject to section 59D, the Joint Authority, by written notice served on the applicant, may inform the applicant that the Joint Authority is prepared to grant to the applicant an infrastructure licence in respect of the place described in the application.
- (2) A notice under subsection (1) must:
 - (a) contain a summary of the conditions subject to which the infrastructure licence is to be granted; and
 - (b) contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection 59E(1) in respect of the grant of the infrastructure licence.

59D Notices to be given by Joint Authority

- (1) This section applies if the Joint Authority is prepared to grant an infrastructure licence (the *proposed infrastructure licence*) in respect of a place in a block that:
 - (a) is the subject of a permit, lease, licence, infrastructure licence, special prospecting authority or access authority; or
 - (b) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence;of which the registered holder is a person other than the applicant.
- (2) The Joint Authority must not inform the applicant under section 59C that the Joint Authority is prepared to grant the proposed infrastructure licence unless the Joint Authority:
 - (a) has, by written notice served on the registered holder referred to in subsection (1), given not less than one month's notice that the Authority is prepared to grant the proposed infrastructure licence; and
 - (b) has served a copy of the notice on such other persons (if any) as the Authority thinks fit; and

- (c) has, in the notice:
 - (i) given particulars of the proposed infrastructure licence; and
 - (ii) specified a date, on or before which a person on whom the notice, or a copy of the notice, is served may, by writing served on the Authority, submit any matters that the person wishes the Authority to consider; and
 - (d) has taken into account any matters so submitted on or before the specified date by a person on whom the first-mentioned notice, or a copy of it, has been served.
- (3) Subsection (2) does not apply:
- (a) in respect of the registered holder of a permit, lease, licence, infrastructure licence or pipeline licence if the registered holder has consented in writing to the grant of the proposed infrastructure licence; or
 - (b) in respect of the registered holder of a special prospecting authority or an access authority if:
 - (i) the registered holder has consented in writing to the grant of the proposed infrastructure licence; or
 - (ii) the special prospecting authority or access authority will expire before any construction or operation of facilities under the proposed infrastructure licence would occur.

59E Grant of infrastructure licence

- (1) An applicant on whom a notice has been served under subsection 59C(1) (the *applicant*) may, by written notice served on the Designated Authority, request the Joint Authority to grant to the applicant the infrastructure licence referred to in the first-mentioned notice.
- (2) The request must be made:
 - (a) before the end of 3 months after the date of service of the notice on the applicant under subsection 59C(1); or
 - (b) if the Designated Authority, on application in writing served on that Authority before the end of that period, allows a

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further period of not more than 3 months for the making of the request—before the end of that further period.

- (3) If the applicant makes the request within the period applicable under subsection (2), the Joint Authority must grant to the applicant an infrastructure licence in respect of the place described in the application.
- (4) If the applicant does not make the request within the period applicable under subsection (2), the application lapses at the end of that period.

59F Rights conferred by infrastructure licence

- (1) An infrastructure licence, while it remains in force, authorises the infrastructure licensee, subject to this Act and the regulations and in accordance with the conditions to which the infrastructure licence is subject, to construct and operate infrastructure facilities in the infrastructure licence area.
- (2) To avoid doubt, the grant of an infrastructure licence is not a prerequisite to doing anything that could be authorised to be done by a permit, lease, licence or pipeline licence.

59G Term of infrastructure licence

Subject to this Part, an infrastructure licence remains in force indefinitely.

59H Termination of infrastructure licence if no operations for 5 years

- (1) If an infrastructure licensee:
 - (a) has not carried out any construction work under the infrastructure licence for a continuous period of at least 5 years; and
 - (b) has not used the facilities constructed under the infrastructure licence for a continuous period of at least 5 years;

the Joint Authority may, by written notice served on the infrastructure licensee, inform the infrastructure licensee that the Joint Authority proposes to terminate the infrastructure licence after the end of one month after the notice is served.

- (2) At any time after the end of one month after the notice referred to in subsection (1) is served on the infrastructure licensee, the Joint Authority may, by written notice served on the infrastructure licensee, terminate the infrastructure licence.
- (3) In working out, for the purposes of subsection (1), the duration of the period in which an infrastructure licensee did not carry out any construction work under the infrastructure licence or did not use the facilities constructed under the infrastructure licence, any period in which construction work was not carried out, or the facilities were not used, because of circumstances beyond the infrastructure licensee's control is to be disregarded.

59J Conditions of infrastructure licence

An infrastructure licence may be granted subject to such conditions as the Joint Authority thinks fit and are specified in the infrastructure licence.

59K Variation of infrastructure licence

- (1) An infrastructure licensee may, at any time, make an application to the Designated Authority for the variation by the Joint Authority of the infrastructure licence.
- (2) An application under this section:
 - (a) is to be made in the approved manner; and
 - (b) is to be accompanied by particulars of the proposed variation; and
 - (c) is to set out the reasons for the proposed variation; and
 - (d) is to be accompanied by the prescribed fee.
- (3) The Designated Authority may, at any time, by written notice served on the applicant, require the applicant to give, within the

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period stated in the notice, further written information in connection with the application.

- (4) If the infrastructure licence was granted in respect of a place in a block that:
- (a) is the subject of a permit, lease, licence, infrastructure licence, special prospecting authority or access authority; or
 - (b) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence; of which the registered holder is a person other than the applicant, the Joint Authority must not vary the infrastructure licence pursuant to the application unless the Designated Authority:
 - (c) has, by written notice served on the registered holder, given not less than one month's notice that the Joint Authority is considering the application; and
 - (d) has served a copy of the notice on such other persons (if any) as the Joint Authority thinks fit; and
 - (e) has, in the notice:
 - (i) given particulars of the proposed variation; and
 - (ii) specified a date on or before which a person on whom the notice, or a copy of the notice, is served may, by writing served on the Joint Authority, submit any matters that the person wishes the Joint Authority to consider.
- (5) Subsection (4) does not apply:
- (a) in respect of the registered holder of a permit, lease, licence, infrastructure licence or pipeline licence if the registered holder has consented in writing to the variation of the infrastructure licence; or
 - (b) in respect of the registered holder of a special prospecting authority or an access authority if:
 - (i) the registered holder has consented in writing to the variation of the infrastructure licence; or
 - (ii) the special prospecting authority or access authority will expire before any construction or operation of facilities under the infrastructure licence as proposed to be varied would occur.

- (6) After considering any matters submitted to the Designated Authority under subsection (4) on or before the date specified in the notice served under that subsection by a person to whom the notice, or a copy of the notice, has been served, the Joint Authority may:
- (a) by written notice served on the applicant, vary the infrastructure licence to such extent as the Joint Authority thinks necessary; or
 - (b) refuse to vary the infrastructure licence.

Division 4—Pipeline licences

60 Construction etc. of pipelines etc.

- (1) A person shall not, in the adjacent area:
 - (a) commence or continue the construction of, or the alteration or reconstruction of, a pipeline; or
 - (b) operate a pipeline;except under and in accordance with a pipeline licence.
- (4) A person must not, in the adjacent area, commence to operate a pipeline unless:
 - (a) it has been constructed and tested in accordance with a pipeline licence; and
 - (b) the Designated Authority has certified in writing that he or she is satisfied that the pipeline has been so constructed and tested and is fit to be operated.
- (5) A person shall not, in the adjacent area, recommence to operate a pipeline the previous operation of which was discontinued except with and in accordance with a consent in writing of the Designated Authority.
- (6) The Designated Authority may, for reasons that he thinks sufficient, refuse to give his consent or certificate for the purposes of this section or attach conditions to such a consent.

Penalty: Imprisonment for 5 years.

61 Acts done in an emergency etc.

It is not an offence against section 60:

- (a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline in good order and repair and:

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

62 Removal of pipeline etc. constructed in contravention of Act

- (1) Where:
- (a) the construction of a pipeline is commenced, continued or completed in contravention of this Act; or
 - (b) a pipeline is altered or reconstructed in contravention of this Act;
- the Designated Authority may, by instrument in writing served on the appropriate person, direct him:
- (c) to make such alterations to the pipeline as are specified in the instrument; or
 - (d) to move the pipeline to a specified place in, or to remove it from, the adjacent area;
- within the period specified in the instrument.
- (2) For the purpose of subsection (1), the appropriate person is:
- (a) if the construction of the pipeline has been completed—the owner of the pipeline; or
 - (b) if the construction of the pipeline has not been completed—the person for whom the pipeline is being constructed.
- (3) Where a person on whom there has been served an instrument under subsection (1) does not, within the period specified in the instrument or within such further period, if any, as the Designated Authority, on application in writing served on him before the expiration of the first-mentioned period, allows, comply with the direction, the Designated Authority may do all or any of the things required by the direction to be done.
- (4) Costs and expenses incurred by the Designated Authority under subsection (3) are a debt due by the person referred to in that

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subsection to the Commonwealth and are recoverable in a court of competent jurisdiction.

63 Terminal station

The Designated Authority may, by instrument published in the *Gazette*, declare a pumping station, a tank station or a valve station in an adjacent area to be a terminal station.

64 Application for pipeline licence

General requirements for all applications for pipeline licences

- (1) An application for a pipeline licence, whether or not that licence is for the conveyance of petroleum recovered from an area within an adjacent area:
 - (b) shall be made in an approved manner;
 - (c) shall be accompanied by particulars of:
 - (i) the proposed design and construction of the pipeline;
 - (ii) the proposed size and capacity of the pipeline;
 - (iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline;
 - (iv) the technical qualifications of the applicant and of his employees;
 - (v) the technical advice available to the applicant;
 - (vi) the financial resources available to the applicant; and
 - (vii) any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline;
 - (d) shall be accompanied by a plan, drawn to an approved scale, showing:
 - (i) the route to be followed by the pipeline;
 - (ii) the sites of pumping stations, tank stations and valve stations to be used in connexion with the pipeline; and
 - (iii) the site of any pumping station, tank station or valve station that the applicant desires to be declared under

section 63 to be a terminal station in connexion with the pipeline;

- (e) may set out any other matters that the applicant wishes to be considered; and
- (f) shall be accompanied by the prescribed fee.

Rights of production licensees following application for certain pipeline licences by other persons

- (2) Where a notice is published in the *Gazette* of an application by a person other than the registered holder of the production licence for that area (the *licensee*) for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area, the licensee may, within a period of 3 months after the date of publication of the notice, or within such further period, not exceeding 3 months, as the Designated Authority, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, make an application for such a pipeline licence and, in the application, request that the application referred to in the notice be rejected.

Joint Authority must refuse application under subsection (2) if a successful application is made by production licensee

- (3) Where:
 - (a) a notice is published in the *Gazette* of an application by a person other than the registered holder of the production licence for a licence area for a pipeline licence in respect of the construction of the pipeline for the conveyance of petroleum recovered in that area; and
 - (b) such a pipeline licence is granted to the licensee on an application under subsection (2);

the Joint Authority shall, by instrument in writing served on the applicant reject the application referred to in the notice.

Designated Authority may seek further information in relation to any pipeline licence application

- (4) The Designated Authority may, at any time, by instrument in writing served on a person who has made an application under

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subsection (1), require him to furnish, within the time specified in the instrument, further information in writing in connexion with his application.

65 Grant or refusal of pipeline licence

Notification of preparedness to grant pipeline licence relating to licence area to person other than production licensee

- (1) Where a person makes an application in accordance with section 64 for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area within or outside that, or another, adjacent area, the Joint Authority may, if:
- (a) that person is not the registered holder of the production licence for that licence area; and
 - (b) the application has not been rejected under subsection 64(3);
- inform that person, by instrument in writing served on the person, that it is prepared to grant the person a pipeline licence.

Notification of preparedness to grant pipeline licence relating to licence area to production licensee

- (2) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the registered holder of the production licence for that licence area (the *licensee*), the Joint Authority:
- (a) shall, if the conditions to which the production licence for that licence area is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
 - (b) may, if:
 - (i) any of the conditions to which the production licence for that licence area is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and

- (ii) the Joint Authority is, nevertheless, satisfied that special circumstances exist that justify the granting of a pipeline licence;

by instrument in writing served on the person who is then the registered holder of the production licence for that licence area (the *licensee*), inform the person that it is prepared to grant to the person a pipeline licence.

Notification of preparedness to grant other pipeline licences

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

Joint Authority may refuse to grant pipeline licence relating to licence area if production licence conditions not complied with, etc.

- (3) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the registered holder of the production licence for that licence area (the *licensee*), the Joint Authority shall, if:
- (a) any of the conditions to which the production licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and
 - (b) the Joint Authority is not satisfied that special circumstances exist that justify the granting of a pipeline licence;
- by instrument in writing served on the person who is then the registered holder of the production licence for that licence area (the *licensee*), refuse to grant a pipeline licence.

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Joint Authority must not refuse to grant pipeline licence to production licensee under subsection (3) unless notice given

- (4) The Joint Authority shall not, under subsection (3), refuse to grant a pipeline licence for the conveyance of petroleum recovered in a licence area to the registered holder of the production licence for that area (the *licensee*) unless:
- (a) it has, by instrument in writing served on the licensee, given not less than one month's notice of its intention to refuse to grant the pipeline licence;
 - (b) it has served a copy of the instrument on such other persons, if any, as it thinks fit;
 - (c) it has, in the instrument:
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Designated Authority, submit any matters that he wishes to be considered; and
 - (d) it has taken into account any matters so submitted on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.

Joint Authority may refuse to grant pipeline licence relating to a licence area to a person other than the production licensee

- (5) Where a person other than the registered holder of the production licence for a licence area makes an application in accordance with section 64 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in that licence area, the Joint Authority may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.

Instrument indicating preparedness to grant a pipeline licence must specify route of pipeline and conditions of licence

- (7) An instrument under subsection (1), (2) or (2A):
- (a) shall specify the route to be followed by the pipeline;

- (b) shall contain a summary of the conditions subject to which the pipeline licence is to be granted; and
- (c) shall contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection (9).

Route to be specified in respect of all pipeline licences

- (8) The route to be specified in an instrument under subsection (1), (2) or (2A) shall be:
 - (a) the route shown in the plan accompanying the application; or
 - (b) if the Joint Authority is of the opinion that, for any reason, that route is not appropriate—a route that, in the opinion of the Joint Authority, is appropriate.

All persons notified of preparedness to grant pipeline licence have 3 months to request grant of licence

- (9) A person on whom there has been served an instrument under subsection (1), (2) or (2A) may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Designated Authority on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by instrument in writing served on the Designated Authority, request the Joint Authority to grant to the person the pipeline licence.

If request for grant of pipeline licence is made within due time, Joint Authority must grant licence

- (10) Where a person on whom there has been served an instrument under subsection (1), (2) or (2A) has made a request under subsection (9) within the period applicable under subsection (9), the Joint Authority shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the instrument.

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If grant of pipeline licence not requested within time, application for licence lapses

- (11) Where a person on whom there has been served an instrument under subsection (1), (2) or (2A) has not made a request under subsection (9) within the period applicable under subsection (9), the application lapses upon the expiration of that period.

66 Rights conferred by pipeline licence

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

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

67 Term of pipeline licence

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

67A Termination of pipeline licence if no operations for 5 years

- (1) If a pipeline licensee:
 - (a) has not carried out any construction work under the pipeline licence for a continuous period of at least 5 years; and
 - (b) has not used the pipeline or a part of the pipeline for a continuous period of at least 5 years;the Joint Authority may, by written notice served on the pipeline licensee, inform the pipeline licensee that the Joint Authority proposes to terminate the pipeline licence, or to terminate the pipeline licence in respect of the part of the pipeline, as the case may be, after the end of one month after the notice is served.
- (2) At any time after the end of one month after the notice referred to in subsection (1) is served on the pipeline licensee, the Joint Authority may, by written notice served on the pipeline licensee, terminate the pipeline licence or terminate the pipeline licence in respect of the part of the pipeline, as the case may be.
- (3) In working out, for the purposes of subsection (1), the duration of the period in which a pipeline licensee did not carry out any construction work under the pipeline licence or did not use the pipeline or a part of the pipeline, any period in which construction work was not carried out, or the pipeline or part of the pipeline was not used, because of circumstances beyond the pipeline licensee's control is to be disregarded.

70 Conditions of pipeline licence

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

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71 Variation by the Joint Authority of pipeline licence on application by pipeline licensee

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

72 Variation of pipeline licence by Joint Authority

- (1) The Joint Authority may:
 - (a) at the request of:
 - (i) a Minister of State of the Commonwealth or of a State; or
 - (ii) a body established by a law of the Commonwealth or of a State or Territory; and

- (b) if, in its opinion, it is in the public interest so to do;
by instrument in writing served on a person who is a pipeline licensee or the holder of an instrument of consent under section 60, direct that person to make such changes in the design, construction, route or position of the pipeline to which the pipeline licence or instrument of consent relates as are specified in the first-mentioned instrument, within the period specified in the first-mentioned instrument, and, if the person so directed is a pipeline licensee, shall vary the pipeline licence accordingly.
- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.
- Penalty: Imprisonment for 5 years.
- (3) Where the Joint Authority gives a direction under subsection (1) and the person to whom the direction is given complies with the direction, that person may bring an action in the High Court or the Supreme Court against the Minister or body making the request.
- (4) The court shall hear the action, without a jury, and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.
- (5) If the court determines that it is just that such a payment ought to be made, the court shall determine the amount of the payment and give judgment accordingly.
- (6) In this section, *the Supreme Court* means the Supreme Court of the State or Territory to which the adjacent area in which the pipeline is constructed is specified in Schedule 2 as being adjacent.

73 Common carrier

- (1) The Joint Authority may, by instrument in writing served on a pipeline licensee, direct the pipeline licensee to be a common carrier of petroleum in respect of the pipeline and thereupon the pipeline licensee is a common carrier of petroleum in respect of the pipeline.

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- (2) Subsection (1) does not apply in relation to a pipeline if:
- (a) the pipeline is a covered pipeline within the meaning of the Third Party Access Code; or
 - (b) the service provided by means of the pipeline is the subject of a declaration under section 44H of the *Trade Practices Act 1974*; or
 - (c) the service provided by means of the pipeline is the subject of an undertaking accepted by the Australian Competition and Consumer Commission under section 44ZZA of the *Trade Practices Act 1974*.
- (3) While a direction made by the joint Authority is in force in respect of a pipeline:
- (a) the pipeline cannot be a covered pipeline within the meaning of the Third Party Access Code; and
 - (b) Part IIIA of the *Trade Practices Act 1974* does not apply in relation to any service provided by means of the pipeline.

74 Ceasing to operate pipeline

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

Penalty: Imprisonment for 5 years.

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

Division 5—Registration of instruments

75 Interpretation

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

76 Register of certain instruments to be kept

- (1) For the purposes of this Part, the Designated Authority shall keep a Register of titles and special prospecting authorities granted under this Act relating to the adjacent area.
- (2) The Designated Authority shall enter in the Register a memorial in respect of each title or special prospecting authority:
 - (a) specifying the name of the holder of the title or special prospecting authority; and
 - (b) in the case of a permit, lease or licence, setting out an accurate description (including, where convenient, a map) of the permit area, lease area or licence area; and
 - (ba) in the case of an infrastructure licence, setting out particulars of the infrastructure licence area; and
 - (c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient, a map) of the area in respect of which the special prospecting authority or access authority is in force; and
 - (d) in the case of a pipeline licence, setting out a description of the route of the pipeline; and
 - (e) specifying the term of the title or special prospecting authority; and
 - (f) setting out such other matters and things as are required by this Part to be entered in the Register; and
 - (g) setting out such further matters relating to the registered holder or to the terms and conditions of the permit, licence, infrastructure licence, pipeline licence or access authority as

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the Designated Authority deems proper and expedient in the public interest.

- (3) The Designated Authority shall enter in the Register a memorial of:
 - (a) any instrument varying, cancelling, surrendering or otherwise affecting a title or special prospecting authority;
 - (b) any instrument under subsection 59(5), (6) or (7);
 - (d) any instrument varying or revoking an instrument referred to in paragraph (a) or (b).
- (4) It is a sufficient compliance with the requirements of subsection (2) or (3) if the Designated Authority enters a copy of the title, special prospecting authority or instrument in the Register.
- (6) The Designated Authority shall endorse on the memorial or copy of the title, special prospecting authority or instrument a memorandum of the date upon which the memorial or copy was entered in the Register.

77 Memorials to be entered of permits etc. determined etc.

Where:

- (a) a permit or lease ceases to be in force in respect of a block in respect of which a licence is granted;
 - (aa) a permit ceases to be in force in respect of a block in respect of which a lease is granted;
 - (b) a permit or lease has been wholly determined or partly determined; or
 - (c) a title or special prospecting authority has expired;
- the Designated Authority shall enter in the Register a memorial of the fact.

78 Approval and registration of transfers

- (1) A transfer of a title is of no force until it has been approved by the Designated Authority and an instrument of transfer is registered as provided by this section.

- (2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Designated Authority for approval of the transfer.
- (3) An application for approval of a transfer of a title shall be accompanied by:
 - (a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee;
 - (b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out:
 - (i) the technical qualifications of that transferee or those transferees;
 - (ii) details of the technical advice that is or will be available to that transferee or those transferees; and
 - (iii) details of the financial resources that are or will be available to that transferee or those transferees; and
 - (c) 2 copies of the application and of the instruments referred to in paragraphs (a) and (b).
- (4) The Designated Authority shall not approve the transfer of a title unless the application was lodged with the Designated Authority within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Designated Authority, in special circumstances, allows.
- (5) Where an application for approval of a transfer is made in accordance with this section, the Designated Authority shall enter a memorandum in the Register of the date on which the application was lodged and may make such other notation in the Register as the Designated Authority considers appropriate.
- (6) The Designated Authority must consider each application for approval of the transfer of a title and determine whether to approve the transfer.

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- (7) Where an application for approval of the transfer of a title is made in accordance with this section, the Designated Authority shall, by notice in writing served on the person who made the application, inform the person of the decision of the Designated Authority.
- (9) Where the Designated Authority approves the transfer of a title, the Designated Authority shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the fee provided by the Registration Fees Act, enter in the Register a memorandum of the transfer and the name of the transferee or of each transferee.
- (10) Upon the entry in the Register of a memorandum of the transfer of a title and of the name of the transferee or each transferee in accordance with subsection (9):
 - (a) the transfer shall be deemed to be registered; and
 - (b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.
- (11) Where the Designated Authority refuses to approve the transfer of a title, the Designated Authority shall make a notation of the refusal in the Register.
- (12) Where a transfer is registered:
 - (a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Designated Authority and made available for inspection in accordance with this Division; and
 - (b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.
- (13) The mere execution of an instrument of transfer of a title creates no interest in the title.

79 Entries in Register on devolution of title etc.

- (1) A person upon whom the rights of a registered holder of a particular title have devolved by operation of law may apply in

writing to the Designated Authority to have his name entered in the Register as the holder of the title.

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

81 Approval of dealings relating to existing titles

- (1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects:
 - (a) the creation or assignment of an interest in an existing title;
 - (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;
 - (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under co-operative arrangements for the recovery of petroleum);
 - (d) the creation or assignment of:
 - (i) an interest in relation to an existing permit, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or

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- (ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorized by an existing permit, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;
 - (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
 - (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
 - (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f);
- but this section does not apply to a transfer to which section 78 applies.
- (2) A dealing to which this section applies is of no force in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until:
 - (a) the dealing, in so far as it relates to that title, has been approved by the Designated Authority; and
 - (b) an entry has been made in the Register in relation to the dealing by the Designated Authority in accordance with subsection (12).
 - (3) A party to a dealing to which this section applies may lodge with the Designated Authority:
 - (a) in a case where the dealing relates to only one title, an application in writing for approval by the Designated Authority of the dealing; or
 - (b) in any other case, a separate application in writing for approval by the Designated Authority of the dealing in relation to each title to which the dealing relates.
 - (4) An application under subsection (3) for approval of a dealing:

- (a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Designated Authority for the purposes of another application, a copy of that instrument; and
 - (b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.
- (4A) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of:
 - (a) the application;
 - (b) the instrument referred to in paragraph (4)(a); and
 - (c) any instrument lodged for the purposes of paragraph (4)(b).
- (5) Subject to subsection (6), the Designated Authority shall not approve a dealing unless the application for approval of the dealing is lodged with the Designated Authority within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Designated Authority, in special circumstances, allows.
- (6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in subsection 81A(1), the Designated Authority shall not approve the dealing unless:
 - (a) a provisional application for approval of the dealing was lodged in accordance with subsection 81A(1); or
 - (b) an application for approval of the dealing is lodged with the Designated Authority in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Designated Authority, in special circumstances, allows.
- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.
- (8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of

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the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with paragraph (4)(a), and with subsection (4A) in so far as that subsection requires 2 copies of the document referred to in paragraph (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with the Australian Securities and Investments Commission relating to the creation of that charge under section 263 of the *Corporations Act 2001*.

- (9) On receipt of an application made under this section, the Designated Authority shall enter a memorandum in the Register of the date on which the application was lodged and may make such other notation in the Register as the Designated Authority considers appropriate.
- (10) The Designated Authority may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.
- (11) The Designated Authority shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Designated Authority.
- (12) If the Designated Authority approves a dealing, the Designated Authority shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the fee provided by the Registration Fees Act, make an entry of the approval of the dealing in the Register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.
- (13) Where an entry is made in the Register in relation to a dealing in accordance with subsection (12):
 - (a) if the dealing was approved before the commencement of section 11 of the *Petroleum (Submerged Lands) Legislation Amendment Act 1987* or the application for approval of the dealing was not accompanied by an instrument for the purpose of paragraph (4)(b), one copy of the instrument

evidencing the dealing endorsed with a memorandum of approval shall be retained by the Designated Authority and made available for inspection in accordance with this Division;

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

81A Approval of dealings in future interests etc.

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

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

82 True consideration to be shown

- (1) A person who is a party to a transfer referred to in section 78, a dealing to which section 81 applies or a dealing referred to in subsection 81A(1) shall not lodge with the Designated Authority:
- (a) an instrument of transfer;
 - (b) an instrument evidencing the dealing; or
 - (c) an instrument of the kind referred to in paragraph 81(4)(b);
- that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing under the Registration Fees Act, being a statement that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: 100 penalty units.

- (1A) For the purposes of an offence against paragraph (1)(c), strict liability applies to the physical element of the offence, that the instrument is an instrument of the kind referred to in paragraph 81(4)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Where a person is convicted of an offence against subsection (1), the Designated Authority may make a fresh determination of the amount of the fee payable under the Registration Fees Act in respect of the memorandum relating to the transfer or dealing.
- (3) Subsections 91(2) and (3) apply in relation to a determination under subsection (2) as they apply in relation to a determination under subsection 91(1).

83 Designated Authority not concerned with certain matters

The Joint Authority, the Designated Authority, and any person acting under the direction or authority of the Joint Authority or the Designated Authority, are not concerned with the effect in law of an instrument lodged in pursuance of this Division, nor does the approval of a transfer or dealing give to the transfer or dealing any

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force, effect or validity that the transfer or dealing would not have had if this Division had not been enacted.

84 Power of Designated Authority to acquire information as to dealings

- (1) The Designated Authority may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Division to furnish to him in writing such information concerning the transfer or dealing as the Designated Authority considers necessary or advisable.
- (1A) The Designated Authority may require a person who is a party to a dealing approved under section 81 to furnish to the Designated Authority a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Designated Authority considers necessary or advisable.
- (1B) The Designated Authority may require a person making an application under subsection 79(1) or (3) or 87A(2) to furnish to the Designated Authority in writing such information concerning the matter to which the application relates as the Designated Authority considers necessary or advisable.
- (1C) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1), (1A) or (1B).
- (2) A person who is so required to furnish information must not furnish information knowing that it is false or misleading in a material particular.

Penalty: 50 penalty units.

85 Production and inspection of documents

- (1) The Designated Authority may require any person to produce to the Designated Authority or make available for inspection by or on behalf of the Designated Authority any documents in the possession or under the control of that person and relating to a

transfer or dealing in relation to which approval is sought under this Division.

(1A) The Designated Authority may require any person to produce to the Designated Authority or to make available for inspection by the Designated Authority any documents in the possession or under the control of that person and relating to an application made to the Designated Authority under subsection 79(1) or (3) or 87A(2).

(2) A person must not fail to comply with a requirement given to the person under subsection (1) or (1A).

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) A person must not refuse to comply with a requirement given to the person under subsection (1) or (1A).

Penalty: 50 penalty units.

86 Inspection of Register and documents

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

87 Evidentiary provisions

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

(2) The Designated Authority may, on payment of a fee calculated in accordance with the regulations, supply copies of or extracts from the Register or of or from any instrument lodged with him under this Division, certified by writing under his hand, and such a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

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- (3) The Designated Authority may, on payment of a fee calculated in accordance with the regulations, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

87A Designated Authority may make corrections to Register

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

- (b) after making an entry in the Register, cause to be published in the *Gazette* a notice setting out the terms of the entry.

88 Appeals

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

90 Offences

A person shall not:

- (a) make, cause to be made or concur in making a false entry in a Register; or
- (b) produce or tender in evidence a document falsely purporting to be a copy of or extract from an entry in a Register or of or from an instrument lodged with the Designated Authority under this Division.

Penalty: 50 penalty units.

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91 Assessment of fee

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

92 The Supreme Court

In this Division, *the Supreme Court*, means, in relation to an application for the rectification of the Register kept by, or in relation to an appeal against a determination of, the Designated Authority in respect of the adjacent area in respect of a State or Territory, the Supreme Court of, or having jurisdiction in, that State or Territory.

Division 6—General

94 Notice of grants of permits etc. to be published

The Designated Authority shall cause notice of, and such particulars as he thinks fit of:

- (a) the grant of a permit, lease, licence, infrastructure licence or pipeline licence; and
- (aa) the renewal of a permit, lease or licence; and
- (b) the variation of a licence, infrastructure licence or pipeline licence; and
- (c) the surrender or cancellation of a permit, lease or licence as to all or some of the blocks in the permit area, lease area or licence area; and
- (ca) the surrender or cancellation of an infrastructure licence; and
- (d) the determination of a permit or lease as to a block or blocks; and
- (e) an application for a pipeline licence or for a variation of a pipeline licence; and
- (f) the surrender or cancellation of a pipeline licence as to the whole or part of the pipeline; and
- (g) the expiry of a permit, lease or licence, or the termination of a licence, infrastructure licence or pipeline licence, to be published in the *Gazette*.

95 Date of the effect of surrender etc. of permits etc.

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

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

96 Commencement of works

- (1AA) This section does not apply to permits granted under section 22 or such permits renewed under section 32.
- (1) Where a permit, lease, licence, infrastructure licence or pipeline licence is granted subject to a condition that works or operations specified in the permit, lease, licence, infrastructure licence or pipeline licence are to be carried out, the permittee, lessee, licensee, infrastructure licensee or pipeline licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force.
- (2) The Designated Authority may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, lessee, licensee, infrastructure licensee or pipeline licensee:
 - (a) exempt him from compliance with the requirements of subsection (1); and
 - (b) direct him to commence to carry out the works or operations specified in the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, within such period after the day on which the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force as is specified in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: 100 penalty units.

97 Work practices

- (1) A permittee, lessee or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oil-field practice.
- (2) In particular, and without limiting the generality of subsection (1) but subject to any authorization or requirement given or made by or under this Act or regulations or directions under this Act, a permittee, lessee or licensee shall:
 - (a) control the flow and prevent the waste or escape in the permit area, lease area or licence area of petroleum or water;
 - (b) prevent the escape in the permit area, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter;
 - (c) prevent damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which the permit, lease or licence is not in force;
 - (d) keep separate:
 - (i) each petroleum pool discovered in the permit area, lease area or licence area; and
 - (ii) such of the sources of water, if any, discovered in that area as the Designated Authority, by instrument in writing served on that person, directs; and
 - (e) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area or licence area except when required by, and in accordance with, good oil-field practice.
- (2A) An infrastructure licensee must carry out operations authorised by the infrastructure licence in a safe manner and in accordance with good oil-field, processing and transport practices.
- (2B) In particular and without limiting the generality of subsection (2A), but subject to any authorisation given, or requirement made, under this Act or the regulations or under any direction given under this Act, an infrastructure licensee must control the flow, and prevent

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the waste or escape, from a facility constructed under the infrastructure licence of water, petroleum or any product derived by processing petroleum.

- (3) A pipeline licensee shall operate the pipeline in a proper and workmanlike manner.
- (4) In particular and without limiting the generality of subsection (3), a pipeline licensee shall prevent the waste or escape of petroleum or water from the pipeline or from any secondary line, pumping station, tank station, valve station or water line.
- (5) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oil-field practice.
- (6) It is a defence if a person charged with failing to comply with a provision of this section, or a defendant in an action arising out of a failure by the defendant to comply with a provision of this section, proves that he took all reasonable steps to comply with that provision.

Note: The defendant bears a legal burden in relation to the matter in subsection (6), see section 13.4 of the *Criminal Code*.

Penalty: 100 penalty units.

97A Conditions relating to insurance

- (1) The holder of a permit, lease, licence, infrastructure licence or pipeline licence must maintain, as directed by the Designated Authority from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, lease, licence, infrastructure licence or pipeline licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

- (2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the holder maintain, as directed by the Designated Authority from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.
- (3) Where:
- (a) a permit, lease, licence, infrastructure licence or pipeline licence was in force immediately before the commencement; and
 - (b) the Designated Authority has required the holder to maintain insurance under subsection (1); and
 - (c) the Designated Authority is satisfied that the required insurance is in effect;
- the Designated Authority must issue a certificate that it is so satisfied.
- (4) Where the Designated Authority issues a certificate under subsection (3), any security in force in relation to the permit, lease, licence, infrastructure licence or pipeline licence, being a security that was required under this Act before the commencement of this section, is discharged.
- (5) The discharge of a security under subsection (4) has no effect on any liability arising under or in relation to the security before its discharge.

98 Maintenance etc. of property

- (1) In this section:

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

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the operations area:

- (a) in relation to an operator who is a permittee, lessee or licensee—means the permit area, lease area or licence area, as the case may be; and
 - (aa) in relation to an operator who is an infrastructure licensee—means the infrastructure licence area; and
 - (b) in relation to an operator who is a pipeline licensee—means the part of the adjacent area in which the pipeline is constructed; and
 - (c) in relation to an operator who is the holder of a special prospecting authority or access authority—means the area in respect of which that authority is in force.
- (2) An operator shall maintain in good condition and repair all structures, equipment and other property in the operations area and used in connexion with the operations in which he is engaged.
- (3) An operator shall remove from the operations area all structures, equipment and other property that are not either used or to be used in connexion with the operations in which he is engaged.
- (3A) The offences against subsections (2) and (3) are offences of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) Subsections (2) and (3) do not apply in relation to any structure, equipment or other property that was not brought into the operations area by or with the authority of the operator.

Penalty: 100 penalty units.

99 Sections 97 and 98 to have effect subject to this Act etc.

Sections 97 and 98 have effect subject to:

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

101 Directions

- (1) The Designated Authority may, by instrument in writing served on the registered holder of a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.
- (2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to:
 - (a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons:
 - (i) servants or agents of, or persons acting on behalf of, the registered holder;
 - (ii) persons performing work or services, whether directly or indirectly, for the registered holder; or
 - (b) any person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the adjacent area for any reason touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil or is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of that kind;

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

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

- (3) The Designated Authority shall not give a direction under subsection (1) of a standing or permanent nature except with the approval of the Joint Authority, but the validity of a direction of the Designated Authority shall not be called in question by reason of this subsection.
- (4) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.
- (5) A direction under this section has effect and shall be complied with notwithstanding anything in the regulations or the applied provisions.
- (6) Subsections 157(2A) and (2B) apply in relation to directions made under this section in like manner as those subsections apply to the regulations.
- (7) A person who fails to comply with a direction in force under subsection (1) that applies to the person is guilty of an offence punishable, upon conviction, by a fine not exceeding \$10,000.
- (7A) An offence against subsection (7) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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

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

Note: The defendant bears an evidential burden in relation to the matter in paragraph (8)(b), see subsection 13.3(3) of the *Criminal Code*.

102 Compliance with directions

- (1) Where a person does not comply with a direction given or applicable to the person under this Part or under the regulations, the Designated Authority may do all or any of the things required by the direction to be done.
- (1A) Where the direction was given by the Joint Authority, the Designated Authority shall not take action under subsection (1) except with the approval of the Joint Authority.
- (2) Costs and expenses incurred by the Designated Authority under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given or was applicable to the Commonwealth and are recoverable in a court of competent jurisdiction.
- (2A) Where:
 - (a) a direction given under section 101 applies to a permittee, lessee, licensee, infrastructure licensee, pipeline licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and

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- (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction;
- the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.
- (3) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Part or under the regulations or a defendant in an action under subsection (2) proves that he took all reasonable steps to comply with the direction.

103 Exemption

- (1) Where:
- (a) a permit, lease or licence is, under this Part, to be taken to continue in force until the Joint Authority grants, or refuses to grant, the renewal of the permit, lease or licence;
 - (b) a licence is varied under section 45;
 - (c) a licensee enters into an agreement under section 59, or a direction is given to a licensee under that section;
 - (d) a permit, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force;
 - (e) a pipeline licence is varied under section 71 or 72;
 - (f) a direction is given to a pipeline licensee under section 73;
 - (g) a pipeline licence is partly cancelled;
 - (h) a permittee, lessee or licensee consents to the making of a determination under section 149;
 - (j) a permittee, lessee, licensee, infrastructure licensee or pipeline licensee applies, by written instrument served on the Designated Authority:
 - (i) for a variation or suspension of; or
 - (ii) for exemption from compliance with;any of the conditions to which the permit, lease, licence, infrastructure licence or pipeline licence is subject; or

(k) the Designated Authority or Joint Authority, under this Part or the regulations, gives a direction or consent to a permittee, lessee, licensee, infrastructure licensee or pipeline licensee; the Joint Authority may, at any time, by written instrument served on the permittee, lessee, licensee, infrastructure licensee or pipeline licensee:

(m) vary or suspend; or

(n) exempt the permittee, lessee, licensee, infrastructure licensee or pipeline licensee from compliance with;

any of the conditions to which the permit, lease, licence, infrastructure licence or pipeline licence is subject, upon such conditions, if any, as the Joint Authority determines and specifies in the instrument.

(1A) Where:

(a) an access authority is granted in respect of a block the subject of a permit, lease or licence, or an access authority as in force in respect of such a block is varied;

(b) the holder of a special prospecting authority or access authority applies, by written instrument served on the Designated Authority:

(i) for a variation or suspension of; or

(ii) for exemption from compliance with;

any of the conditions to which the special prospecting authority or access authority is subject; or

(c) the Designated Authority, under this Part or the regulations, gives a direction or consent to the holder of a special prospecting authority or access authority;

the Designated Authority may, at any time, by written instrument served on the holder of the special prospecting authority or access authority:

(d) vary or suspend; or

(e) exempt the holder of the special prospecting authority or access authority from compliance with;

any of the conditions to which the special prospecting authority or access authority is subject, upon such conditions, if any, as the Designated Authority determines and specifies in the instrument.

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- (2) Subsection (1) does not authorize the making of an instrument to the extent that it would affect:
 - (a) a condition of a permit, lease or licence included in the permit, lease or licence in compliance with the Royalty Act; or
 - (b) the term of a permit, lease, licence, infrastructure licence or pipeline licence.
- (3) Where, in pursuance of subsection (1), the Joint Authority suspends, or exempts the permittee or lessee from compliance with, any of the conditions to which a permit or lease is subject, the Joint Authority may, if it considers the circumstances make it reasonable to do so, in the instrument of suspension or exemption or by a later instrument in writing served on the permittee or lessee, extend the term of the permit or lease by a period not exceeding the period of the suspension or exemption.

103A Suspension of rights conferred by permit or lease

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

- (5) If an instrument under this section results in the acquisition of property from a person, being an acquisition of property within the meaning of paragraph 51(xxxi) of the Constitution, the Commonwealth is liable to pay to that person such compensation as is determined by agreement between the Commonwealth and that person or, in the absence of agreement, by action brought by that person against the Commonwealth in the High Court or the Supreme Court of, or having jurisdiction in, the State or Territory in relation to which the Joint Authority concerned is established.

104 Surrender of permits etc.

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

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engaged or concerned in the operations authorized by the instrument, or has made arrangements that are satisfactory to the Designated Authority with respect to that property;

- (d) has, to the satisfaction of the Designated Authority, plugged or closed off all wells made in that area by any person engaged or concerned in the operations authorized by the instrument;
- (e) subject to this Part and to the regulations, has made provision, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in that area; and
- (f) has, to the satisfaction of the Designated Authority, made good any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in the operations authorized by the instrument;

but, if the registered holder has complied with those requirements, the Designated Authority shall not unreasonably refuse consent to the surrender.

- (3) Where the registered holder of an instrument, being a permit, lease, licence, infrastructure licence or pipeline licence, has not complied with the conditions to which the instrument is subject and with the provisions of this Part and of the regulations, the Designated Authority may give his consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(3A) If:

- (a) an application for consent to surrender an instrument relates to a permit granted under section 22 or such a permit renewed under section 32; and
- (b) a condition of the permit requires the registered holder to carry out specified work during a period specified in the permit; and
- (c) the application is made during such a period;

the registered holder of the permit has not complied with the condition, for the purposes of this section, unless the registered

holder has completed the work specified for the period during which the application was made.

Example: A permit granted under section 22 has a six year term and is subject to:

- (a) a condition that requires the registered holder, during each year of the term of the permit, to carry out the work specified in the permit for the year concerned; and
- (b) a condition that requires the registered holder to carry out the work specified for the first 3 years of the term of the permit before the end of the third year.

If the registered holder of the permit applies for consent to surrender the permit during the second year of the term of the permit and the holder has completed the specified work for the first and second years of the permit, but has not completed the work specified for the third year, the holder has not complied with the condition mentioned in paragraph (b).

If the registered holder of the permit applies for consent to surrender the permit during the fourth year of the term of the permit and the registered holder has not completed the work specified for the fourth year, the holder has not complied with the condition mentioned in paragraph (a).

- (4) Where the Designated Authority consents to an application under subsection (1), the applicant may, by instrument in writing served on the Designated Authority, surrender the instrument accordingly.
- (5) In this section, *the area to which the surrender relates* means:
 - (a) in relation to a surrender of a permit, lease or licence—the area constituted by the blocks as to which the permit, lease or licence is proposed to be surrendered; and
 - (aa) in relation to a surrender of an infrastructure licence—the infrastructure licence area; and
 - (b) in relation to a surrender of a pipeline licence—the part of the adjacent area in which the pipeline, or the part of the pipeline, as to which the pipeline licence is proposed to be surrendered is constructed.

105 Cancellation of permits etc.

- (1) Where a permittee, lessee, licensee, infrastructure licensee or pipeline licensee:

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- (a) has not complied with a condition to which the permit, lease, licence, infrastructure licence or pipeline licence is subject;
 - (b) has not complied with a direction given to him under this Part by the Designated Authority or the Joint Authority;
 - (c) has not complied with a provision of this Part or of the regulations; or
 - (d) has not paid any amount payable by him under this Act, or under any Act with which this Act is incorporated, within a period of 3 months after the day on which the amount became payable;
- the Joint Authority may, on that ground, by instrument in writing served on the permittee, lessee, licensee, infrastructure licensee or pipeline licensee, as the case may be:
- (e) in the case of a permit or licence—cancel the permit or licence as to all or some of the blocks in respect of which it is in force; or
 - (eaa) in the case of an infrastructure licence—cancel the infrastructure licence; or
 - (ea) in the case of a lease—cancel the lease as to all of the blocks in respect of which it is in force; or
 - (f) in the case of a pipeline licence—cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.
- (2) The Joint Authority shall not, under subsection (1), cancel a permit, licence or pipeline licence as to all or some of the blocks, or as to the whole or a part of the pipeline, in respect of which it is in force, cancel an infrastructure licence, or cancel a lease as to all of the blocks in respect of which it is in force, on a ground referred to in that subsection unless:
- (a) it has, by instrument in writing served on the permittee, lessee, licensee, infrastructure licensee or pipeline licensee, as the case may be, given not less than one month's notice of its intention so to cancel the permit, lease, licence or pipeline licence on that ground;
 - (b) it has served a copy of the instrument on such other persons, if any, as it thinks fit;

- (c) it has, in the instrument, specified a date on or before which the permittee, lessee, licensee, infrastructure licensee or pipeline licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Designated Authority, submit any matters that he wishes to be considered; and
- (d) it has taken into account:
 - (i) any action taken by the permittee, lessee, licensee, infrastructure licensee or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) any matters so submitted on or before the specified date by the permittee, lessee, licensee, infrastructure licensee or pipeline licensee or by a person on whom a copy of the first-mentioned instrument has been served.

106 Cancellation of permit etc. not affected by other provisions

- (1) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, a lease may be wholly cancelled, and an infrastructure licence may be cancelled, on the ground that the registered holder of the permit, licence, pipeline licence, lease or infrastructure licence has not complied with a provision of this Part or of the regulations even though the holder has been convicted of an offence by reason of the holder's failure to comply with the provision.
- (2) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, or was the registered holder of an infrastructure licence that has been cancelled, on the ground that the person has not complied with a provision of this Part or of the regulations may be convicted of an offence because of the person's failure to comply with the provision, even though the permit, lease, licence, pipeline licence or infrastructure licence has been so cancelled.
- (3) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, a lease may be wholly cancelled, and an

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infrastructure licence may be cancelled, on the ground that the registered holder of the permit, licence, pipeline licence, lease or infrastructure licence has not paid an amount payable by the holder under this Act, or under an Act with which this Act is incorporated, within 3 months after the day on which the amount became payable, even though judgment for the amount has been obtained or the amount, or any part of the amount, has been paid or recovered.

- (4) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, or was the registered holder of an infrastructure licence that has been cancelled, on the ground that the person has not paid an amount payable by the person under this Act, or under an Act with which this Act is incorporated, within 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable because of late payment of that amount, even though the permit, lease, licence, pipeline licence or infrastructure licence has been so cancelled.

107 Removal of property etc. by permittee etc.

- (1) If:
- (a) a permit has been wholly or partly determined or wholly or partly cancelled, or has expired; or
 - (b) a lease has been wholly or partly determined or wholly cancelled, or has expired; or
 - (c) a licence has been wholly or partly determined or wholly or partly cancelled, has been terminated or has expired; or
 - (d) an infrastructure licence has been cancelled or has been terminated; or
 - (e) a pipeline licence has been wholly or partly determined or wholly or partly cancelled, or has been terminated;

the Designated Authority may, by written notice served on the person who was, or is, as the case may be, the permittee, licensee, lessee, infrastructure licensee or pipeline licensee, direct the person to do any one or more of the following:

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

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caused by any person engaged or concerned in those operations.

- (3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction:
- (a) in the case of a direction given under subsection (1)—within the period specified in the instrument by which the direction was given; or
 - (b) in the case of a direction given under subsection (2) in respect of:
 - (i) a permit; or
 - (ii) a lease; or
 - (iii) a licence granted before the commencement of subsection 53(2) that has not been renewed more than once;
on or before the date of expiration of the permit, lease or licence; or
 - (c) in the case of a direction given under subsection (2) in respect of:
 - (i) a licence (other than a licence to which paragraph (b) applies); or
 - (ii) an infrastructure licence; or
 - (iii) a pipeline licence;
on or before the first date on which the licence, infrastructure licence or pipeline licence can be terminated under this Part.

Penalty: 100 penalty units.

108 Removal of property etc. by Designated Authority

- (1) This section applies if:
- (a) a permit has been wholly or partly determined or wholly or partly cancelled, or has expired; or
 - (b) a lease has been wholly or partly determined or wholly cancelled, or has expired; or
 - (c) a licence has been wholly or partly determined or wholly or partly cancelled, has been terminated or has expired; or

- (d) an infrastructure licence has been cancelled or has been terminated; or
 - (e) a pipeline licence has been wholly or partly determined or wholly or partly cancelled, or has been terminated.
- (2) If a direction under section 107 has not been complied with, or an arrangement under that section has not been carried out, in relation to the relinquished area:
- (a) the Designated Authority may do all or any of the things required by the direction or arrangement to be done; and
 - (b) if any property brought into that area by any person engaged or concerned in the operations authorized by the permit, pipeline licence, licence, lease or infrastructure licence has not been removed in accordance with the direction or arrangement, the Designated Authority may, by instrument published in the *Gazette*, direct that the owner or owners of that property shall remove it from that area, or dispose of it to the satisfaction of the Designated Authority, within the period specified in the instrument and shall serve a copy of the instrument on each person whom he believes to be an owner of that property or any part of that property.

111 Special prospecting authorities

- (1) A person may make an application to the Designated Authority for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.
- (2) An application under this section:
 - (b) shall be made in an approved manner;
 - (c) shall specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations; and
 - (d) shall be accompanied by the prescribed fee.
- (3) The Designated Authority:
 - (a) may grant to the applicant a special prospecting authority subject to such conditions as the Designated Authority thinks fit and specifies in the authority; or

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- (b) may refuse to grant the application.
- (4) A special prospecting authority, while it remains in force, authorizes the holder, subject to this Act and the regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the petroleum exploration operations so specified.
- (5) Nothing in a special prospecting authority authorizes the holder to make a well.
- (6) A special prospecting authority comes into force on the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.
- (6A) A special prospecting authority is not capable of being transferred.
- (6B) Where:
 - (a) a person holds a special prospecting authority in respect of a block; and
 - (b) another special prospecting authority is granted to another person in respect of the block;the Designated Authority shall, by notice in writing served on each of those persons, inform each of them of:
 - (c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person; and
 - (d) the conditions to which the special prospecting authority granted to the other person is subject.
- (7) A special prospecting authority:
 - (a) may be surrendered by the holder at any time by instrument in writing served on the Designated Authority; and
 - (b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Designated Authority by instrument in writing served on the holder.
- (8) Where a special prospecting authority has been surrendered or cancelled or has expired, the Designated Authority may, by

instrument in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things:

- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the special prospecting authority or to make arrangements that are satisfactory to the Designated Authority with respect to that property;
 - (b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in that area; and
 - (c) to make good, to the satisfaction of the Designated Authority, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.
- (9) A person to whom a direction is given under subsection (8) shall comply with the direction.

Penalty: 100 penalty units.

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

112 Access authorities

- (1) A permittee, lessee or licensee may make an application to the Designated Authority for the grant of an access authority to enable him to carry on, in an area, being part of the adjacent area that is not part of the permit area, lease area or licence area, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, lease area or licence area.

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

Designated Authority thinks fit and specifies in the access authority; and

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

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- (4AA) Subsection (4) does not apply if the holder of the permit, lease, licence or special prospecting authority has consented in writing to the grant of the access authority.
- (4A) The Designated Authority shall not grant or vary an access authority on an application under subsection (1C) without the approval of the Designated Authority for the adjacent area within which the block or blocks to be specified in the access authority are situated.
- (4B) Where:
- (a) an application under subsection (1C) for the grant of an access authority is in respect of the block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the applicant; or
 - (b) a proposal to vary an access authority granted on an application under that subsection is in respect of a block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority;
- the Designated Authority for the adjacent area within which the block is situated shall not approve the grant or the variation unless:
- (c) the Designated Authority has, by instrument in writing served on that person, given not less than one month's notice of the intention to grant, or vary, as the case may be, the access authority;
 - (d) a copy of the instrument has been served:
 - (i) on such other persons, if any, as the Designated Authority thinks fit; and
 - (ii) where it is proposed to vary an access authority—on the registered holder of the access authority;
 - (e) the instrument gives:
 - (i) particulars of the access authority that it is proposed to grant or vary, as the case may be; and
 - (ii) notice that a person on whom the instrument, or a copy of the instrument, has been served may, by instrument in writing served on the Designated Authority on or

before the date specified in the instrument, submit any matters that the person wishes the Designated Authority to consider; and

- (f) the Designated Authority has taken into account any matters submitted in accordance with the notice referred to in subparagraph (e)(ii).
- (5) An access authority, while it remains in force, authorizes the holder, subject to this Act and the regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.
- (6) Nothing in an access authority authorizes the holder to make a well.
- (7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Designated Authority for a further specified period.
- (8) An access authority:
 - (a) may be surrendered by the holder at any time by instrument in writing served on the Designated Authority; and
 - (b) may be cancelled by the Designated Authority at any time by instrument in writing served on the holder and on any person in whose permit area, lease area or licence area operations may be carried on in pursuance of the access authority.
- (9) Where an access authority has been surrendered or cancelled or has expired, the Designated Authority may, by instrument in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things:
 - (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the access authority or to make arrangements that are satisfactory to the Designated Authority with respect to that property;

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- (b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in that area; and
 - (c) to make good, to the satisfaction of the Designated Authority, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.
- (10) A person to whom a direction is given under subsection (9) shall comply with the direction.

Penalty: 100 penalty units.
- (11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit, lease or licence of which he is not the registered holder, furnish to the registered holder of that permit, lease or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations carried on in that block during that month and a summary of the facts ascertained from those operations.

Penalty: 50 penalty units.
- (12) Section 108 applies to and in relation to an access authority as if:
 - (a) a reference in that section to a permit were a reference to an access authority; and
 - (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (9) of this section.
- (13) In this section, *State title* means an authority, however described, under a law of a State or of the Northern Territory, to explore for, or to recover, petroleum.

113 Sale of property

- (1) Where a direction under section 108 has not been complied with in relation to any property, the Designated Authority may do all or any of the following things:
-

- (a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;
 - (b) dispose of, in such manner as he thinks fit, all or any of that property; and
 - (c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any of that property that belongs, or that he believes to belong, to that person.
- (2) The Designated Authority may deduct from the proceeds of a sale under subsection (1) of property that belongs, or that he believes to belong, to a particular person:
- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
 - (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by that person; and
 - (c) all or any part of any fees or amounts due and payable under this Act, or under any Act with which this Act is incorporated, by that person.
- (3) Costs and expenses incurred by the Designated Authority under subsection (1):
- (a) if incurred in relation to the removal, disposal or sale of property, are a debt due by the owner of the property to the Commonwealth; or
 - (b) if incurred in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by a person who is or was a permittee, lessee, licensee, infrastructure licensee, pipeline licensee or holder of a special prospecting authority or access authority, are a debt due by that person to the Commonwealth;
- and, to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction.

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- (4) Subject to subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

115 Designated Authority etc. may require information to be furnished etc.

- (1) Where the Designated Authority, or an inspector, in respect of an adjacent area has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, operations for the recovery of petroleum, operations relating to the processing or storage of petroleum or the preparation of petroleum for transport or operations connected with the construction or operation of a pipeline in that adjacent area, he may, by instrument in writing served on that person, require that person:
- (a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information; or
 - (b) to attend before him or a person specified in the instrument, at such time and place as is so specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are so specified.
- (2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty.
- (3) However, any information furnished, answer given or document produced pursuant to the requirement, and any information or thing (including any document) obtained as a direct or indirect consequence of the furnishing of the information, the answering of the question or the production of the document, as the case may be, is not admissible in evidence against the person in any civil proceedings or in any criminal proceedings other than proceedings for an offence against section 117.

116 Power to examine on oath

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

117 Failing to furnish information etc.

- (1) A person must not:
 - (a) refuse to comply with a requirement in an instrument under section 115; or
 - (b) fail to comply with a requirement in an instrument under section 115; or
 - (c) in purported compliance with such a requirement, furnish information knowing that it is false or misleading in a material particular; or
 - (d) when attending before the Designated Authority or an inspector because of such a requirement, make a statement or produce a document knowing that it is false or misleading in a material particular.

Penalty: 100 penalty units.

- (2) Paragraph (1)(a) or (b) does not apply to the extent to which the person is not capable of complying with the requirement.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2), see subsection 13.3(3) of the *Criminal Code*.

- (3) An offence against paragraph (1)(b) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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118A Designated Authority to make correspondence etc. available to Commonwealth Minister

The Designated Authority shall, as and when required by the Commonwealth Minister, make available to the Commonwealth Minister copies of any document received or issued by, the Designated Authority in connection with this Act.

119 Safety zones

- (1) For the purpose of protecting a well or structure, or any equipment, in an adjacent area, the Designated Authority may, by instrument published in the *Gazette*, prohibit:

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

from entering or remaining in a specified area (in this section called a *safety zone*) surrounding the well, structure or equipment without the consent in writing of the Designated Authority.

- (2) A safety zone specified in an instrument under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the instrument measured from each point of the outer edge of the well, structure or equipment.
- (3) Where a vessel enters or remains in a safety zone specified in an instrument under subsection (1) in contravention of the instrument, the owner and the person in command or in charge of the vessel are each guilty of an offence against this section and are punishable, upon conviction, by imprisonment for not more than 10 years.
- (4) An offence against subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

120 Discovery and use of water

Where water is discovered in a permit area, a lease area or a licence area, the permittee, lessee or licensee, as the case may be,

shall, within a period of one month after the date of the discovery, furnish to the Designated Authority, in writing, particulars of the discovery.

Penalty: 100 penalty units.

122 Records etc. to be kept

- (1) The Designated Authority may, by instrument in writing served on a person carrying on operations in an adjacent area under a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 123, direct that person to do any one or more of the following things:
 - (a) to keep such accounts, records and other documents in connexion with those operations as are specified in the instrument;
 - (b) to collect and retain such cores, cuttings and samples in connexion with those operations as are so specified; and
 - (c) to furnish to the Designated Authority, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings and samples in connexion with those operations as are so specified.
- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: 100 penalty units.

- (3) The Commonwealth Minister may give to the Designated Authority directions with respect to the exercise by the Designated Authority of the powers conferred by subsection (1).
- (4) A direction under subsection (3) may be in respect of a particular case or of general application.

122A Regulations about data management

- (1) The regulations may make provision for and in relation to:

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- (a) the keeping of accounts, records and other documents in connection with operations in an adjacent area under:
 - (i) a permit; or
 - (ii) a lease; or
 - (iii) a licence; or
 - (iv) an infrastructure licence; or
 - (v) a pipeline licence; or
 - (vi) a special prospecting authority; or
 - (vii) an access authority; or
 - (viii) a consent under section 123; and
- (b) the collection and retention of cores, cuttings and samples in connection with those operations; and
- (c) the giving to the Designated Authority, or a specified person, of reports, returns, other documents, cores, cuttings and samples in connection with those operations.

Data management plans

- (2) In particular, the regulations may establish a scheme that:
 - (a) applies in relation to operations in an adjacent area under:
 - (i) a permit; or
 - (ii) a lease; or
 - (iii) a licence; or
 - (iv) an infrastructure licence; or
 - (v) a pipeline licence; or
 - (vi) a special prospecting authority; or
 - (vii) an access authority; or
 - (viii) a consent under section 123; held by a person (the **holder**); and
 - (b) requires the holder to prepare and submit a plan (a **data management plan**) that deals with any or all of the following:
 - (i) the keeping of accounts, records and other documents in connection with those operations;
 - (ii) the collection and retention of cores, cuttings and samples in connection with those operations;

- (iii) the giving to the Designated Authority, or to a person specified in the data management plan, of reports, returns, other documents, cores, cuttings and samples in connection with those operations; and
 - (c) empowers the Designated Authority to make decisions about the approval of:
 - (i) a data management plan; and
 - (ii) variations of a data management plan; and
 - (d) requires the holder to comply with an approved data management plan submitted by the holder.
- (3) A scheme referred to in subsection (2) may provide that the holder must not commence the relevant operations unless:
- (a) an approved data management plan is in force; or
 - (b) the Designated Authority gives consent to the commencement of those operations.
- (4) Subsections (2) and (3) do not limit subsection (1).

Directions are in addition to regulations

- (5) A requirement under section 122 is in addition to a requirement under regulations made for the purposes of this section.

123 Scientific investigations

- (1) The Designated Authority may, by instrument in writing, consent to the carrying on in an adjacent area by any person of petroleum exploration operations in the course of a scientific investigation.
- (2) An instrument of consent under subsection (1) may be made subject to such conditions, if any, as are specified in the instrument.
- (3) An instrument of consent in force under subsection (1) authorizes the person specified in the instrument, subject to section 124 and in accordance with the conditions, if any, to which the instrument is subject, to carry on, in the adjacent area so specified, petroleum exploration operations so specified in the course of the scientific investigation so specified.

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124 Interference with other rights

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

- (a) navigation; or
- (b) fishing; or
- (c) the conservation of the resources of the sea and sea-bed; or
- (d) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or by way of construction or operation of a pipeline; or
- (e) the enjoyment of native title rights and interests (within the meaning of the *Native Title Act 1993*);

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

Penalty: 100 penalty units.

124A Interfering with offshore petroleum installation or operations

- (1) A person must not perform an act that results in:
 - (a) damage to, or interference with, any structure or vessel in an adjacent area that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or
 - (b) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, such a structure or vessel.

Penalty: Imprisonment for 10 years.

- (2) In this section:

structure means any fixed, moveable or floating structure or installation and includes a pipeline, pumping station, tank station or valve station.

125 Inspectors

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

Penalty: 5 penalty units.

126 Powers of inspectors

- (1) For the purposes of this Act and the regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 125:
 - (a) shall have access to any part of the adjacent area specified in the certificate and to any structure, ship, aircraft or building in that area that, in his opinion, has been, is being or is to be used in connexion with petroleum exploration operations, operations for the recovery of petroleum, operations relating to the processing or storage of petroleum or the preparation of petroleum for transport or operations connected with the construction or operation of a pipeline in that area;
 - (b) may inspect and test any equipment that, in his opinion has been, is being or is to be used in that area in connexion with any of those operations; and

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(c) may enter any structure, ship, aircraft, building or place in that area or in the State or Territory to which that area is, in Schedule 2, specified as being adjacent, in which, in his opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.

(2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any ship, aircraft or equipment referred to in subsection (1), shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.

Penalty: 50 penalty units.

(3) A person shall not obstruct or hinder an inspector in the exercise of his powers under this section.

Penalty: 50 penalty units.

(4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4), see subsection 13.3(3) of the *Criminal Code*.

127 Property in petroleum

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

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

129 Certain payments to be made by Commonwealth to States and Northern Territory

(1) The Commonwealth shall, not later than the last day of each month of the year, pay to a State:

(a) an amount equal to the non-GST component of each amount payable under this Act (other than an amount payable under section 22B) or an Act (other than the Royalty Act) with which this Act is incorporated in connexion with a document that relates to a block or pipeline in the adjacent area and received by the Commonwealth during the preceding month; and

(b) amounts ascertained in accordance with the formula:

$$\frac{A(B-4)}{B}$$

where:

A is the amount of royalty payable under the Royalty Act, together with the amount, if any, payable under that Act by reason of late payment of that royalty, by a permittee, lessee or licensee in respect of petroleum recovered in the adjacent area under the permit, lease or licence and received by the Commonwealth during the preceding month; and

B is the percentage rate at which royalty is payable under that Act by the permittee, lessee or licensee in respect of that petroleum.

(1A) The Commonwealth shall, in accordance with arrangements approved by the Minister, pay to each State amounts equal to the non-GST components of all amounts, other than royalties, payable to the Designated Authority, on behalf of the Commonwealth, under Part III in relation to the adjacent area in respect of the State.

(2) Where a determination has been made under section 6 of the royalty Act in relation to a well, that determination shall be disregarded in ascertaining the value of **B** for the purposes of subsection (1) of this section.

(2A) In this section, a reference to a State shall be read as including a reference to the Northern Territory.

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- (3) The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of this section.
- (4) For the purposes of this section, the *non-GST component* of an amount is:
 - (a) if the amount includes a component that is attributable to goods and services tax—so much of the amount as does not consist of that component; or
 - (b) in any other case—the whole of the amount.

133 Orders for forfeiture in respect of certain offences

- (1) Where a person is convicted by a Supreme Court:
 - (a) of an offence against this Act arising under section 19, 39, 59A or 60; or
 - (b) of an offence against section 6 of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a); or
 - (ba) of an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* in relation to an offence referred to in paragraph (a);the Court may, in addition to imposing a penalty, make one or more of the following orders:
 - (c) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence; and
 - (d) an order for the forfeiture of specified equipment used in the commission of the offence; and
 - (e) an order:
 - (i) for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence;
 - (ii) for the payment by that person to the Commonwealth of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed; or
 - (iii) for the payment by that person to the Commonwealth of an amount equal to the value at the well-head, assessed by the court, of the quantity, so assessed, of petroleum so recovered or conveyed or for the payment of such

part of that amount as the court, having regard to all the circumstances, thinks fit.

- (2) Where the court is satisfied that an order made under subparagraph (1)(e)(i) cannot, for any reason, be enforced, the court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subparagraphs (e)(ii) and (iii).
- (3) The court may, before making an order under this section, require notice to be given to, and hear, such persons as the court thinks fit.
- (4) Goods in respect of which an order is made under this section shall be dealt with as the Attorney-General directs and, pending his direction, may be detained in such custody as the court directs.

135 Time for bringing proceedings for offences

Proceedings in respect of:

- (a) an offence against this Act (being an offence arising under this Part) or the regulations; or
 - (b) an offence arising under section 6, 7 or 7A or subsection 86(1) of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a);
- may be brought at any time.

136 Publication in *Gazette*

An instrument, or particulars of an instrument, required by this Part or the regulations to be published in the *Gazette*, being an instrument having effect in relation to an adjacent area, may be published in the Government Gazette of the State or Territory concerned, and if so published, shall be deemed to have been published in the *Gazette*.

137 Judicial notice

- (1) All courts shall take judicial notice of the signature of a person who is, or has been, the Designated Authority, or a delegate of the

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Designated Authority, in respect of an adjacent area and of the fact that that person is, or has been the Designated Authority, or a delegate of the Designated Authority, in respect of that area.

- (2) In this section, *court* includes any Federal or State Court or court of a Territory, and all persons authorized by the law of the Commonwealth, of a State or of a Territory or by consent of parties to receive evidence.

138 Service

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

- (2A) A document required or permitted by this Act to be served on the Joint Authority shall be deemed to be duly served if it is served on the Designated Authority.
- (3) A document required by this Act to be served on a person, being a corporation, shall be served:
 - (a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at 2 or more places, at one of those places; or
 - (b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.
- (4) Where a document required by this Act to be served is posted as a letter in accordance with this section, service shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

138A Service of documents on 2 or more permittees etc.

- (1) Where there are 2 or more registered holders of a title or special prospecting authority, those registered holders may, by notice in writing signed by each of them and served on the Designated Authority, nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.
- (2) Subject to subsections (3) and (4), where:
 - (a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder;
 - (b) there are 2 or more registered holders of the title or special prospecting authority; and

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

139 No conditions as to payment of moneys

Except as provided by an Act with which this Act is incorporated, there shall not be included in a permit, lease, licence, pipeline licence or other instrument a condition requiring the payment of money to the Designated Authority, the Joint Authority or the Commonwealth.

140 Saving of certain State and Territory instruments

It is the intention of this Part not to prevent or affect the continued application of any law of a State or Territory:

- (a) being a law that applies to or in relation to exploration for, or operations for the recovery of, petroleum; or

(b) being a law that applies to or in relation to the construction or operation of pipelines;
in or in relation to the adjacent area in respect of an instrument granted, issued or made under that law before the date from and including which this Part has effect in respect of that area.

140AA Liability for acts or matters done or omitted to be done under this Act etc.

- (1) This section applies to the following bodies and people:
 - (a) the Joint Authority;
 - (b) a member of the Joint Authority;
 - (c) the Designated Authority;
 - (d) the Safety Authority;
 - (e) the Chief Executive Officer of the Safety Authority;
 - (f) an inspector appointed under section 125;
 - (g) an OHS inspector appointed under Part IIIC;
 - (h) a person acting under the direction or authority of the Joint Authority or the Designated Authority;
 - (i) a person acting under the direction or authority of the Safety Authority or the Chief Executive Officer of the Safety Authority.
- (2) A body or person to whom this section applies is not liable to an action, suit or proceeding for or in respect of an act or matter in good faith done or omitted to be done in the exercise, or purported exercise, of any power or authority conferred by:
 - (a) this Act; or
 - (b) the regulations; or
 - (c) a direction under this Act.
- (3) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been accepted, agreed or otherwise approved by or on behalf of the Joint Authority, the Designated Authority or the Safety Authority.
- (4) This section has effect subject to section 88.

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- (5) This section does not affect:
- (a) any rights conferred on a person by the *Administrative Decisions (Judicial Review) Act 1977* to make an application to a court in respect of:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision; or
 - (b) any other rights that a person has to seek a review by a court or tribunal in respect of:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision.
- (6) An expression used in subsection (5) has the same meaning as in section 10 of the *Administrative Decisions (Judicial Review) Act 1977*.
- (7) In this section:
- Safety Authority*** means the National Offshore Petroleum Safety Authority established by section 150XD.

Division 6A—Area to be avoided and safety zones

140A Interpretation

(1) In this Division:

authorized person means a member or a special member of the Australian Federal Police, a member of the Police Force of a State or Territory, a member of the Defence Force or a person, or a person included in a class of persons, authorized to perform duties under this Division in accordance with subsection (4).

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

- (a) that is excluded from the operation of section 119 in relation to that safety zone by virtue of the instrument establishing the safety zone; or
- (b) in respect of which there is in force a consent in writing of the Designated Authority under subsection 119(1) in relation to that safety zone.

Government vessel means a vessel that is beneficially owned by, or a vessel the whole possession and control of which is for the time being vested in, the Commonwealth, a State or a Territory or an authority of the Commonwealth, of a State or of a Territory.

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

owner, in relation to a vessel, means:

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

prescribed safety zone means a safety zone that is situated within any part of the area described in Schedule 6 that comprises waters of the sea that are not within the territorial sea of Australia or

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within any area on the landward side of the territorial sea of Australia.

relevant vessel means a vessel:

- (a) that is registered under the *Shipping Registration Act 1981* and the gross tonnage of which specified in the certificate of registration of the vessel exceeds 200;
- (b) that is not registered under the *Shipping Registration Act 1981* but is permitted to be registered under that Act (other than a vessel that, under the law of another country, is entitled to fly the flag of that country and is flying that flag), being a vessel the tonnage length of which is equal to or exceeds 24 metres; or
- (c) not being a vessel to which paragraph (a) or (b) applies, that is in the adjacent area for the purpose of exploring the sea-bed or subsoil of the adjacent area for petroleum or minerals or for the purpose of exploiting the natural resources, being petroleum or minerals, of that sea-bed or subsoil;

but does not include a Government vessel.

safety zone means an area that is a safety zone for the purposes of section 119.

- (2) A reference in this Division to the area to be avoided shall be read as a reference to so much of the area described in Schedule 6 as comprises waters of the sea that:
 - (a) are not within the territorial sea of Australia or within any area on the landward side of the territorial sea of Australia; and
 - (b) are not within a safety zone.
- (3) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, subsection (2) and the definition of **prescribed safety zone** in subsection (1) continue to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.

- (4) The Designated Authority may, by notice published in the *Gazette*, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.
- (5) The reference in the definition of **Government vessel** in subsection (1) to an authority of the Commonwealth, of a State or of a Territory shall be read as a reference to a body corporate established for a public purpose by or under a law of the Commonwealth or of a State or Territory, as the case may be, other than:
 - (b) the Western Australian Coastal Shipping Commission;
 - (c) the Transport Commission established under the *Transport Act 1938* of the State of Tasmania; or
 - (d) a body corporate that is declared by regulations made under the *Shipping Registration Act 1981* not to be a Government authority for the purposes of that Act.
- (6) For the purposes of this Division, the tonnage length of a ship shall be determined in the same manner as it is determined for the purposes of the *Shipping Registration Act 1981*.

140B Emergency periods

- (1) Where the Minister is satisfied that:
 - (a) terrorist activity is likely to occur in the area to be avoided or in a prescribed safety zone; and
 - (b) if that activity occurred, the safety of any person in the area to be avoided or in a prescribed safety zone would be likely to be at risk or any well, pipeline, structure or equipment in the area to be avoided or in a prescribed safety zone would be likely to be damaged;the Minister may, by notice published in the *Gazette*, declare that a state of emergency exists in relation to the area to be avoided.
- (2) A notice under subsection (1) comes into force on the day on which the notice is published in the *Gazette* and continues to be in force during such period, not exceeding 14 days, as is specified in the notice.

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- (3) Where:
- (a) a notice under subsection (1) is made; and
 - (b) before the expiration of the period during which the notice remains in force, the Minister is satisfied that it is necessary to extend the period of the state of emergency;
- the Minister may, by notice published in the *Gazette*, extend the period of the state of emergency by such period, not exceeding 14 days, as is specified in the notice.
- (4) The Minister shall not make a notice under subsection (1) or extend the period of a state of emergency under subsection (3) unless the Minister has consulted with the Designated Authority in relation to the proposed making of the notice or the proposed extension, as the case may be.
- (5) During any period during which a notice under this section is in force, this Division has effect as if:
- (a) “and the gross tonnage of which specified in the certificate of registration of the vessel exceeds 200” were omitted from paragraph (a) of the definition of *relevant vessel* in subsection 140A(1); and
 - (b) “, being a vessel the tonnage length of which is equal to or exceeds 24 metres” were omitted from paragraph (b) of the definition of *relevant vessel* in subsection 140A(1).
- (6) A reference in this section to terrorist activity shall be read as including a reference to activities involving extortion.

140C Designated Authority may authorise entry into area to be avoided

- (1) The owner of a vessel may, by notice in writing given to the Designated Authority, apply for the grant of an authorization under subsection (2) for the vessel to enter the area to be avoided.
- (2) The Designated Authority may, by notice in writing given to a person who has made an application under subsection (1) in respect of a vessel, authorize the vessel to enter the area to be avoided.

- (3) An authorization under subsection (2) is subject to such conditions as are specified in the notice of authorization.
- (4) The Designated Authority may, by notice in writing given to the owner of a vessel in respect of which an authorization is in force under subsection (2), revoke the authorization.

140D Unauthorised vessel not to enter area to be avoided

- (1) Where a relevant vessel (not being an exempt vessel in relation to a prescribed safety zone) enters or remains in the area to be avoided otherwise than in accordance with an authorization in force in respect of the vessel under subsection 140C(2), the owner of the vessel and the master of the vessel are each guilty of an offence punishable, on conviction, by a fine not exceeding \$50,000 or imprisonment for a period not exceeding 5 years, or both.
- (1A) An offence against subsection (1) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) It is a defence to a prosecution for an offence against subsection (1) in relation to a vessel entering, or remaining in, the area to be avoided otherwise than in accordance with an authorization in force in respect of the vessel if the person charged satisfies the court that:
 - (a) an unforeseen emergency rendered it necessary for the vessel to enter or remain in the area in order to attempt to secure the safety of the vessel, of another vessel, of any well, pipeline, structure or equipment or of human life; or
 - (b) the vessel entered or remained in the area in circumstances not under the control of the person who was in charge of the navigational watch of the vessel.

Note: A defendant bears a legal burden in relation to the matter in subsection (2), see section 13.4 of the *Criminal Code*.

140E Powers of authorised persons

- (1) Subject to subsection (3), an authorized person may:

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- (a) board a vessel that the person has reasonable grounds to believe has been used, is being used or is about to be used in contravention of section 119 or 140D;
- (b) where the person has boarded a vessel in the exercise of powers under paragraph (a):
 - (i) require any person on board the vessel to answer questions relating to the vessel or to the movements of the vessel;
 - (ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under subsection 119(1) or an authorization under subsection 140C(2) and, if so, to produce the consent or authorization, as the case may be;
 - (iii) if the vessel is registered under the *Shipping Registration Act 1981*—require the master of the vessel to produce the certificate of registration of the vessel; or
 - (iv) search the vessel for any documents relating to the vessel or to the movements of the vessel;
- (c) require the master of a vessel, being a vessel:
 - (i) that is, or that the person has reasonable grounds to believe is, a relevant vessel;
 - (ii) that is in the area to be avoided otherwise than in accordance with an authorization in force in respect of the vessel under subsection 140C(2); and
 - (iii) that is not an exempt vessel in relation to a prescribed safety zone;to take the vessel outside the area to be avoided;
- (d) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone;
- (e) require the master of a vessel, being a vessel:
 - (i) that is in, or that is near, the area to be avoided;
 - (ii) that the person has reasonable grounds to believe is a vessel of the kind referred to in paragraph (b) of the definition of *relevant vessel* in subsection 140A(1);
 - (iii) in respect of which there is not in force an authorization under subsection 140C(2); and

- (iv) that is not an exempt vessel in relation to a prescribed safety zone;
to permit the person to take measurements of the vessel;
 - (f) require the master of a disabled vessel:
 - (i) that is in the area to be avoided and that is, or that the person has reasonable grounds to believe is, a relevant vessel;
 - (ii) that is in a safety zone; or
 - (iii) that is, or that the person has reasonable grounds to believe is, a relevant vessel and that the person has reasonable grounds to believe is likely to cause damage to any well, pipeline, structure or equipment in the area to be avoided or in a safety zone;
to permit the vessel to be towed away from the area to be avoided or the safety zone, as the case requires, or to accept the giving of such other assistance to the vessel as the person considers necessary; or
 - (g) detain a vessel that the person has reasonable grounds to believe has been used in contravention of section 119 or 140D.
- (2) A person who:
- (a) fails to facilitate by all reasonable means the boarding of a vessel by an authorized person pursuant to subsection (1);
 - (b) refuses to allow a search that is authorized under subsection (1) to be made by an authorized person;
 - (c) refuses or neglects to comply with a requirement made by an authorized person under subsection (1);
 - (d) when an authorized person requires the person to give information, pursuant to the powers of the authorized person under subsection (1)—gives information that is, to the knowledge of the person, false or misleading in a material particular; or
 - (e) resists or obstructs an authorized person who is acting pursuant to subsection (1);
- is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units.

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(2A) An offence against paragraph (2)(a) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) The powers of an authorized person in relation to a vessel under paragraphs (1)(a), (b), (e) and (g) shall not be exercised except:
- (a) pursuant to a warrant issued under section 140F;
 - (b) after obtaining the consent of the master of the vessel; or
 - (c) in circumstances of seriousness and urgency, in accordance with section 140G.

140F Search warrants

- (1) Where an information on oath is laid before a Magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used in contravention of section 119 or 140D, and the information sets out those grounds and identifies the vessel, a Magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in paragraphs 140E(1)(a), (b), (e) and (g) in relation to that vessel.
- (2) A Magistrate shall not issue a warrant under subsection (1) unless:
- (a) the informant or some other person has given to the Magistrate either orally or by affidavit such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant issued under subsection (1) shall:
- (a) specify the purpose for which the warrant is issued;
 - (b) set out a description of the vessel in relation to which the warrant is issued; and
 - (c) specify a day, not being later than 7 days after the day on which the warrant is issued, as being the day on which the warrant ceases to have effect.

- (4) In this section, *Magistrate* includes a Justice of the Peace.

140G Exercise of powers in serious circumstances

An authorized person may exercise, in relation to a vessel, all or any of the powers referred to in paragraphs 140E(1)(a), (b), (e) and (g) where:

- (a) the authorized person has reasonable grounds to believe that:
 - (i) the vessel has been used, is being used or is about to be used in contravention of section 119 or 140D; or
 - (ii) the exercise of those powers is necessary to prevent damage being caused to any well, pipeline, structure or equipment in the area to be avoided or in a safety zone; and
- (b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 140F.

Division 6B—Health and safety

140H Application of occupational health and safety laws

- (1) Subject to subsection (2) and regulations made for the purposes of subsection 140I(1), Schedule 7 applies in relation to each adjacent area.
- (2) Schedule 7 does not apply in relation to an adjacent area in respect of a State or the Northern Territory if the law of the State or Territory provides, to any extent, for matters relating to the occupational health and safety of persons employed in the area.
- (3) Subsection (2) has effect in relation to the adjacent area in respect of the Territory of Ashmore and Cartier Islands as if that area formed part of the adjacent area in respect of the Northern Territory.

140I Regulations relating to health and safety

- (1) The regulations may make provision in relation to the health and safety of persons at or near an operations site who are under the control of a person who is carrying on an operation.
- (2) Regulations for the purposes of subsection (1) may:
 - (a) require a person who is carrying on an operation to establish and maintain a system of management to secure the health and safety of persons referred to in that subsection; and
 - (b) specify requirements with which the system must comply.

This subsection does not limit the generality of subsection (1).

Note: Under section 9 or 11, the application in an adjacent area of State or Territory laws is subject to regulations made under this Act.

Division 7—Transitional provisions

146 Barracouta and Marlin Fields Petroleum Production Licences

- (1) In this section, *licence* means an instrument to which subsection (2) applies.
- (2) Subject to this section:
 - (a) each Barracouta and Marlin Fields Petroleum Production Licence, that is to say, each instrument executed in accordance with the form set out in Schedule 3 and having annexed thereto a plan delineating and indicating the area in relation to which the instrument applies, has effect as if it were a production licence for petroleum granted under section 44; and
 - (b) this Act and each Act with which this Act is incorporated applies to and in relation to each such instrument as though it were a production licence for petroleum so granted.
- (3) A licence comes into force on the date from and including which this Part has effect in respect of the adjacent area specified in Schedule 2 as being adjacent to the State of Victoria and remains in force, unless sooner surrendered or cancelled, until 31st March 1988.
- (4) In the provisions of a licence that have effect by reason of this section:
 - (a) except as otherwise provided in this subsection, a reference to the Minister shall be read as a reference to the Designated Authority;
 - (b) the first reference to the Minister in subclause 2(1) of the licence shall be read as a reference to the Joint Authority in respect of the adjacent area in respect of Victoria;
 - (c) that subclause shall have effect as if there were substituted for the words “as the Minister in his discretion determines” the words “as are determined in accordance with the law for the time being in force”; and

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- (d) the reference to the Minister in subclause 27(1) shall be read as a reference to the Joint Authority in respect of the adjacent area in respect of Victoria.
- (5) The following provisions of a licence do not have effect by reason of this section:
 - (a) subclause 2(2);
 - (b) clauses 3 to 9 (inclusive) and clauses 11, 12 and 29; and
 - (c) any provision that provides for the payment of a tax.
- (6) The reference in clause 22 of a licence to the *Companies Act 1961* shall be read as a reference to the *Companies Act 1961* of the State of Victoria or to that Act as amended and in force for the time being or to any Act enacted in substitution for that Act, as the circumstances require.
- (7) Clause 31 of a licence shall be taken to be omitted and the following clause substituted therefor:

“31. Such a notice may be signed by the Designated Authority or by a person to whom the Designated Authority has delegated his powers to give the notice.”.
- (8) For the definition of *petroleum* in clause 32 of a licence there shall be taken to be substituted the definition of *petroleum* in section 5.
- (9) Any covenant by the licensee under a licence that is in the nature of a condition of the licence to be complied with by the licensee has effect for the purposes of the application of this Act in relation to the licence as if that covenant were a condition of the licence.
- (10) The Designated Authority shall enter in the Register a copy of each licence and shall also enter in the Register a statement that the licence has effect subject to this section and to the *Petroleum (Submerged Lands) (Royalty) Act 1967* and the *Petroleum (Submerged Lands) (Production Licence Fees) Act 1967*.

147 Barracouta and Marlin Fields Pipeline Licences to have effect as pipeline licences under this Act

- (1) In this section:

pipeline licence means a licence to which subsection (2) applies.

the adjacent area means the area specified in Schedule 2 as being adjacent to the State of Victoria.

- (2) Subject to this section:
- (a) each Barracouta and Marlin Fields Pipeline Licence, that is to say, each licence to construct, maintain and operate a pipeline granted on 10th October, 1967, under section 13 of the *Pipelines (Submerged Lands) Act 1967* of the Parliament of the State of Victoria to Esso Exploration and Production Australia Inc. and Haematite Petroleum Proprietary Limited has effect as if it were a licence to construct and operate a pipeline granted under section 65 of this Act; and
 - (b) this Act and each Act with which this Act is incorporated applies to and in relation to each such licence as though it were a licence to construct and operate a pipeline so granted.
- (3) A pipeline licence comes into force on the day from and including which this Part has effect in respect of the adjacent area and remains in force, unless sooner surrendered or cancelled, until 31st March, 1988.
- (4) In a pipeline licence:
- (a) a reference to the *Pipelines (Submerged Lands) Act 1967* of the Parliament of the State of Victoria and the regulations under that Act shall be read as a reference to this Act (including the Acts with which this Act is incorporated) and the regulations under this Act;
 - (b) a reference to the Designated Authority shall be read as a reference to the Designated Authority under this Act in respect of the adjacent area; and
 - (c) a reference to petroleum shall be read as a reference to petroleum as defined by section 5 of this Act.
- (5) The Designated Authority shall enter in the Register a copy of each pipeline licence and shall also enter in the Register a statement that the pipeline licence has effect subject to this section and to the *Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967*.

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148 Licence to replace the Barrow Island lease

(1) In this section:

the adjacent area means the adjacent area in respect of the State of Western Australia.

the Barrow Island lease means the lease granted on 27th February, 1967, under section 55A of the Petroleum Act, 1936-1954 of the Parliament of the State of Western Australia to West Australian Petroleum Pty. Limited.

the lessee means the lessee under the Barrow Island lease.

(2) The lessee may make an application for the grant of a licence in respect of those portions of the adjacent area that correspond to the pieces or parcels of land described and delineated in the First Schedule to the Barrow Island lease.

(3) An application under this section:

(a) shall comply with the provisions of paragraphs 41(1)(a) and (b) but is not otherwise required to comply with subsection 41(1); and

(b) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the portions of the adjacent area specified in the application.

(4) The Designated Authority may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in connexion with his application.

(5) The Designated Authority may require the applicant to lodge a security for compliance with the conditions to which the licence, if granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(6) Where the lessee:

(a) makes an application in accordance with this section;

(b) if information is required under subsection (3), furnishes that information to the Designated Authority; and

- (c) if a security is required under subsection (5), lodges that security with the Designated Authority;
the Designated Authority shall grant to the lessee a production licence for petroleum in respect of the portions of the adjacent area specified in the application.
- (7) In the application of this Part to and in relation to a licence granted on an application under this section, references to *the licence area* are references to the portions of the adjacent area the subject of the licence.

149 Certain portions of blocks to be blocks

- (1) Where the area in respect of which a permit, lease, licence or prescribed instrument is in force includes one or more portions of a block constituted as provided by section 17, then, for the purposes of this Part:
- (a) the area of that portion or those portions constitutes a block; and
 - (b) the area of the remaining portion or portions of the first-mentioned block (but not including any part of that area in respect of which a permit, lease, licence or prescribed instrument is in force) constitutes a block.
- (2) Where a permit, lease, licence or prescribed instrument ceases to be in force in respect of an area that constitutes a block as provided by paragraph (1)(a), the Designated Authority may, by instrument in writing, if he considers it desirable to do so, determine that that block shall be amalgamated with another block or blocks, being a block or blocks:
- (a) constituted as provided by this section;
 - (b) forming part of the graticular section of which that first-mentioned block forms part; and
 - (c) in respect of which a permit, lease or licence is in force.
- (3) Where such a determination is made, then, for the purposes of this Part:

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- (a) the blocks the subject of the determination cease to constitute blocks and the areas of those blocks together constitute a block; and
 - (b) the block constituted by reason of the determination is, subject to this Part, for the remainder of the term of the permit, lease or licence concerned, a block in respect of which the permit, lease or licence is in force.
- (4) The Designated Authority shall not make a determination under subsection (2) except with the consent of the permittee, lessee or licensee concerned.

Part IIIA—Release of information

Division 1—Preliminary

150 Definitions

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

applicable document means:

- (a) an application made after the commencement of this Part to the Designated Authority under this Act; or
- (b) a document accompanying such an application; or
- (c) a report, return or other document relating to a block that has been given after the commencement of this Part to the Designated Authority under this Act or regulations made for the purposes of section 122A.

documentary information means information contained in an applicable document.

petroleum mining sample means a core or cutting from, or a sample of, the sea-bed or subsoil, or a sample of petroleum recovered, that has been given at any time, whether before or after the commencement of this Part, to the Designated Authority and includes a portion of such a core, cutting or sample.

- (2) For the purposes of this Part:

- (a) cores and cuttings, well data, logs, sample descriptions and other documents, relating to the drilling of a well, are taken to have been given to the Designated Authority not later than one month after the drilling of the well was, in the Designated Authority's opinion, substantially completed; and
- (b) geophysical or geochemical data relating to geophysical or geochemical surveys are taken to have been given to the Designated Authority not later than one year after the geophysical or geochemical field work was, in the Designated Authority's opinion, substantially completed.

Part IIIA Release of information

Division 1 Preliminary

Section 150A

- (3) Paragraph (2)(a) does not apply in relation to the drilling of a well unless the drilling of the well was, in the Designated Authority's opinion, substantially completed before the commencement of this subsection.
- (4) Paragraph (2)(b) does not apply in relation to a geophysical or geochemical survey unless the geophysical or geochemical field work was, in the Designated Authority's opinion, substantially completed before the commencement of this subsection.

150A Application of Part

This Part applies in respect of:

- (a) information given to the Designated Authority after the commencement of this Part; and
- (b) petroleum mining samples given to the Designated Authority at any time whether before or after the commencement of this Part.

Note: Section 118 of this Act as previously in force continues to apply in respect of information given to the Designated Authority before the commencement of this Part (see item 142 of Schedule 1 to the *Petroleum (Submerged Lands) Amendment Act (No. 1) 2000*).

Division 2—Protection of confidentiality of information and samples

Subdivision A—Information and samples obtained by the Designated Authority

150B Protection of confidentiality of documentary information obtained by the Designated Authority

- (1) This section restricts what the Designated Authority may do with documentary information.
- (2) The Designated Authority must not:
 - (a) make the information publicly known; or
 - (b) make the information available to a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory);unless the Designated Authority does so:
 - (c) in accordance with regulations made for the purposes of this paragraph; or
 - (d) for the purposes of the administration of this Act or the regulations.

150C Protection of confidentiality of petroleum mining samples obtained by the Designated Authority

- (1) This section restricts what the Designated Authority may do with a petroleum mining sample.
- (2) The Designated Authority must not:
 - (a) make publicly known any details of the sample; or
 - (b) permit a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory) to inspect the sample;unless the Designated Authority does so:
 - (c) in accordance with regulations made for the purposes of this paragraph; or

Section 150D

- (d) for the purposes of the administration of this Act or the regulations.

150D Designated Authority may make information or samples available to a Minister, a State Minister or a Northern Territory Minister

- (1) The Designated Authority may make documentary information or a petroleum mining sample available to:
- (a) a Minister; or
 - (b) a Minister of a State; or
 - (c) a Minister of the Northern Territory.
- (2) The Designated Authority must make documentary information or a petroleum mining sample available to the Commonwealth Minister if the Commonwealth Minister requires the Designated Authority to make the information or sample available to the Commonwealth Minister.

Note 1: For protection of the confidentiality of information obtained by a Minister under this section, see section 150E.

Note 2: For protection of the confidentiality of a sample obtained by a Minister under this section, see section 150F.

Subdivision B—Information and samples obtained by a Minister

150E Protection of confidentiality of information obtained by a Minister

- (1) This section restricts what a Minister may do with documentary information made available to the Minister under section 150D.
- (2) The Minister must not:
- (a) make the information publicly known; or
 - (b) make the information available to a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory);
- unless the Minister does so:

- (c) in accordance with regulations made for the purposes of this paragraph; or
- (d) for the purposes of the administration of this Act or the regulations.

150F Protection of confidentiality of petroleum mining samples obtained by a Minister

- (1) This section restricts what a Minister may do with a petroleum mining sample made available to the Minister under section 150D.
- (2) The Minister must not:
 - (a) make publicly known any details of the sample; or
 - (b) permit a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory) to inspect the sample; unless the Minister does so:
 - (c) in accordance with regulations made for the purposes of this paragraph; or
 - (d) for the purposes of the administration of this Act or the regulations.

Subdivision C—Miscellaneous

150G Fees

- (1) This section applies to regulations made for the purposes of any of the following:
 - (a) paragraph 150B(2)(c);
 - (b) paragraph 150C(2)(c);
 - (c) paragraph 150E(2)(c);
 - (d) paragraph 150F(2)(c).
- (2) The regulations may make provision for fees relating to:
 - (a) making information available to a person; or
 - (b) permitting a person to inspect a sample.

Part IIIA Release of information

Division 2 Protection of confidentiality of information and samples

Section 150H

150H Review by Minister

- (1) This section applies to regulations made for the purposes of:
 - (a) paragraph 150B(2)(c); or
 - (b) paragraph 150C(2)(c).
- (2) The regulations may make provision for the Minister to:
 - (a) review a decision of the Designated Authority under the regulations; and
 - (b) make a decision:
 - (i) confirming the decision reviewed; or
 - (ii) revoking the decision reviewed and substituting another decision for it.

150J Privacy Act

This Part does not override any requirements of the *Privacy Act 1988*. In particular, this Part is not to be taken, for the purposes of that Act, to require or authorise the disclosure of information.

Division 4—Miscellaneous

150K Publishing or making copies of applicable documents not an infringement of copyright

The copyright in a literary or artistic work contained in an applicable document is not infringed by anything done by, or with the authority of, the Designated Authority or the Commonwealth Minister for the purpose of the exercise of any of the powers of that Authority or Minister under this Part.

Part IIIB Datums

Division 1 Points etc. to be ascertained by reference to certain datums

Section 150L

Part IIIB—Datums

Division 1—Points etc. to be ascertained by reference to certain datums

150L Objects

The main objects of this Division are:

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

150M Australian Geodetic Datum

- (1) For the purposes of this Act, the position on the surface of the Earth of:
 - (a) a graticular section or block; or
 - (b) a parallel of latitude described in subsection 5A(7); or
 - (c) an area described in Schedule 2; or
 - (d) an area described in Schedule 6;is to be determined by reference to the Australian Geodetic Datum.

Note: *Australian Geodetic Datum* is defined in section 150W.

- (2) Subject to subsection (3), subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.
- (3) Until a declaration under subsection 150N(1) takes effect, the Australian Geodetic Datum applies for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

150N Current datum, previous datum and changeover time

- (1) The regulations may declare that, for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area:
 - (a) a specified datum is the *current datum*; and
 - (b) that datum replaces the previous datum.
- (2) The *previous datum* is:
 - (a) if a datum is the first datum declared to be the current datum under subsection (1)—the Australian Geodetic Datum; or
 - (b) in any other case—the datum that was the current datum immediately before the changeover time.
- (3) The *changeover time* is the time when the declaration takes effect.

150P Use of current datum

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

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

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

Section 150Q

150Q Use of previous datum

- (1) For the purposes of this Act, the position on the surface of the Earth of the following:
 - (a) the permit area of a permit in force immediately before the changeover time;
 - (b) the lease area of a lease in force immediately before the changeover time;
 - (c) the licence area of a licence in force immediately before the changeover time;
 - (d) the infrastructure licence area of an infrastructure licence in force immediately before the changeover time;
 - (e) the area in respect of which a special prospecting authority in force immediately before the changeover time is in force;
 - (f) the area in respect of which an access authority in force immediately before the changeover time is in force;
 - (g) the route of a pipeline authorised by a pipeline licence in force immediately before the changeover time;
 - (h) a point, line or area set out in any other instrument under this Act in force immediately before the changeover time;is to be described by reference to the previous datum.
- (2) Subsection (1) has effect subject to section 150R.

150R Variation of titles etc.

- (1) The regulations may authorise the Designated Authority to issue an instrument varying a permit in force immediately before the changeover time for the sole purpose of relabelling the permit area using geographic co-ordinates based on the current datum.
- (2) The regulations may authorise the Designated Authority to issue an instrument varying a lease in force immediately before the changeover time for the sole purpose of relabelling the lease area using geographic co-ordinates based on the current datum.
- (3) The regulations may authorise the Designated Authority to issue an instrument varying a licence in force immediately before the

Section 150S

changeover time for the sole purpose of relabelling the licence area using geographic co-ordinates based on the current datum.

- (4) The regulations may authorise the Designated Authority to issue an instrument varying an infrastructure licence in force immediately before the changeover time for the sole purpose of relabelling the infrastructure licence area using geographic co-ordinates based on the current datum.
- (5) The regulations may authorise the Designated Authority to issue an instrument varying a special prospecting authority or an access authority in force immediately before the changeover time for the sole purpose of relabelling the area in respect of which the authority is in force using geographic co-ordinates based on the current datum.
- (6) The regulations may authorise the Designated Authority to issue an instrument varying a pipeline licence in force immediately before the changeover time for the sole purpose of relabelling the route of the pipeline using geographic co-ordinates based on the current datum.
- (7) The regulations may authorise the Designated Authority to issue an instrument varying any other instrument under this Act that:
 - (a) sets out a point, line or area; and
 - (b) is in force immediately before the changeover time;for the sole purpose of relabelling the point, line or area using geographic co-ordinates based on the current datum.
- (8) The regulations may authorise the Designated Authority to issue an instrument varying a title or other instrument under this Act for the sole purpose of inserting an annotation about the applicable datum.

150S Variation of applications for titles

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

Part IIIB Datums

Division 1 Points etc. to be ascertained by reference to certain datums

Section 150T

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

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

150U Transitional regulations

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

150V Division has effect subject to section 150X

This Division has effect subject to section 150X.

Note: Section 150X deals with International Sea-bed Agreements.

150W Definitions

In this Division:

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

instrument under this Act does not include the regulations.

this Act includes the regulations.

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

**Division 2—Certain points etc. specified in an
International Sea-bed Agreement to be
ascertained by other means****150X Certain points etc. specified in an International Sea-bed
Agreement to be ascertained by other means**

(1) In this section:

International Sea-bed Agreement means:

- (a) the Agreement between Australia and Indonesia establishing certain sea-bed boundaries signed at Canberra on 18th May, 1971; or
 - (b) the Agreement between Australia and Indonesia establishing certain sea-bed boundaries in the area of the Timor and Arafura Seas supplementary to the Agreement referred to in paragraph (a) and signed at Jakarta on 9 October, 1972; or
 - (c) the Agreement between Australia and Indonesia concerning certain boundaries between Papua New Guinea and Indonesia signed at Jakarta on 12 February, 1973; or
 - (d) the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the 2 countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978.
- (2) If, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the Earth of a point or line specified in an International Sea-bed Agreement, or of a point on, or part of, such a line, that position must be determined in accordance with that Agreement or, if that Agreement is varied, in accordance with that Agreement as varied for the time being.

Part III C—National Offshore Petroleum Safety Authority

Division 1—Introduction

150XA Simplified outline

The following is a simplified outline of this Part:

- This Part establishes the National Offshore Petroleum Safety Authority.
- The Safety Authority has functions in relation to the occupational health and safety of persons engaged in offshore petroleum operations.
- There is to be a Chief Executive Officer (*CEO*) of the Safety Authority.
- The National Offshore Petroleum Safety Authority Board is established.
- The main function of the Board is to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions.
- The CEO may appoint OHS inspectors.

150XB Definitions

In this Part, unless the contrary intention appears:

Board means the National Offshore Petroleum Safety Authority Board established by section 150XL.

Board member means a member of the Board, and includes the Chair of the Board.

CEO means the Chief Executive Officer of the Safety Authority.

Commonwealth waters means the waters of the sea that comprise the adjacent areas of each State and of each Territory.

designated coastal waters, in relation to a State or the Northern Territory, has the meaning given by section 150XC.

facility means:

- (a) a facility (within the meaning of Schedule 7 to this Act as in force on or after 1 January 2005) located in Commonwealth waters; or
- (b) a facility (within the meaning of the provisions of a State or Territory PSLA that substantially correspond to Schedule 7 of this Act as in force on or after 1 January 2005) located in the designated coastal waters of the State or of the Northern Territory, as the case may be.

In applying this definition before 1 January 2005, assume that Schedule 7, and the provisions of a State or Territory PSLA that substantially correspond to Schedule 7 of this Act as in force on or after 1 January 2005, had commenced at the same time as the commencement of this section.

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

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

Section 150XB

OHS inspector means a person appointed as an OHS inspector under section 150YL.

operation includes an activity to which the core regulatory provisions of a State or Territory PSLA apply. For this purpose, the **core regulatory provisions** are the provisions that substantially correspond to Part III of this Act.

responsible Northern Territory Minister means the Minister of the Northern Territory who is responsible for the Territory PSLA.

responsible State Minister, in relation to a State, means the Minister of that State who is responsible for the State PSLA.

Safety Authority means the National Offshore Petroleum Safety Authority established by section 150XD.

Safety Authority waters means:

- (a) Commonwealth waters; and
- (b) the designated coastal waters of each State and of the Northern Territory.

Safety Levies Act means the *Offshore Petroleum (Safety Levies) Act 2003*.

section 140H OHS laws means the laws designated as section 140H OHS laws under subsection 140H(2).

staff, in relation to the Safety Authority, includes, for the purposes of sections 150XI and 150YP, a person who is appointed as an OHS inspector under this Part, whether or not that person is engaged under the *Public Service Act 1999* for the purposes of subsection 150YH(1).

State PSLA means:

- (a) in relation to New South Wales—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (b) in relation to Victoria—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (c) in relation to Queensland—the *Petroleum (Submerged Lands) Act 1982* of that State; or

- (d) in relation to Western Australia—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (e) in relation to South Australia—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (f) in relation to Tasmania—the *Petroleum (Submerged Lands) Act 1982* of that State.

Territory PSLA means the *Petroleum (Submerged Lands) Act* of the Northern Territory.

150XC Designated coastal waters

- (1) For the purposes of this Part, **designated coastal waters**, in relation to a State or the Northern Territory, means:
 - (a) so much of the area described in Schedule 2 under the heading that refers to that State or Territory as comprises the first 3 nautical miles seaward of the baseline of Australia’s territorial sea adjacent to that State or Territory (including the first 3 nautical miles of the territorial sea adjacent to any island forming part of that State or Territory); and
 - (b) subject to subsection (2), any area that:
 - (i) is within the area described in Schedule 2 under the heading that refers to that State or Territory; and
 - (ii) is seaward of the coastline of that State or Territory at mean low water and landward of the inner limit of Australia’s territorial sea; and
 - (iii) was, immediately before the commencement of the relevant State or Territory PSLA, the subject of an exploration permit for petroleum subsisting under this Act.
- (2) For the purposes of this Part, if (whether before or after the commencement of this subsection) an area that is within the designated coastal waters of a State or Territory because it is described in subparagraphs (1)(b)(i), (ii) and (iii) became or becomes an area that is:
 - (a) not the subject of a permit under the relevant State or Territory PSLA; and

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- (b) not the subject of a lease under the relevant State or Territory PSLA; and
 - (c) not the subject of a licence under the relevant State or Territory PSLA; and
 - (d) not the subject of an application for a lease or licence under the relevant State or Territory PSLA;
- the area is taken to have ceased to be part of the designated coastal waters of that State or Territory.

Division 2—Establishment, functions and powers of the Safety Authority

150XD Establishment of the National Offshore Petroleum Safety Authority

The National Offshore Petroleum Safety Authority is established by this section.

150XE Safety Authority's functions

The Safety Authority has the following functions:

- (a) the functions conferred on it by or under this Act in relation to offshore petroleum operations in Commonwealth waters;
- (b) the functions conferred on it by or under a State PSLA or the Territory PSLA in relation to offshore petroleum operations in the designated coastal waters of that State or Territory;
- (c) to promote the occupational health and safety of persons engaged in offshore petroleum operations;
- (d) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations under this Act and the regulations;
- (e) to:
 - (i) investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations in Commonwealth waters; and
 - (ii) to report, as appropriate, to the Commonwealth Minister, and to each responsible State or Northern Territory Minister, on those investigations;
- (f) to advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations;
- (g) to make reports, including recommendations, to:

Section 150XF

- (i) the Commonwealth Minister; and
- (ii) each responsible State or Northern Territory Minister;
on issues relating to the occupational health and safety of
persons engaged in offshore petroleum operations;
- (h) to cooperate with:
 - (i) other Commonwealth agencies having functions relating
to offshore petroleum operations; and
 - (ii) State or Northern Territory agencies having functions
relating to offshore petroleum operations; and
 - (iii) the Designated Authorities of the States and the
Northern Territory.

150XF Policy principles

- (1) The Commonwealth Minister may give written policy principles to the Safety Authority about the performance of its functions.

Note: For agreement and consultation requirements, see subsections (2) and (3).

- (2) The Commonwealth Minister must not give a policy principle that relates wholly or principally to the Safety Authority's operations in the designated coastal waters of one or more of the States and the Northern Territory unless the Commonwealth Minister has obtained the agreement of each responsible State and Northern Territory Minister concerned.
- (3) Before giving a policy principle that is not covered by subsection (2), the Commonwealth Minister must consult each responsible State and Northern Territory Minister.
- (4) The Commonwealth Minister must cause a copy of the policy principles to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which they were given to the Safety Authority.
- (5) The Safety Authority must comply with the policy principles (if any) when performing its functions.

150XG Safety Authority's ordinary powers

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

150XH References to functions and powers of the Safety Authority

For the avoidance of doubt, a reference in this Part (other than section 150XI) to the functions or powers of the Safety Authority includes a reference to the functions or powers conferred on the Safety Authority by or under a State or Territory PSLA.

Section 150XI

150XI Safety Authority may be given additional powers in certain circumstances

States or Northern Territory may empower Safety Authority to exercise powers in other places and circumstances

- (1) If a law of a State or of the Northern Territory provides for the Safety Authority, or members of the staff of the Safety Authority, to exercise powers, on or after 1 January 2005, in relation to the occupational health and safety of persons who do work in connection with exploration for petroleum or the recovery, processing, storage, offloading or piped conveyance of petroleum:
 - (a) in waters of the sea:
 - (i) that are landward of the baseline of Australia's territorial sea adjacent to the State or Territory; and
 - (ii) that are not designated coastal waters of the State or Territory; or
 - (b) within the limits of the State or Territory, including internal waters of that State or Territory;the Safety Authority and those members of staff may exercise those powers in those waters or in that State or Territory but are not obliged to do so.
- (2) A law of a State or of the Northern Territory that confers powers on the Safety Authority or on the staff of the Safety Authority in accordance with subsection (1) may only provide for the exercise of those powers in respect of a vessel or structure (however described):
 - (a) that is involved in one or more of the activities referred to in subsection (1); and
 - (b) that is owned or controlled, or that is being constructed, operated or decommissioned, by a corporation to which paragraph 51(xx) of the Constitution applies.

Must be agreement as to fees payable to support Safety Authority's provision of services

- (3) Neither the Safety Authority nor members of the staff of the Safety Authority can exercise powers in a place referred to in

subsection (1) unless there is agreement between the Commonwealth and the State or Territory concerned as to the fees payable by the State or Territory to the Safety Authority, on behalf of the Commonwealth, for the exercise of those powers.

150XJ Power to refer matters to NOGSAC

- (1) The Safety Authority may refer a matter to the NOGSAC body for advice.
- (2) For the purposes of this section, the *NOGSAC body* is:
 - (a) the body known as the National Oil and Gas Safety Advisory Committee; or
 - (b) if that body is disbanded—any successor body with similar membership and functions.
- (3) A matter referred under subsection (1) must be of a general nature and must not relate to a particular case.

150XK Safety Authority is a body corporate

- (1) The Safety Authority:
 - (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may sue and be sued.

Seal

- (2) The seal of the Safety Authority must be kept in such custody as the CEO directs, and must not be used except as authorised by the CEO.
- (3) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the seal of the Safety Authority appearing on a document; and
 - (b) presume that the document was duly sealed.

Division 3—National Offshore Petroleum Safety Authority Board

Subdivision A—Establishment, functions and membership

150XL Establishment of Board

The National Offshore Petroleum Safety Authority Board is established by this section.

150XM Functions of the Board

- (1) The Board has the following functions:
 - (a) to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;
 - (b) to give advice, and make recommendations, to:
 - (i) the Commonwealth Minister; and
 - (ii) a responsible State Minister; and
 - (iii) the responsible Northern Territory Minister; and
 - (iv) the body known as the Ministerial Council on Mineral and Petroleum Resources;about either or both of the following:
 - (v) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations;
 - (vi) the performance by the Safety Authority of its functions;
 - (c) such other functions (if any) as are specified in a written notice given by the Commonwealth Minister to the Chair of the Board.
- (2) A notice under paragraph (1)(c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

- (3) As soon as practicable after the Board gives advice, or makes recommendations, under paragraph (1)(b) to:
- (a) a responsible State Minister; or
 - (b) the responsible Northern Territory Minister; or
 - (c) the body known as the Ministerial Council on Mineral and Petroleum Resources;
- the Board must give the Commonwealth Minister a written copy of that advice or those recommendations.

150XN Powers of the Board

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

150XO Membership

- (1) The Board consists of the following members:
- (a) a Chair;
 - (b) 4 or 6 other members.

Note: Section 18B of the *Acts Interpretation Act 1901* deals with the title of the Chair.

- (2) The performance of the functions, or the exercise of the powers, of the Board is not affected only because of there being a vacancy or vacancies in the membership of the Board.
- (3) Board members are to be appointed by the Commonwealth Minister by written instrument.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (4) Each person appointed as a Board member must have been selected for appointment by the body known as the Ministerial Council on Mineral and Petroleum Resources.

Note: The Chair is a Board member appointed by the Commonwealth Minister as the Chair.

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Subdivision B—Board procedures

150XP Board procedures

- (1) The Commonwealth Minister may, by writing, determine matters relating to the operation of the Board, including (but not limited to) the following:
 - (a) procedures for convening Board meetings;
 - (b) the constitution of a quorum for a Board meeting;
 - (c) procedures for conducting Board meetings, including (but not limited to) the way the Board may resolve matters;
 - (d) disclosure of interests;
 - (e) Board records;
 - (f) reporting requirements, including (but not limited to) reports to the Commonwealth Minister and to the public.
- (2) If no determination is in force for the purposes of a paragraph of subsection (1), the Board may operate in the way it determines in respect of the matters described in that paragraph.
- (3) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Subdivision C—Terms and conditions for Board members

150XQ Term of appointment and related matters for Board members

- (1) A Board member is to be appointed on a part-time basis.
- (2) A Board member holds office for the period that is specified in the instrument of appointment. The period must not exceed 3 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

150XR Remuneration and allowances of Board members

- (1) A Board member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Board member is to be paid the remuneration that is determined by the Commonwealth Minister.
- (2) However, if a Board member is in full-time employment with:
 - (a) a State or the Northern Territory; or
 - (b) an instrumentality of a State or of the Northern Territory;the Board member is not to be paid remuneration under subsection (1).
- (3) A Board member is to be paid the allowances that are prescribed.
- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

150XS Leave of absence of Board members

- (1) The Commonwealth Minister may grant leave of absence to the Chair of the Board on the terms and conditions that the Commonwealth Minister determines.
- (2) The Chair of the Board may grant leave of absence to another Board member on the terms and conditions that the Chair determines.

150XT Resignation of Board members

A Board member may resign his or her appointment by giving the Commonwealth Minister a written resignation.

150XU Termination of appointment of Board members

- (1) The Commonwealth Minister may terminate the appointment of a Board member for misbehaviour or physical or mental incapacity.

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- (2) The Commonwealth Minister may terminate the appointment of a Board member if:
 - (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) the member fails, without reasonable excuse, to comply with a section 150XP determination to the extent to which the determination relates to disclosure of interests; or
 - (d) the Commonwealth Minister is satisfied that the performance of the member has been unsatisfactory for a significant period.
- (3) The Commonwealth Minister must consult all responsible State Ministers and the responsible Northern Territory Minister before terminating the appointment of a Board member.

150XV Other terms and conditions of Board members

A Board member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Commonwealth Minister.

150XW Acting Board members

- (1) The Commonwealth Minister may appoint a person to act as the Chair of the Board:
 - (a) during a vacancy in the office of Chair of the Board, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chair of the Board is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

- (2) The Commonwealth Minister may appoint a person to act as a Board member (other than the Chair of the Board):
- (a) during a vacancy in the office of a Board member (other than the Chair of the Board), whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when a Board member (other than the Chair of the Board) is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
- (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

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Division 4—Chief Executive Officer and staff of the Safety Authority

150XX Appointment of the CEO

- (1) There is to be a Chief Executive Officer of the Safety Authority.
- (2) The CEO is to be appointed by the Commonwealth Minister by written instrument.
- (3) The Commonwealth Minister must not appoint a person as CEO unless the person is recommended to the Commonwealth Minister by the body known as the Ministerial Council on Mineral and Petroleum Resources.
- (4) The CEO is to be appointed on a full-time basis.
- (5) The CEO holds office for the period that is specified in the instrument of appointment. The period must not exceed 5 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

150XY Duties of the CEO

- (1) The CEO is responsible for managing the Safety Authority.
- (2) Anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

150XZ Working with the Board

- (1) The CEO must request the Board's advice on strategic matters relating to the performance of the Safety Authority's functions.
- (2) The CEO must have regard to the advice given to him or her by the Board (whether or not the advice was given in response to a request).

- (3) The CEO must:
 - (a) keep the Board informed of the Safety Authority's operations; and
 - (b) give the Board such reports, documents and information in relation to those operations as the Chair of the Board requires.
- (4) The CEO may attend Board meetings as an observer (including by telephone or other means).

150Y Remuneration and allowances of the CEO

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is determined by the Commonwealth Minister.
- (2) The CEO is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

150YA Leave of absence of the CEO

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Commonwealth Minister may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Commonwealth Minister determines.

150YB Resignation of the CEO

The CEO may resign his or her appointment by giving the Commonwealth Minister a written resignation.

150YC Notification of possible conflict of interest by CEO

Immediately after the CEO:

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- (a) acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his or her duties; or
 - (b) becomes aware that any interest, pecuniary or otherwise, that:
 - (i) he or she has; or
 - (ii) he or she is likely to acquire;could conflict with the proper performance of his or her duties;
- the CEO must notify the Commonwealth Minister, in writing, of that interest.

150YD Termination of CEO's appointment

Termination

- (1) The Commonwealth Minister may terminate the appointment of the CEO for misbehaviour or physical or mental incapacity.
- (2) The Commonwealth Minister may terminate the appointment of the CEO if:
 - (a) the CEO:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the CEO is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the CEO engages, except with the Commonwealth Minister's approval, in paid employment outside the duties of his or her office; or
 - (d) the CEO fails, without reasonable excuse, to comply with section 150YC; or
 - (e) the Commonwealth Minister is satisfied that the performance of the CEO has been unsatisfactory for a significant period.

Conflict of interest

- (3) If the Commonwealth Minister becomes aware, whether because of a notification under section 150YC or otherwise, that the CEO has an interest that could conflict with the proper performance of the CEO's duties, the Commonwealth Minister must make a written determination either that the interest does, or that it does not, pose a significant risk of a conflict of interest.
- (4) If the Commonwealth Minister determines that the interest poses a significant risk, the Commonwealth Minister must require the CEO to dispose of that interest within a period specified by the Commonwealth Minister.
- (5) If:
 - (a) the Commonwealth Minister requires the CEO to dispose of an interest; and
 - (b) the CEO refuses or fails to comply with that requirement;the Commonwealth Minister must terminate the appointment of the CEO.

150YE Other terms and conditions

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Commonwealth Minister.

150YF Acting appointments

- (1) The Commonwealth Minister may appoint a person to act as the CEO:
 - (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the CEO is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:

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- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

150YG Delegation by CEO

- (1) The CEO may, by writing, delegate any or all of his or her functions or powers (except a power conferred by section 150YL) to:
 - (a) a member of staff of the Safety Authority; or
 - (b) an employee of the Commonwealth or of a Commonwealth authority; or
 - (c) an employee of a State or of the Northern Territory or of an authority of a State or of the Northern Territory.
- (2) In exercising powers under the delegation, the delegate must comply with any directions of the CEO.

Note: See sections 34AA to 34A of the *Acts Interpretation Act 1901*.

150YH Staff of the Safety Authority

- (1) The staff of the Safety Authority must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the APS employees assisting the CEO together constitute a Statutory Agency; and
 - (b) the CEO is the Head of that Statutory Agency.

150YI Consultants and persons seconded to the Safety Authority

- (1) The CEO may, on behalf of the Commonwealth, engage consultants to perform services for the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers.

- (2) The terms and conditions of engagement of persons engaged under subsection (1) are such as the CEO determines in writing.
- (3) The Safety Authority may also be assisted:
 - (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth; or
 - (b) by officers and employees of, or of authorities of, a State or the Northern Territory;whose services are made available to the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers.

Division 5—Corporate plans

150YJ Corporate plans

- (1) The CEO must prepare a corporate plan for the Safety Authority at least once every 3 years and give the plan to the Commonwealth Minister.
- (2) The plan must cover a period of at least 3 years.
- (3) The CEO must keep the Commonwealth Minister informed about:
 - (a) significant changes to the plan; and
 - (b) matters that arise that might significantly affect the achievement of the objectives of the plan.
- (4) The plan must include details of the following matters:
 - (a) the Safety Authority's operational environment;
 - (b) the Safety Authority's strategies;
 - (c) performance indicators for the Safety Authority;
 - (d) a review of performance against previous corporate plans;
 - (e) an analysis of risk factors likely to affect the safety of offshore petroleum operations;
 - (f) human resource strategies and industrial relations strategies.
- (5) The plan must also cover any other matters required by the Commonwealth Minister, which may include further details about the matters in subsection (4).

150YK Commonwealth Minister's response to corporate plan

- (1) On receiving a corporate plan, the Commonwealth Minister must:
 - (a) provide a copy of the plan to each responsible State or Northern Territory Minister; and
 - (b) consult those Ministers on the content of the plan.
- (2) The Commonwealth Minister must respond to the plan as soon as practicable after completion of those consultations.

- (3) The Commonwealth Minister's response may include a written direction to the CEO to vary the plan. However, a direction under this subsection must not be given in respect of particular offshore petroleum operations.
- (4) The Commonwealth Minister's response must set out the reasons for giving a direction.
- (5) If the Commonwealth Minister's response includes a direction to vary the corporate plan, the CEO must prepare a revised plan and give it to the Commonwealth Minister within 30 days after being given the response.
- (6) The Commonwealth Minister must not approve, or direct the variation of, a part of a corporate plan that relates specifically to operations of the Safety Authority in the designated coastal waters of one or more of the States without the approval of the responsible State Minister or responsible State Ministers concerned.
- (7) The Commonwealth Minister must not approve, or direct the variation of, a part of a corporate plan that relates specifically to operations of the Safety Authority in the designated coastal waters of the Northern Territory without the approval of the responsible Northern Territory Minister.

Division 6—OHS inspectors

150YL Appointment of OHS inspectors

- (1) The CEO may, by writing, appoint persons as OHS inspectors.
- (2) The CEO may only appoint as OHS inspectors persons who are:
 - (a) members of the staff of the Safety Authority; or
 - (b) employees of the Commonwealth or of a Commonwealth authority; or
 - (c) employees of a State or of the Northern Territory or of an authority of a State or of the Northern Territory.
- (3) Despite subsection (2), the CEO may appoint persons who are not covered by paragraph (2)(a), (b) or (c) as OHS inspectors, so long as the appointment is for a specified period and for the performance of specified functions.
- (4) In addition to the powers, functions and duties conferred or imposed by or under this Act, an OHS inspector has all the powers, functions and duties that are conferred or imposed by or under a State PSLA or the Territory PSLA.

150YM Identity cards

- (1) The Safety Authority must issue an identity card to each OHS inspector:
 - (a) stating that he or she is an OHS inspector for the purposes of this Act; and
 - (b) if the OHS inspector is appointed for a limited period and in respect only of particular functions—specifying that period and those functions.
- (2) The identity card must:
 - (a) be in the form prescribed by the regulations; and
 - (b) contain a recent photograph of the OHS inspector.
- (3) A person is guilty of an offence if:

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- (a) the person has been issued with an identity card for the purposes of this section; and
- (b) the person ceases to be an OHS inspector; and
- (c) the person does not return the identity card to the Safety Authority as soon as practicable.

Penalty: 1 penalty unit.

- (4) However, the person is not guilty of the offence if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4). See subsection 13.3(3) of the *Criminal Code*.

- (5) A person to whom an identity card is issued under this section must carry the identity card at all times when carrying out functions as an OHS inspector.

Note: For requirements to produce the card when entering premises, see clauses 31, 31A and 31B of Schedule 7.

Division 7—National Offshore Petroleum Safety Account

150YN National Offshore Petroleum Safety Account

- (1) The National Offshore Petroleum Safety Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

150YO Credits to the Account

The following amounts must be credited to the Account:

- (a) amounts appropriated by the Parliament for the purposes of the Account;
- (b) amounts equal to amounts paid to the Safety Authority on behalf of the Commonwealth by way of fees paid under regulations made for the purposes of subsection 150YQ(1);
- (c) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of safety investigation levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 150YR(2);
- (d) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of safety case levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 150YS(4);
- (e) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of pipeline safety management plan levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 150YT(2);

- (f) amounts equal to amounts paid to the Safety Authority, on behalf of the Commonwealth, by a State or the Northern Territory under an agreement referred to in subsection 150XI(3);
- (g) amounts equal to any other amounts paid to the Safety Authority, on behalf of the Commonwealth, by a State or the Northern Territory;
- (h) amounts equal to any other amounts paid to the Safety Authority on behalf of the Commonwealth.

150YP Purposes of the Account

The purposes of the Account are as follows:

- (a) to pay or discharge the costs, expenses and other obligations incurred by the Safety Authority in the performance of its functions or the exercise of its powers;
- (b) to pay any remuneration or allowances payable to Board members, the CEO and the staff of the Safety Authority;
- (c) to make any other payments that the Safety Authority is authorised to make by or under any law of a State or of the Northern Territory that confers powers on the Safety Authority or on the staff of the Safety Authority in the area and under circumstances described in section 150XI.

Note: See section 21 of the *Financial Management and Accountability Act 1997*.

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Division 8—Other financial matters

150YQ Fees for services provided by the Safety Authority

Fees

- (1) The regulations may provide for the payment to the Safety Authority, on behalf of the Commonwealth, of fees in relation to services provided by the Safety Authority.
- (2) Subsection (1) does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

Recovery of fees

- (3) Each fee:
 - (a) is a debt due to the Safety Authority on behalf of the Commonwealth; and
 - (b) is recoverable by the Safety Authority, on behalf of the Commonwealth, in a court of competent jurisdiction.

150YR Safety investigation levy

When safety investigation levy becomes due and payable

- (1) Safety investigation levy imposed by the Safety Levies Act becomes due and payable at the time specified in, or worked out in accordance with, the regulations.

Late payment penalty

- (2) If safety investigation levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (3) The late payment penalty is calculated at the rate of 0.33% per day on the amount of the safety investigation levy remaining unpaid.

- (4) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of safety investigation levy and late payment penalty

- (5) Each amount of safety investigation levy, and each amount of late payment penalty payable in respect of safety investigation levy:
- (a) is a debt due to the Safety Authority on behalf of the Commonwealth; and
 - (b) is recoverable by the Safety Authority, on behalf of the Commonwealth, in a court of competent jurisdiction.

150YS Safety case levy

Remittal

- (1) The regulations may make provision for the remittal of part of an amount of safety case levy imposed by the Safety Levies Act in respect of a facility and a year if:
- (a) the facility is of a kind declared by the regulations to be a facility that operates on an intermittent basis; and
 - (b) the facility in fact only operates for a part of that year.
- (2) The regulations may make provision for the remittal of part of an amount of safety case levy imposed by the Safety Levies Act in respect of a facility and a part of a year if:
- (a) the facility is of a kind declared by the regulations to be a facility that operates on an intermittent basis; and
 - (b) the facility in fact only operates for a part of that part of the year.

When safety case levy becomes due and payable

- (3) Safety case levy imposed by the Safety Levies Act becomes due and payable at the time specified in, or worked out in accordance with, the regulations.

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Late payment penalty

- (4) If safety case levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (5) The late payment penalty is calculated at the rate of 0.33% per day on the amount of the safety case levy remaining unpaid.
- (6) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of safety case levy and late payment penalty

- (7) Each amount of safety case levy, and each amount of late payment penalty payable in respect of safety case levy:
 - (a) is a debt due to the Safety Authority on behalf of the Commonwealth; and
 - (b) is recoverable by the Safety Authority, on behalf of the Commonwealth, in a court of competent jurisdiction.

Definitions

- (8) In this section:

facility:

- (a) in relation to safety case levy imposed by section 7 of the Safety Levies Act—has the same meaning as in that section; or
- (b) in relation to safety case levy imposed by section 8 of the Safety Levies Act—has the same meaning as in that section.

year has the same meaning as in the Safety Levies Act.

150YT Pipeline safety management plan levy

When pipeline safety management plan levy becomes due and payable

- (1) Pipeline safety management plan levy imposed by the Safety Levies Act becomes due and payable at the time specified in, or worked out in accordance with, the regulations.

Late payment penalty

- (2) If pipeline safety management plan levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (3) The late payment penalty is calculated at the rate of 0.33% per day on the amount of the pipeline safety management plan levy remaining unpaid.
- (4) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of pipeline safety management plan levy and late payment penalty

- (5) Each amount of pipeline safety management plan levy, and each amount of late payment penalty payable in respect of pipeline safety management plan levy:
 - (a) is a debt due to the Safety Authority on behalf of the Commonwealth; and
 - (b) is recoverable by the Safety Authority, on behalf of the Commonwealth, in a court of competent jurisdiction.

150YU Liability to taxation

- (1) The Safety Authority is not subject to taxation under the laws of the Commonwealth or of a State or Territory.

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- (2) However, the regulations may provide that subsection (1) does not apply in relation to a specified law of the Commonwealth or of a State or Territory.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

Division 9—Miscellaneous

150YV Annual reports

Safety Authority

- (1) The CEO must, as soon as practicable after 30 June in each year:
 - (a) prepare and give to the Commonwealth Minister a report of the Safety Authority's operations during the year ending on that 30 June; and
 - (b) give a copy of that report to:
 - (i) each responsible State Minister; and
 - (ii) the responsible Northern Territory Minister; and
 - (iii) the body known as the Ministerial Council on Mineral and Petroleum Resources.

Note: See also section 34C of the *Acts Interpretation Act 1901*.

- (2) A report under subsection (1) must include such other matters as are prescribed in the regulations.

Board

- (3) The Chair of the Board must, as soon as practicable after 30 June in each year:
 - (a) prepare and give to the Commonwealth Minister a report of the Board's operations during the year ending on that 30 June; and
 - (b) give a copy of that report to:
 - (i) each responsible State Minister; and
 - (ii) the responsible Northern Territory Minister; and
 - (iii) the body known as the Ministerial Council on Mineral and Petroleum Resources.

Note: See also section 34C of the *Acts Interpretation Act 1901*.

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Tabling of reports

- (4) The Commonwealth Minister must cause a copy of each report under this section to be tabled in each House of the Parliament within 15 sitting days of that House after receiving the report.

150YW Ministers may require the Safety Authority to prepare reports or give information

Reports

- (1) The Commonwealth Minister or a responsible State or Northern Territory Minister may, by written notice given to the Safety Authority, require the Safety Authority:
- (a) to prepare a report about one or more specified matters relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the report to:
 - (i) the Commonwealth Minister; and
 - (ii) each responsible State Minister; and
 - (iii) the responsible Northern Territory Minister;within the period specified in the notice.

Information

- (2) The Commonwealth Minister or a responsible State or Northern Territory Minister may, by written notice given to the Safety Authority, require the Safety Authority to:
- (a) prepare a document setting out specified information relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the document to:
 - (i) the Commonwealth Minister; and
 - (ii) each responsible State Minister; and
 - (iii) the responsible Northern Territory Minister;within the period specified in the notice.

Compliance with requirement

- (3) The Safety Authority must comply with a requirement under subsection (1) or (2).

150YX Commonwealth Minister may give directions to the Safety Authority

Minister may give directions

- (1) The Commonwealth Minister may give written directions to the Safety Authority as to the performance of its functions or the exercise of its powers.

Note: For agreement and consultation requirements, see subsections (7) and (11).

- (2) Directions given by the Commonwealth Minister must not relate to operations at a particular facility.
- (3) Subsection (2) does not prevent the Commonwealth Minister from directing the Safety Authority to investigate a particular occurrence in relation to a facility located in Safety Authority waters.

Responsible State/Northern Territory Minister may request the Commonwealth Minister to give a direction

- (4) A responsible State Minister or the responsible Northern Territory Minister may request the Commonwealth Minister to give a direction to the Safety Authority that relates wholly or principally to the Safety Authority's operations in the designated coastal waters of the relevant State or the Northern Territory, as the case may be.
- (5) The Commonwealth Minister must use his or her best endeavours to make a decision on the request within 30 days after receiving the request.
- (6) If the Commonwealth Minister refuses the request, the Commonwealth Minister must give the Minister who made the request a written statement setting out the reasons for the refusal.

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Agreement of responsible State/Northern Territory Ministers

- (7) The Commonwealth Minister must not give a direction that relates wholly or principally to the Safety Authority's operations in the designated coastal waters of one or more of the States and the Northern Territory unless the Commonwealth Minister has obtained the agreement of each responsible State or Northern Territory Minister concerned (the *affected Minister or Ministers*).

Urgency

- (8) If the Commonwealth Minister is satisfied that the circumstances of a case are sufficiently urgent to warrant it, the Commonwealth Minister may, despite subsection (7), give a direction to the Safety Authority without obtaining the agreement of the affected Minister or Ministers concerned.
- (9) If the Commonwealth Minister gives a direction as mentioned in subsection (8), the direction expires at the end of the 30-day period beginning on the day on which the direction was given unless, before the end of that period, the Commonwealth Minister has obtained the agreement of the affected Minister or Ministers concerned.
- (10) If a direction expires because of subsection (9), this Act does not prevent the Commonwealth Minister from giving a subsequent direction in the same or similar terms as the expired direction.

Consultation with responsible State/Northern Territory Ministers

- (11) Before giving a direction that is not covered by subsection (7), the Commonwealth Minister must consult each responsible State or Northern Territory Minister.

Compliance with directions

- (12) The Safety Authority must comply with any direction given by the Commonwealth Minister under this section.

Other provisions do not limit this section

- (13) Sections 150XF and 150YW do not limit the scope of the directions that may be given by the Commonwealth Minister under this section.

150YY Prosecutions by the Director of Public Prosecutions under mirror provisions

The Commonwealth Director of Public Prosecutions has the functions and powers (including the power to institute and carry on appeals arising out of prosecutions of offences) conferred on him or her by or under an Act or regulation of a State or of the Northern Territory in relation to offences under laws that substantially correspond to section 140H OHS laws.

150YZ Australian Industrial Relations Commission may exercise powers under mirror provisions

- (1) If the laws of a State or of the Northern Territory confer appropriate powers and functions on the Australian Industrial Relations Commission to do so, the Australian Industrial Relations Commission may deal with appeals against decisions of an OHS inspector under laws or regulations of that State or Territory that substantially correspond to section 140H OHS laws in respect of which a similar decision can be the subject of an appeal under clause 37 of Schedule 7.
- (2) If the laws of a State or of the Northern Territory confer appropriate powers and functions on the Australian Industrial Relations Commission to do so, the Australian Industrial Relations Commission may deal with the resolution of matters under a law of that State or Territory that substantially corresponds to clause 12 of Schedule 7.

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150Z Reviews of operations of Safety Authority

- (1) The Commonwealth Minister must cause to be conducted reviews of the operations of the Safety Authority in relation to Safety Authority waters.
- (2) The Commonwealth Minister must cause to be prepared a report of a review under subsection (1).
- (3) The first review is to relate to the 3-year period beginning on 1 January 2005, and is to be completed within 6 months, or such longer period as the Commonwealth Minister allows, after the end of that 3-year period.
- (4) Subsequent reviews are to relate to successive 3-year periods, and must be completed within 6 months, or such longer period as the Commonwealth Minister allows, after the end of the 3-year period to which the review relates.
- (5) For the purposes of this section, a review is *completed* when the report of the review is made available to the Commonwealth Minister.
- (6) A responsible State or Northern Territory Minister may give the Commonwealth Minister a written request that a particular review under subsection (1) be conducted in conjunction with another review that:
 - (a) is a review of the operations of the Safety Authority in the designated coastal waters of the State or of the Northern Territory, as the case may be; and
 - (b) is being, or is to be, conducted by the responsible State or Northern Territory Minister at the same time.The Commonwealth Minister must ensure that the request is complied with.
- (7) Without limiting the matters to be covered by a review under subsection (1), the review must include an assessment of the effectiveness of the Safety Authority in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.

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- (8) The Commonwealth Minister must cause a copy of the report of a review under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of that House after the report of the review is made available to the Commonwealth Minister.

Part IV—Miscellaneous

151 Jurisdiction of courts

- (1) Subject to this section:
 - (a) the several courts of the States are invested with federal jurisdiction; and
 - (b) jurisdiction is conferred on the several courts of the Territories;with respect to matters arising under this Act or the regulations, other than matters arising under the applied provisions.
- (2) The jurisdiction vested in or conferred on courts by subsection (1) is invested or conferred within the limits, other than limits having effect by reference to localities, of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

152 Reconsideration and review of certain decisions

- (1) In this section:

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

relevant decision means a decision of a delegate of the Minister under this Act or the regulations, being a decision made in the performance of the functions or the exercise of the powers of the Designated Authority in respect of the adjacent area in respect of a Territory referred to in section 7 (including the functions and powers conferred by virtue of subsection 8G(1)).

reviewable decision means:

- (a) a decision of the Minister (not being a decision of a delegate of the Minister) under this Act or the regulations, being a decision made in the performance of the functions or the exercise of the powers of the Designated Authority in respect of the adjacent area in respect of a Territory referred to in

- section 7 (including the functions and powers conferred by virtue of subsection 8G(1)); or
- (b) a decision of the Minister under:
- (i) subsection 118(1B), (2), (3), (5), (5E) or (5J) of this Act as previously in force; or
 - (ii) regulations made for the purposes of paragraph 150B(2)(c) or 150C(2)(c), where the decision is of a kind referred to in paragraph 150H(2)(b); or
 - (ia) regulations made for the purposes of paragraph 150E(2)(c) or 150F(2)(c); or
 - (iii) subsection (2) or (5) of this section.
- (2) A person affected by a relevant decision who is dissatisfied with the decision may, within 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the end of that period), by notice in writing served on the person, allows, by notice in writing given to the Minister, request the Minister to reconsider the decision.
- (3) There shall be set out in the notice of request the reasons for making the request.
- (4) Where the Minister receives a request, the Minister shall, by notice in writing served on the person who made the request, acknowledge receipt of the request.
- (5) The Minister shall, within 45 days after the receipt of the request, reconsider the relevant decision and may make a decision:
- (a) in substitution for the relevant decision, whether in the same terms as the relevant decision or not; or
 - (b) revoking the relevant decision.
- (6) Where, as a result of a reconsideration under subsection (5), the Minister makes a decision in substitution for or revoking a relevant decision, the Minister shall, by notice in writing served on the person who made the request under subsection (2) for the reconsideration, inform the person of the result of the reconsideration and give reasons for the decision.
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Section 155

- (7) Applications may be made to the Administrative Appeals Tribunal for review of a reviewable decision.
- (8) Where a relevant decision is made and the person who made the relevant decision gives to a person whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that a person affected by the decision:
 - (a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision by the Minister in accordance with subsection (2); and
 - (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision of the Minister upon that reconsideration, make application to the Administrative Appeals Tribunal for review of that decision.
- (9) Where the Minister makes a reviewable decision and gives to a person whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person whose interests are affected by the decision.
- (10) Any failure to comply with the requirements of subsection (8) or (9) in relation to a decision does not affect the validity of the decision.

155 Validation of certain acts

Where a person or court has done an act in the purported exercise of a power or function under the law of a State or Territory and that act could have been done by that person or court in the exercise of a power or function under the applied provisions, that act shall be deemed to have been done by that person or court in the exercise of the power or function under those provisions.

157 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, but without limiting the generality of subsection (1), the regulations may make provision for securing, regulating, controlling or restricting all or any of the following matters:
 - (a) the exploration for petroleum and the carrying on of operations, and the execution of works, for that purpose;
 - (b) the recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose;
 - (c) conserving, and preventing the waste of, the natural resources, whether petroleum or otherwise, of the continental shelf;
 - (d) the construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations and the carrying on of operations, and the execution of works, for any of those purposes;
 - (e) the construction, erection, maintenance, operation or use of installations, equipment or facilities;
 - (f) the control of the flow or discharge, and the prevention of the escape, of petroleum, water or drilling fluid, or a mixture of water or drilling fluid with petroleum or any other matter;
 - (g) the clean-up or other remedying of the effects of the escape of petroleum;
 - (h) the prevention of damage to petroleum-bearing strata in an area, whether in an adjacent area or not, in respect of which a permit, lease or licence is not in force;
 - (i) the keeping separate of:
 - (i) each petroleum pool discovered in a permit area, lease area or licence area; and
 - (ii) each source of water discovered in a permit area, lease area or licence area;
 - (j) the prevention of water or other matter from entering a petroleum pool through wells;

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- (k) the prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station;
 - (l) the maintaining in good condition and repair of all structures, equipment and other property in an adjacent area used or intended to be used for or in connexion with exploration for, or the exploitation of, petroleum in the adjacent area; and
 - (m) the removal from an adjacent area of structures, equipment and other property brought into the adjacent area for or in connexion with exploration for, or the exploitation of, petroleum that are not used or intended to be used in connexion with exploration for, or the exploitation of, petroleum in the adjacent area.
- (2A) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.
- (2B) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.
- (3) The regulations may, to the extent to which this Act does not do so, provide for the exercise of Australia's rights under international law in relation to the exploration for, and the exploitation of, petroleum as a natural resource of the continental shelf.
- Note: Subsection (1) provides that the regulations must not be inconsistent with this Act.
- (4) The regulations may make provisions in relation to the exploration for, and the exploitation of, the natural resources (being petroleum) of the sea-bed and subsoil of the submarine areas within the territorial limits of the Commonwealth and the Territories similar to the provisions that, under subsection (3), may be made with

respect to the exploration for, and the exploitation of, the natural resources (being petroleum) of the continental shelf.

- (5) The regulations may provide, in respect of an offence against the regulations, for the imposition of:
- (a) a fine not exceeding 100 penalty units; or
 - (b) a fine not exceeding that amount for each day on which the offence occurs.

Schedule 2

Section 5A (for datum, see section 150M)

Area that includes the adjacent area in respect of New South Wales

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the geodesic between the trigonometrical station known as Point Danger near Point Danger and a point of Latitude 27° 58' South, Longitude 154° East and runs thence north-easterly along that geodesic to the last-mentioned point, thence north-easterly along the geodesic to a point of Latitude 27° 48' South, Longitude 154° 22' East, thence easterly along the geodesic to a point of Latitude 26° 59' 05'' South, Longitude 165° 40' East, thence southerly along the meridian of Longitude 165° 40' East to its intersection by the parallel of Latitude 34° 03' 30'' South, thence south-westerly along the geodesic to a point of Latitude 34° 16' South, Longitude 165° 16' East, thence south-westerly along the geodesic to a point of Latitude 37° 21' 30'' South, Longitude 164° 23' East, thence south-westerly along the geodesic to a point of Latitude 37° 32' South, Longitude 164° 11' East, thence south-westerly along the geodesic to a point of Latitude 37° 59' South, Longitude 163° 47' East, thence south-westerly along the geodesic to a point of Latitude 38° 58' South, Longitude 161° 15' 30'' East, thence south-westerly along the geodesic to a point of Latitude 39° 12' South, Longitude 160° East, thence south-westerly along the geodesic to a point of Latitude 40° 40' South, Longitude 158° 53' East, thence north-westerly along the geodesic to a point of Latitude 37° 35' South, Longitude 150° 10' East, thence north-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria, thence generally northerly along the coastline of Australia at mean low water to the point of commencement.

**Area that includes the adjacent area in respect of
Victoria**

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria and runs thence south-easterly along the geodesic to a point of Latitude 37° 35′ South, Longitude 150° 10′ East, thence south-easterly along the geodesic to a point of Latitude 40° 40′ South, Longitude 158° 53′ East, thence south-westerly along the geodesic to a point of Latitude 41° 30′ South, Longitude 158° 13′ East, thence north-westerly along the geodesic to a point of Latitude 39° 12′ South, Longitude 150° East, thence westerly along the parallel of Latitude 39° 12′ South to its intersection by the meridian of Longitude 142° 30′ East, thence south-westerly along the geodesic to a point of Latitude 39° 50′ South, Longitude 142° East, thence south-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29′ East, thence north-easterly along the geodesic to a point of Latitude 38° 40′ 48″ South, Longitude 140° 40′ 44″ East, thence north-easterly along the geodesic to a point of Latitude 38° 35′ 30″ South, Longitude 140° 44′ 37″ East, thence north-easterly along the geodesic to a point of Latitude 38° 26′ South, Longitude 140° 53′ East, thence north-easterly along the geodesic to a point of Latitude 38° 15′ South, Longitude 140° 57′ East, thence north-easterly along the geodesic to a point that is the intersection of the parallel of Latitude 38° 10′ South by the meridian passing through the intersection of the coastline at mean low water by the boundary between the States of South Australia and Victoria, thence northerly along that meridian to its intersection by the coastline at mean low water, thence along the coastline of the State of Victoria at mean low water to the point of commencement.

**Area that includes the adjacent area in respect of
Queensland**

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland and runs:

- (1) thence north-easterly along the geodesic to the point of Latitude 15° 55′ South, Longitude 138° 30′ East;
 - (2) thence north along the meridian of Longitude 138° 30′ East to its intersection by the parallel of Latitude 14° 30′ South;
 - (3) thence east along that parallel to its intersection by the meridian of Longitude 139° 15′ East;
 - (4) thence north along that meridian to its intersection by the parallel of Latitude 11° South;
 - (5) thence north-westerly along the geodesic to the point of Latitude 10° 51′ South, Longitude 139° 12′ 30″ East;
 - (6) thence north-westerly along the geodesic to the point of Latitude 10° 50′ South, Longitude 139° 12′ East;
 - (7) thence south-easterly along the geodesic to the point of Latitude 11° 09′ South, Longitude 139° 23′ East;
 - (8) thence north-easterly along the geodesic to the point of Latitude 10° 59′ South, Longitude 140° 00′ East;
 - (9) thence north-easterly along the geodesic to the point of Latitude 9° 46′ South, Longitude 142° 00′ East;
 - (10) thence north-easterly along the geodesic to the point of Latitude 9° 45′ 24″ South, Longitude 142° 03′ 30″ East;
 - (11) thence north-easterly along the geodesic to the point of Latitude 9° 42′ South, Longitude 142° 23′ East;
 - (12) thence north-easterly along the geodesic to the point of Latitude 9° 40′ 30″ South, Longitude 142° 51′ East;
 - (13) thence north-easterly along the geodesic to the point of Latitude 9° 40′ South, Longitude 143° 00′ East;
 - (14) thence north-easterly along the geodesic to the point of Latitude 9° 33′ South, Longitude 143° 05′ East;
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- (15) thence east along the parallel of Latitude $9^{\circ} 33'$ South, to its intersection by the meridian of Longitude $143^{\circ} 20'$ East;
 - (16) thence north-easterly along the geodesic to the point of Latitude $9^{\circ} 24'$ South, Longitude $143^{\circ} 30'$ East;
 - (17) thence north-easterly along the geodesic to the point of Latitude $9^{\circ} 22'$ South, Longitude $143^{\circ} 48'$ East;
 - (18) thence south-easterly along the geodesic to the point of Latitude $9^{\circ} 30'$ South, Longitude $144^{\circ} 15'$ East;
 - (19) thence south-easterly along the geodesic to the point of Latitude $9^{\circ} 51'$ South, Longitude $144^{\circ} 44'$ East;
 - (20) thence south-easterly along the geodesic to the point of Latitude $12^{\circ} 20'$ South, Longitude $146^{\circ} 30'$ East;
 - (21) thence south-easterly along the geodesic to the point of Latitude $12^{\circ} 38' 30''$ South, Longitude $147^{\circ} 08' 30''$ East;
 - (22) thence south-easterly along the geodesic to the point of Latitude $12^{\circ} 56' 23''$ South, Longitude $147^{\circ} 40'$ East;
 - (23) thence south along the meridian of Longitude $147^{\circ} 40'$ East to its intersection by the parallel of Latitude 14° South;
 - (24) thence west along that parallel to its intersection by the meridian of Longitude $146^{\circ} 55'$ East;
 - (25) thence south along that meridian to its intersection by the parallel of Latitude $17^{\circ} 05'$ South;
 - (26) thence east along that parallel to its intersection by the meridian of Longitude $147^{\circ} 45'$ East;
 - (27) thence south along that meridian to its intersection by the parallel of Latitude $18^{\circ} 30'$ South;
 - (28) thence east along that parallel to its intersection by the meridian of Longitude $150^{\circ} 50'$ East;
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- (29) thence south along that meridian to its intersection by the parallel of Latitude 20° South;
- (30) thence east along that parallel to its intersection by the meridian of Longitude 151° 30′ East;
- (31) thence south along that meridian to its intersection by the parallel of Latitude 20° 25′ South;
- (32) thence east along that parallel to its intersection by the meridian of Longitude 153° 05′ East;
- (33) thence south along that meridian to its intersection by the parallel of Latitude 22° 50′ South;
- (34) thence east along that parallel to its intersection by the meridian of Longitude 153° 40′ East;
- (35) thence south along that meridian to its intersection by the parallel of Latitude 23° 15′ South;
- (36) thence east along that parallel to its intersection by the meridian of Longitude 154° East;
- (37) thence south along that meridian to its intersection by the parallel of Latitude 23° 50′ South;
- (38) thence east along that parallel to its intersection by the meridian of Longitude 155° 15′ East;
- (39) thence south along that meridian to its intersection by the parallel of Latitude 25° South;
- (40) thence east along that parallel to its intersection by the meridian of Longitude 158° 32′ 47″ East;
- (41) thence south-easterly along the geodesic to the point of Latitude 25° 08′ 54″ South, Longitude 158° 36′ 36″ East;
- (42) thence south-easterly along the geodesic to the point of Latitude 26° 26′ 36″ South, Longitude 163° 43′ 27″ East;

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- (43) thence north-easterly along the geodesic to the point of Latitude 26° 13' 33'' South, Longitude 165° 40' East;
 - (44) thence south along the meridian of Longitude 165° 40' East, to its intersection by the parallel of Latitude 26° 59' 05'' South;
 - (45) thence south-westerly along the geodesic to the point of Latitude 27° 48' South, Longitude 154° 22' East;
 - (46) thence south-westerly along the geodesic to the point of Latitude 27° 58' South, Longitude 154° East;
 - (47) thence south-westerly along the geodesic between the last-mentioned point and the trigonometrical station known as Point Danger near Point Danger to its intersection by the coastline at mean low water; and
 - (48) thence along the coastline of the State of Queensland at mean low water to the point of commencement.

Area that includes the adjacent area in respect of South Australia

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of South Australia and Victoria and runs thence southerly along the meridian through that point to its intersection by the parallel of Latitude 38° 10' South, thence south-westerly along the geodesic to a point of Latitude 38° 15' South, Longitude 140° 57' East, thence south-westerly along the geodesic to a point of Latitude 38° 26' South, Longitude 140° 53' East, thence south-westerly along the geodesic to a point of Latitude 38° 35' 30'' South, Longitude 140° 44' 37'' East, thence south-westerly along the geodesic to a point of Latitude 38° 40' 48'' South, Longitude 140° 40' 44'' East, thence south-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29' East, thence westerly along the parallel of Latitude 44° South to its intersection by the meridian of Longitude 129° East, thence northerly along that meridian to its intersection by the parallel of Latitude 31° 45' South, thence northerly along the

geodesic to the intersection of the coastline at mean low water by the boundary between the States of South Australia and Western Australia, thence along the coastline of the State of South Australia at mean low water to the point of commencement.

Area that includes the adjacent area in respect of Western Australia

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of South Australia and Western Australia and runs thence southerly along the geodesic to a point of Latitude $31^{\circ} 45'$ South, Longitude 129° East, thence southerly along the meridian of Longitude 129° East to its intersection by the parallel of Latitude 44° South, thence westerly along that parallel to its intersection by the meridian of Longitude 104° East, thence northerly along that meridian to its intersection by the parallel of Latitude 14° South, thence easterly along that parallel to its intersection by the meridian of Longitude 114° East, thence northerly along that meridian to its intersection by the parallel of Latitude $13^{\circ} 05' 32''$ South, thence easterly along that parallel to its intersection by the meridian of Longitude $118^{\circ} 10' 04.3''$ East, thence northerly along the geodesic to a point of Latitude $12^{\circ} 49' 59.8''$ South, Longitude $118^{\circ} 14' 18''$ East, thence northerly along the geodesic to a point of Latitude $12^{\circ} 04' 29.9''$ South, Longitude $118^{\circ} 06' 12.6''$ East, thence northerly along the geodesic to a point of Latitude $12^{\circ} 04' 13.8''$ South, Longitude $118^{\circ} 06' 09.8''$ East, thence northerly along the geodesic to a point of Latitude $12^{\circ} 04' 24.0''$ South, Longitude $118^{\circ} 07' 39.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 06' 26.0''$ South, $118^{\circ} 20' 40.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 07' 51''$ South, Longitude $118^{\circ} 25' 02.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 10' 11''$ South, Longitude $118^{\circ} 35' 11.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 10' 31''$ South, Longitude $118^{\circ} 37' 23.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 11' 06''$ South, Longitude $118^{\circ} 38' 55.4''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 13' 17''$ South, Longitude $118^{\circ} 43' 04.4''$

East, thence south-easterly along the geodesic to a point of Latitude 12° 16' 02'' South, Longitude 118° 49' 25.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 17' 59'' South, Longitude 118° 55' 07.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 18' 55'' South, Longitude 118° 58' 26.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 20' 00'' South, Longitude 119° 02' 35.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 20' 26'' South, 119° 04' 55.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 21' 56'' South, Longitude 119° 08' 58.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 23' 47'' South, Longitude 119° 15' 18.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 24' 03'' South, Longitude 119° 16' 30.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 25' 04'' South, Longitude 119° 20' 29.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 25' 48'' South, Longitude 119° 21' 30.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 29' 24'' South, Longitude 119° 27' 12.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 32' 36'' South, Longitude 119° 33' 11.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 35' 48'' South, Longitude 119° 40' 28.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 40' 38'' South, Longitude 119° 50' 23.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 41' 41'' South, Longitude 119° 52' 33.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 41' 51'' South, Longitude 119° 52' 52.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 42' 02'' South, Longitude 119° 53' 13.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 43' 51'' South, Longitude 119° 56' 08.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 45' 43'' South, Longitude 119° 59' 10.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 45' 52'' South, Longitude 119° 59' 26.4'' East, thence south-easterly along the geodesic to a point of Latitude 12° 46' 32.9'' South, Longitude 120° 00' 42.3'' East, thence south along the meridian

to a point of Latitude $13^{\circ} 56' 36.7''$ South, Longitude $120^{\circ} 00' 42.3''$ East, thence north-easterly along the geodesic to a point of Latitude $12^{\circ} 43' 13.3''$ South, Longitude $121^{\circ} 49' 11.3''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 56'$ South, Longitude $122^{\circ} 06'$ East, thence south-easterly along the geodesic to a point of Latitude $13^{\circ} 20'$ South, Longitude $122^{\circ} 41'$ East, thence easterly along the geodesic to a point of Latitude $13^{\circ} 19' 30''$ South, Longitude $123^{\circ} 16' 45''$ East, thence easterly along the parallel of Latitude $13^{\circ} 19' 30''$ South to its intersection by the meridian of Longitude $124^{\circ} 27' 45''$ East, thence north-easterly along the geodesic to a point of Latitude $13^{\circ} 13' 15''$ South, Longitude $124^{\circ} 36' 15''$ East, thence north-easterly along the geodesic to a point of Latitude $12^{\circ} 46' 15''$ South, Longitude $124^{\circ} 55' 30''$ East, thence north-easterly along the geodesic to a point of Latitude $11^{\circ} 51'$ South, Longitude $125^{\circ} 27' 45''$ East, thence north-easterly along the geodesic to a point of Latitude $11^{\circ} 44' 30''$ South, Longitude $125^{\circ} 31' 30''$ East, thence north-easterly along the geodesic to a point of Latitude $10^{\circ} 21' 30''$ South, Longitude $126^{\circ} 10' 30''$ East, thence north-easterly along the geodesic to a point of Latitude $10^{\circ} 13'$ South Longitude $126^{\circ} 26' 30''$ East, thence north-easterly along the geodesic to a point of Latitude $10^{\circ} 05'$ South, Longitude $126^{\circ} 47' 30''$ East, thence south-easterly along the geodesic to a point of Latitude $11^{\circ} 13' 15''$ South, Longitude $127^{\circ} 32'$ East, then south-easterly along the geodesic to a point of Latitude $11^{\circ} 48'$ South, Longitude $127^{\circ} 53' 45''$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 26' 30''$ South, Longitude $128^{\circ} 22'$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 32' 45''$ South, Longitude $128^{\circ} 24'$ East, thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 55' 30''$ South, Longitude $128^{\circ} 28'$ East, thence southerly along the meridian of Longitude $128^{\circ} 28'$ East to its intersection by the parallel of Latitude $13^{\circ} 15' 30''$ South, thence south-easterly along the geodesic to a point of Latitude $13^{\circ} 39' 45''$ South, Longitude $128^{\circ} 30' 45''$ East, thence south-easterly along the geodesic to a point of Latitude $13^{\circ} 49' 45''$ South, Longitude $128^{\circ} 33' 15''$ East, thence south-easterly along the geodesic to a point of Latitude 14° South, Longitude $128^{\circ} 42' 15''$ East, thence south-easterly along the geodesic to a point of Latitude $14^{\circ} 19'$

30'' South, Longitude 128° 53' East, thence south-easterly along the geodesic to a point of Latitude 14° 32' 30'' South, Longitude 129° 01' 15'' East, thence southerly along the geodesic to a point of Latitude 14° 37' 30'' South, Longitude 129° 01' 45'' East, thence southerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia, thence along the coastline of the State of Western Australia at mean low water to the point of commencement.

Area that includes the adjacent area in respect of Tasmania

The area the boundary of which commences at a point of Latitude 39° 12' South, Longitude 142° 30' East and runs thence easterly along the parallel of Latitude 39° 12' South to its intersection by the meridian of Longitude 150° East, thence south-easterly along the geodesic to a point of Latitude 41° 30' South, Longitude 158° 13' East, thence south-westerly along the geodesic to a point of Latitude 46° South, Longitude 155° 24' East, thence south-easterly along the geodesic to a point of Latitude 51° 09' South, Longitude 160° 39' East, thence south-easterly along the geodesic to a point of Latitude 51° 12' South, Longitude 160° 42' East, thence south-easterly along the geodesic to a point of Latitude 52° 15' South, Longitude 162° 04' East, thence south-easterly along the geodesic to a point of Latitude 52° 26' South, Longitude 162° 19' East, thence south-easterly along the geodesic to a point of Latitude 53° 43' South, Longitude 164° 05' East, thence south-easterly along the geodesic to a point of Latitude 53° 50' South, Longitude 164° 16' East, thence south-easterly along the geodesic to a point of Latitude 54° 01' South, Longitude 164° 21' East, thence south-easterly along the geodesic to a point of Latitude 54° 21' South, Longitude 164° 32' East, thence south-easterly along the geodesic to a point of Latitude 54° 42' South, Longitude 164° 43' East, thence south-easterly along the geodesic to a point of Latitude 54° 43' South, Longitude 164° 43' East, thence south-easterly along the geodesic to a point of Latitude 58° 30' South, Longitude 170° East, thence south-westerly along the geodesic to a point of Latitude 62° 30' South, Longitude 160° East, thence north-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29'

East, thence north-easterly along the geodesic to a point of Latitude 39° 50' South, Longitude 142° East, thence north-easterly along the geodesic to the point of commencement.

Area that includes the adjacent area in respect of the Northern Territory

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia and runs thence northerly along the geodesic to a point of Latitude 14° 37' 30'' South, Longitude 129° 01' 45'' East, thence northerly along the geodesic to a point of Latitude 14° 32' 30'' South, Longitude 129° 01' 15'' East, thence north-westerly along the geodesic to a point of Latitude 14° 19' 30'' South, Longitude 128° 53' East, thence north-westerly along the geodesic to a point of Latitude 14° South, Longitude 128° 42' 15'' East, thence north-westerly along the geodesic to a point of Latitude 13° 49' 45'' South, Longitude 128° 33' 15'' East, thence north-westerly along the geodesic to a point of Latitude 13° 39' 45'' South, Longitude 128° 30' 45'' East, thence north-westerly along the geodesic to a point of Latitude 13° 15' 30'' South, Longitude 128° 28' East, thence northerly along the meridian of Longitude 128° 28' East to its intersection by the parallel of Latitude 12° 55' 30'' South, thence north-westerly along the geodesic to a point of Latitude 12° 32' 45'' South, Longitude 128° 24' East, thence north-westerly along the geodesic to a point of Latitude 12° 26' 30'' South, Longitude 128° 22' East, thence north-westerly along the geodesic to a point of Latitude 11° 48' South, Longitude 127° 53' 45'' East, thence north-westerly along the geodesic to a point of Latitude 11° 13' 15'' South, Longitude 127° 32' East, thence north-westerly along the geodesic to a point of Latitude 10° 05' South, Longitude 126° 47' 30'' East, thence north-easterly along the geodesic to a point of Latitude 9° 53' 45'' South, Longitude 127° 18' 30'' East, thence north-easterly along the geodesic to a point of Latitude 9° 28' South, Longitude 127° 56' East, thence north-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 128° East, thence easterly along the rhumb line which is on the parallel of Latitude 9° 25' South to its intersection by the meridian of Longitude 130° 10' East, thence north-easterly along the rhumb line to a point of Latitude 8° 54'

South, Longitude 133° 14' East, thence north-easterly along the rhumb line to a point of Latitude 8° 53' South, Longitude 133° 23' East, thence South-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 134° 50' East, thence north-easterly along the rhumb line to a point of Latitude 9° 22' South, Longitude 135° 03' East, thence north-easterly along the rhumb line to a point of Latitude 9° 17' South, Longitude 135° 13' East, thence north-easterly along the rhumb line to a point of Latitude 9° 08' South, Longitude 135° 29' East, thence south-easterly along the rhumb line to a point of Latitude 9° 57' South, Longitude 137° 45' East, thence south-easterly along the rhumb line to a point of Latitude 10° 09' South, Longitude 138° 13' East, thence south-easterly along the rhumb line to a point of Latitude 10° 22' South, Longitude 138° 35' East, thence south-easterly along the rhumb line to a point of Latitude 10° 24' South, Longitude 138° 38' East, thence south-easterly along the rhumb line to a point of Latitude 10° 50' South, Longitude 139° 12' East, thence south-easterly along the geodesic to a point of Latitude 10° 51' South, Longitude 139° 12' 30'' East, thence south-easterly along the geodesic to a point of Latitude 11° South, Longitude 139° 15' East, thence southerly along the meridian of Longitude 139° 15' East to its intersection by the parallel of Latitude 14° 30' South, thence westerly along that parallel to its intersection by the meridian of Longitude 138° 30' East, thence southerly along that meridian to its intersection by the parallel of Latitude 15° 55' South, thence south-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland, thence along the coastline of the Northern Territory of Australia at mean low water to the point of commencement.

Area that includes the adjacent area in respect of the Territory of Ashmore and Cartier Islands

The area the boundary of which commences at a point of Latitude 12° 43' 13.3'' South, Longitude 121° 49' 11.3'' East and runs thence north-easterly along the geodesic to a point of Latitude 12° 14' 30.9'' South, Longitude 122° 31' 02.1'' East, thence northerly along the arc of a circle drawn concave to Ashmore Islands with a

radius of twenty-four nautical miles to a point of Latitude 12° 06' 49.7'' South, Longitude 122° 32' 19.6'' East, thence generally northerly, north-easterly, easterly, and south-easterly along a series of intersecting circular arcs drawn concave to Ashmore Islands with a radius of twenty-four nautical miles and having the following vertices :

South Latitude	East Longitude
12° 03' 17.3''	122° 33' 51.3''
12° 02' 10.1''	122° 34' 29.3''
12° 00' 46.5''	122° 35' 23.4''
11° 55' 51.8''	122° 39' 56''
11° 55' 01.4''	122° 40' 59.8''
11° 52' 58.5''	122° 44' 12.3''
11° 51' 58.4''	122° 46' 16.7''
11° 51' 27.5''	122° 47' 34.4''
11° 51' 18''	122° 48' 00.6''
11° 50' 53.2''	122° 49' 15.4''
11° 50' 05.7''	122° 50' 30''
11° 48' 37.2''	122° 53' 20.2''
11° 47' 36.1''	122° 56' 03.7''
11° 47' 12.5''	122° 57' 28''
11° 46' 49.3''	122° 59' 18.4''
11° 46' 36.9''	123° 00' 45.2''
11° 46' 30.8''	123° 05' 23.4''
11° 47' 30.7''	123° 10' 58.4''
11° 47' 44''	123° 12' 00.7''
11° 47' 45.4''	123° 12' 08.2''
11° 48' 04.4''	123° 13' 33.6''

thence south-easterly along the arc of a circle drawn concave to Ashmore Islands with a radius of twenty-four nautical miles to a point of Latitude 11° 48' 11.2'' South, Longitude 123° 14' 00'' East, thence north along the meridian to its intersection by the parallel of Latitude 11° 35' South, thence north-easterly along the rhumb line to a point of Latitude 11° 23' South, Longitude 123° 26' East, thence south-easterly along the rhumb line to a point of Latitude 11° 28' South, Longitude 123° 40' East, thence north-easterly along the rhumb line to a point of Latitude 11° 26' South, Longitude 124° East, thence north-easterly along the rhumb line to a point of Latitude 11° 25' South, Longitude 124°

10' East, thence north-easterly along the rhumb line to a point of Latitude 11° 07' South, Longitude 124° 34' East, thence north-easterly along the rhumb line to a point of Latitude 11° 01' South, Longitude 125° 19' East, thence north-easterly along the rhumb line to a point of Latitude 10° 37' South, Longitude 125° 41' East, thence north-easterly along the rhumb line to a point of Latitude 10° 28' South, Longitude 126° East, thence north-easterly along the geodesic to a point of Latitude 10° 21' 30'' South, Longitude 126° 10' 30'' East, thence south-westerly along the geodesic to a point of Latitude 11° 44' 30'', South, Longitude 125° 31' 30'' East, thence south-westerly along the geodesic to a point of Latitude 11° 51' South, Longitude 125° 27' 45'' East, thence south-westerly along the geodesic to a point of Latitude 12° 46' 15'' South, Longitude 124° 55' 30'' East, thence south-westerly along the geodesic to a point of Latitude 13° 13' 15'' South, Longitude 124° 36' 15'' East, thence south-westerly along the geodesic to a point of Latitude 13° 19' 30'' South, Longitude 124° 27' 45'' East, thence westerly along the parallel of Latitude 13° 19' 30'' South to its intersection by the meridian of Longitude 123° 16' 45'' East, thence westerly along the geodesic to a point of Latitude 13° 20' South, Longitude 122° 41' East, thence north-westerly along the geodesic to a point of Latitude 12° 56' South, Longitude 122° 06' East, thence north-westerly along the geodesic to the point of commencement.

Schedule 3—Barracouta and Marlin fields Petroleum Production Licences

Section 146

This Petroleum Production Licence made the _____ day of
One
thousand nine hundred and sixty-seven Between THE HONOURABLE
THOMAS ANTHONY DARCY in his capacity as Minister of Mines for the
time being of the State of Victoria (hereinafter called “the Minister” which
expression shall where the context admits or requires include his successors in
office) of the one part and HAEMATITE EXPLORATIONS PROPRIETARY
LIMITED a company incorporated under the *Companies Act 1961* of the said
State and having its registered office at 500 Bourke Street Melbourne in the said
State and ESSO EXPLORATION AND PRODUCTION AUSTRALIA INC. a
company incorporated in Delaware one of the United States of America and
registered as a foreign company under the said Companies Act with its
registered office in the State of Victoria at 380 Lonsdale Street Melbourne
aforesaid (hereinafter called “the Licensees” which expression shall where the
context admits or requires include their successors or assigns) of the other part
WITNESSETH that in consideration of the covenants and agreements on the
part of the Licensees hereinafter contained the Minister hereby grants to the
Licensees jointly EXCLUSIVE LICENCE AND LIBERTY during the
continuance of this licence and subject to the provisions hereof to carry on
operations for the recovery of petroleum, to explore for petroleum and to carry
out such operations and execute such works as are necessary for those purposes
in under over and upon the area (hereinafter called “the licence area”) being
(*here specify the blocks*) delineated and indicated on the plan hereunto annexed.

The Licensees hereby jointly and severally covenant with the Minister and
it is hereby agreed as follows:

1. This licence unless sooner determined under the provisions hereof or
under the provisions of any Act or regulation applicable thereto shall be and
continue in force for the term of twenty-one years commencing on the first day
of April, 1967.

2. (1) Subject to the Licensees having complied with the law in force from time to time relating to the exploration for and the exploitation of the natural resources, being petroleum, of the licence area, and with the provisions of the licence the Licensees shall be entitled upon complying with the provisions of the law in force at that time relating to the formal requirements to be performed by the Licensees with respect to renewals of licences to a renewal of licence for one period of twenty-one years commencing on the day after this licence ceases to have effect and thereafter the Minister may grant to the Licensees further renewals of the licence from time to time for such periods each not exceeding twenty-one years as the Minister in his discretion determines.

(2) A licence renewed as aforesaid shall be renewed subject to the payment of such royalties as are provided for by the law applicable to the payment of royalties in force at the time of the renewal thereof and subject to all other provisions of the laws in force applicable at the time of the renewal.

3. The Licensees shall within one month after the day on which the term commences pay to the Minister the sum of Three thousand dollars for each of the blocks shown on the plan annexed hereto for the first year of the term and thereafter in each year of the term within one month after the anniversary of that day the sum of Three thousand dollars for each of the blocks shown on the said plan to which the licence relates at the commencement of that year.

4. In the event of the Licensees failing to pay the amount referred to in the last preceding clause within one month as aforesaid, they shall pay to the Minister an additional amount calculated at the rate of ten per centum per thirty-one days upon the amount from time to time remaining unpaid computed from the last day for payment of the amount up to the day on which it is paid.

5. The Licensees shall pay to the Minister in respect of all petroleum recovered by them in the licence area a royalty at the rate of eleven per cent of the value at the well-head of the petroleum so recovered.

6. The royalty shall not be payable in respect of petroleum:

- (a) that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained;
- (b) that, with approval of the Minister, has been returned to a natural reservoir in the licence area;

- (c) that has been used by the Licensees, as approved by the Minister, for the purposes of petroleum prospecting operations or operations for the recovery of petroleum; and
- (d) that has with the approval of the Minister, been flared or vented in connexion with the recovery of petroleum.

7. The value at the well-head for the purpose of computing the royalty payable in respect of the petroleum recovered during any period shall be such amount as is agreed upon between the Licensees and the Minister, or in default of agreement within such time as the Minister allows, as is determined by the Minister as being that value.

8. The Licensees shall make royalty payments in respect of the petroleum recovered during such periods (not being less than one month) as the Minister may from time to time require.

9. The Licensees shall within twenty-one days after the end of each such period pay the royalty for that period.

10. The Licensees shall furnish to the Minister in such form and within such periods as the Minister may from time to time require full particulars as to the quantity of petroleum recovered and the disposal thereof whether by sale or otherwise during that period together with such other particulars as the Minister may from time to time reasonably require.

11. In the event of the Licensees failing to pay the said royalty within twenty-one days after the end of each such period, they shall pay to the Minister an additional amount calculated at the rate of ten per centum per thirty-one days upon the amount of the royalty from time to time remaining unpaid, computed from the last day for payment of the royalty up to the day on which it is paid, provided that no additional amount shall be payable as aforesaid in respect of any period before the expiration of seven days after the value of the petroleum has been agreed upon or determined by the Minister as hereinbefore provided.

12. The Licensees shall measure the quantity of petroleum recovered from the licence area during each such period by a measuring device approved by the Minister and installed at the well-head or at such other place as the Minister approves, and the quantity of petroleum recovered shall be taken to be the quantity measured as aforesaid, provided that where no such measuring device is so installed or the Minister is satisfied that the quantity of petroleum recovered by the Licensees during any such period has not been properly or

accurately measured by a measuring device, the quantity of petroleum recovered shall be taken to be the quantity determined by the Minister as being the quantity recovered by the Licensees during that period.

13. The Licensees shall permit any person authorized by the Minister at such times as the Minister may require to test and examine any measuring device used or to be used by the Licensees to measure the quantity of petroleum recovered from the licence area.

14. The Licensees shall comply with any law of the Commonwealth and of the State in force from time to time which applies to or in relation to the exploration for and the exploitation of the natural resources, being petroleum, of the licence area.

15. (1) The Licensees shall during each year of the term, carry out in the licence area, in connexion with the exploration for or operations for the recovery of, petroleum in the licence area, works approved by the Minister to the value of the amount calculated by multiplying the sum of One hundred thousand dollars by the number of blocks shown on the plan hereunto annexed in respect of which the licence is in force and subtracting from the amount so obtained an amount approved by the Minister as representing the estimated value of the petroleum that will be recovered from the licence area during that year.

(2) The Minister may by writing under his hand exempt the Licensees from the whole or any part of their obligation under the last preceding sub-clause.

16. The Licensees shall not commence to construct any installation on the licence area until plans and specifications of such installations and such other particulars thereof as may be required by the Minister have been submitted to him and the Minister has given his approval thereof in writing, which approval may be given on such terms and conditions as the Minister thinks fit including a requirement that permanent means for giving warning of their presence must be maintained and that any installation which is abandoned or disused must be entirely removed.

17. The Licensees shall carry out operations in such manner as to ensure that there will be no unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea or any interference with oceanographic or other scientific research carried out with the intention of open publication and shall take such steps in regard to the state of the licence area as

the Minister may require to ensure that after vacation thereof or any part thereof by the Licensees there will be no such interference.

18. The Licensees shall maintain in good condition and repair all installations on the licence area.

19. The Licensees shall within three days of the discovery of the occurrence of the event give notice to the Minister of any event causing escape or waste of petroleum, damage to petroleum bearing strata or entrance of water through wells to petroleum bearing strata except for the purposes of secondary recovery.

20. The Licensees shall keep such records of their operations as the Minister may from time to time require and will deliver copies thereof or extracts therefrom to the Minister as and when required.

21. The Licensees shall at all times permit any person duly authorized in writing by the Minister to inspect any of the accounts or records of either of them and any such person may take such copies or extracts from those accounts or records as are reasonably required for or in relation to the performance by the Minister of his functions under any law in force from time to time relating to the exploration for or the exploitation of the natural resources being petroleum of the sea bed and the subsoil.

22. The Licensees shall, as regards Haematite Explorations Proprietary Limited furnish to the Minister within fourteen days after any general meeting held by it a copy verified by statutory declaration made on their behalf by such person as the Minister may approve, of the profit and loss account, balance sheet and every report as to the state of its affairs laid before it in such meeting pursuant to the provisions of the Companies Act 1961 or any of its rules or articles of association and as regards Esso Exploration and Production Australia Inc. shall furnish to the Minister copies of its balance sheet and all other particulars thereof lodged with the Registrar of Companies pursuant to the provisions of the said Act within fourteen days after the lodging thereof.

23. The Licensees shall deliver to the Minister within such time as the Minister may specify, a statutory declaration made on their behalf by such person as the Minister may approve, setting out such information as the Minister may require with reference to any operations carried out by the Licensees in the licence area.

24. The Licensees shall permit any person authorized by the Minister to inspect at all reasonable times any part or parts of the licence area and any installations and machinery thereon and to survey and examine the state and condition thereof, and the Licensees by all means in their power shall assist any such person in making such inspection, survey and examination.

25. The Licensees shall not abandon any well without the prior written consent of the Minister which may be given subject to such terms and conditions as the Minister thinks fit.

26. The Licensees shall at the end or other sooner determination of the licence remove or cause to be removed from the licence area unless otherwise directed by the Minister all installations and other property and make good to the satisfaction of the Minister any damage to the sea-bed or subsoil of the licence area and make provision to the satisfaction of the Minister for the conservation and protection of the natural resources of the licence area.

27. (1) The Licensees shall not assign, transfer or otherwise part with the rights or privileges hereby granted or any part thereof without the consent in writing of the Minister first had and obtained.

(2) Any assignment transfer or other disposition of the rights and privileges hereby granted or any part thereof shall be subject to any law in force from time to time regulating or restricting such assignments transfers or other dispositions and to payment of such fees as are from time to time required by law.

28. The Licensees shall at all times keep the Crown effectually indemnified against all actions proceedings costs charges claims and demands whatsoever which may be made or brought against the Crown by any person whomsoever in relation to or in connexion with this licence or any matter or thing done or purported to be done in pursuance thereof.

29. (1) If the Licensees shall at any time during the continuance of the licence fail to use the licence area or any part thereof bona fide for the purpose of this licence or if and whenever any annual payment or royalty shall be in arrear for three months after the time appointed for payment thereof whether the same shall have been legally demanded or not or if and whenever there shall be a breach of or non-compliance with the covenants and agreements herein contained by the Licensees or either of them or if an order is made or a resolution is passed winding up the affairs of either of the Licensees (other than by way of reconstruction) or a receiver is appointed of either of their assets the

Minister may subject to compliance with sub-clause (2) of this clause cancel this licence.

(2) The Minister shall not, under the last preceding sub-clause, cancel this licence on a ground referred to in that sub-clause unless—

- (a) he has, by instrument in writing served on the Licensees given not less than one month's notice of his intention so to cancel this licence on that ground;
- (b) he has, in the instrument, specified a date on or before which the Licensees may, by instrument in writing served on the Minister submit any matters that they wish the Minister to consider;
- (c) he has taken into account—
 - (i) any action taken by the Licensees to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) any matters so submitted to him on or before the specified date by the Licensees.

30. Any notice to be served upon or given to the Licensees under this licence shall be deemed to have been duly served and given if posted to each of the Licensees at the address of its registered office and shall be deemed to have been served or given at the time when in the ordinary course of post each notice would have been delivered.

31. Any such notice may be signed by the Secretary of Mines or any other officer of the Mines Department of the State duly authorized in writing by the Minister.

32. In this Licence unless consistent with the context or subject-matter—

“Licence Area” includes the space above and below the area in respect of which a licence is granted.

“Minister” means the Minister of Mines.

“Natural resources” has the same meaning as in the Convention entitled “Convention on the Continental Shelf” signed at Geneva on the twenty-ninth day of April One thousand nine hundred and fifty-eight.

“Petroleum” means—

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

“State” means the State of Victoria.

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

Schedule 6—Area that includes the area to be avoided

Section 140A (for datum, see section 150M)

The area the boundary of which commences at the intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude $38^{\circ} 15'$ South and runs thence south-easterly along the geodesic to the point of Latitude $38^{\circ} 35'$ South, Longitude $147^{\circ} 44'$ East; thence south-easterly along the geodesic to the point of Latitude $38^{\circ} 41'$ South, Longitude $148^{\circ} 06'$ East; thence easterly along the parallel of Latitude $38^{\circ} 41'$ South to its intersection by the meridian of Longitude $148^{\circ} 13'$ East; thence north-easterly along the geodesic to the point of Latitude $38^{\circ} 32'$ South, Longitude $148^{\circ} 26'$ East; thence north-easterly along the geodesic to the point of Latitude $38^{\circ} 19'$ South, Longitude $148^{\circ} 35'$ East; thence north-westerly along the geodesic to the point of Latitude $38^{\circ} 08'$ South, Longitude $148^{\circ} 31'$ East; thence north-westerly along the geodesic to the point of Latitude $38^{\circ} 05'$ South, Longitude $148^{\circ} 24'$ East; thence north-westerly along the geodesic to the intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude $37^{\circ} 58'$ South; thence along the coastline of the State of Victoria at mean low water to the point of commencement.

Schedule 7—Occupational health and safety

Section 140H

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Occupational health and safety

Part 1—Preliminary

1 Objects

The objects of this Schedule are, in relation to undertakings in the adjacent areas:

- (a) to secure the health, safety and welfare at work of employees; and
- (b) to protect persons from risks to health and safety arising out of the activities of employees; and
- (c) to ensure that expert advice is available on occupational health and safety matters affecting employers, employees and contractors; and
- (d) to promote an occupational environment for employees that is adapted to their needs relating to health and safety; and
- (e) to foster a co-operative consultative relationship between employers and employees on the health, safety and welfare of employees.

2 Definitions

In this Schedule, unless the contrary intention appears:

accident includes the contraction of a disease.

clause means a clause of this Schedule.

contract includes an arrangement or understanding.

contractor means an individual who does work in connection with an undertaking under a contract between an employer and that person or any other person (whether an individual or not).

contravention, if the contravention is an offence against this Schedule or the regulations, includes an offence against:

- (a) section 6 of the *Crimes Act 1914*; or
- (b) section 11.1, 11.4 or 11.5 of the *Criminal Code*.

dangerous occurrence means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition.

designated work group means a group of employees established as a designated work group under clause 12, or that group as varied in accordance with that clause, and, in relation to an employer, means such a group that consists entirely of employees of that employer.

employee, in relation to an employer, means an employee of that employer.

employer means an employer who carries on an activity to which Part III of this Act applies.

improvement notice means an improvement notice issued under subclause 36(1).

investigation means an investigation conducted under Part 4 of this Schedule.

investigator means a person appointed under clause 29 to be an investigator.

involved union means:

- (a) in relation to an employee of a particular employer—a registered union of which the employee is a member, if the employee is qualified to be a member because of the work the employee performs for that employer; or
- (b) in relation to a designated work group—a registered union of which an employee in the group is a member, if the employee is qualified to be a member because of the work the employee performs as an employee in the group.

own includes own jointly or own in part.

paragraph means a paragraph of a provision of this Schedule.

Part means a Part of this Schedule.

Clause 3

plant includes any machinery, equipment or tool, or any component.

prohibition notice means a prohibition notice issued under subclause 35(1).

registered union means:

- (a) an organisation of employees within the meaning of Schedule 1B to the *Workplace Relations Act 1996*; or
- (b) an organisation of employees registered under a State Act that deals with industrial relations; or
- (c) a body that is declared by the regulations to be a registered union for the purposes of this Schedule.

regulations means regulations made under section 157 for the purposes of this Schedule.

reviewing authority means the Australian Industrial Relations Commission.

work means work directly or indirectly connected with an activity to which Part III of this Act applies.

workplace means anywhere a person works.

3 Functions conferred on Designated Authority

The following additional functions are conferred on the Designated Authority:

- (a) to ensure, in accordance with this Schedule and the regulations, that the obligations imposed by or under this Schedule and the regulations are complied with;
- (b) to advise employers, employees or contractors, either on its own initiative or on request, on occupational health and safety matters;
- (c) to collect, interpret and report information relating to occupational health and safety;
- (d) to formulate policies and strategies relating to the occupational health and safety of employees;

Clause 3

- (e) to accredit occupational health and safety training courses for the purposes of clause 15;
- (f) to liaise with other bodies concerned with occupational health and safety.

Part 2—Occupational health and safety

Division 1—General duties relating to occupational health and safety

4 Duties of employers in relation to their employees etc.

- (1) An employer must take all reasonable steps to protect the health and safety at work of employees.

Penalty: 1,000 penalty units.

- (2) Without limiting the generality of subclause (1), an employer contravenes that subclause if the employer fails to take all reasonable steps:
- (a) to provide and maintain a working environment (including plant and systems of work) that:
 - (i) is safe for employees and without risk to their health; and
 - (ii) provides adequate facilities for their welfare at work; and
 - (b) in relation to any workplace under the employer's control, to:
 - (i) ensure the workplace is safe for employees and without risk to their health; and
 - (ii) provide and maintain a means of access to, and egress from, the workplace that is safe for employees and without risk to their health; and
 - (c) to ensure the safety at work of, and the absence of risks at work to the health of, employees in connection with the use, handling, storage or transport of plant or of substances; and
 - (d) to develop, in consultation with any involved unions in relation to the employees, and with such other persons as the employer considers appropriate, a policy, relating to occupational health and safety, that will:
 - (i) enable the employer and the employees to co-operate effectively in promoting and developing measures to

- ensure the employees' health, safety and welfare at work; and
- (ii) provide adequate mechanisms for reviewing the effectiveness of measures; and
 - (e) to provide to employees, in appropriate languages, the information, instruction, training and supervision necessary to enable them to perform their work in a way that is safe and without risk to their health.
- (3) A policy relating to occupational health and safety referred to in paragraph (2)(d) that is developed in consultation with involved unions must provide for making an agreement between the employer and the involved unions that:
- (a) provides appropriate mechanisms for continuing consultation, between the employer, the involved unions and employees, on occupational health and safety matters; and
 - (b) provides for such other matters (if any) as are agreed between the employer and the involved unions.
- (4) The obligations of an employer in respect of employees that are set out in subclauses (1) and (2) apply also in respect of persons who are contractors of that employer but only in relation to:
- (a) matters over which the employer has control; or
 - (b) matters over which the employer would have had control apart from an express provision to the contrary in an agreement made by the employer with such a contractor, being matters over which the employer would, in the circumstances, usually be expected to have had control.
- (5) Without limiting the generality of subclause (1) so far as it applies in relation to employees, the employer contravenes that subclause if the employer fails to take all reasonable steps:
- (a) to take appropriate action to monitor employees' health and safety at work, and the conditions of the workplaces under the employer's control; and
 - (b) to maintain appropriate information and records relating to employees' health and safety; and
 - (c) to provide appropriate medical and first aid services for employees.

Clause 5

5 Duties of employers in relation to third parties

An employer must take all reasonable steps to ensure that persons at or near a workplace under the employer's control who are not the employer's employees or contractors are not exposed to risk to their health or safety arising from the conduct of the employer's undertaking.

Penalty: 1,000 penalty units.

6 Duties of manufacturers in relation to plant and substances

- (1) A manufacturer of any plant that the manufacturer ought reasonably to expect will be used by employees at work must take all reasonable steps:
- (a) to ensure that the plant is so designed and constructed as to be, when properly used, safe for employees and without risk to their health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover, and to eliminate or minimise, any risk to the health or safety of employees that may arise from the use of the plant; and
 - (c) to make available to an employer, in connection with the use of the plant by employees at work, adequate information about:
 - (i) the use for which it is designed and has been tested; and
 - (ii) details of its design and construction; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was designed and tested, it will be safe for employees and without risk to their health.

Penalty: 200 penalty units.

- (2) A manufacturer of any substance that the manufacturer ought reasonably to expect will be used by employees at work must take all reasonable steps:
- (a) to ensure that the substance is so manufactured as to be, when properly used, safe for employees and without risk to their health; and

- (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to the health and safety of employees that may arise from the use of the substance; and
- (c) to make available to an employer, in connection with the use of the substance by employees at work, adequate information concerning:
 - (i) the use for which it is manufactured and has been tested; and
 - (ii) details of its composition; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was manufactured and tested, it will be safe for employees and without risk to their health; and
 - (iv) the first aid and medical procedures that should be followed if the substance causes injury.

Penalty: 200 penalty units.

- (3) If:
 - (a) plant or a substance is imported into Australia by a person who is not its manufacturer; and
 - (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia;the first-mentioned person is, for the purposes of this clause, taken to be the manufacturer of the plant or substance.
- (4) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a Territory that imposes an obligation on a manufacturer in respect of defective goods or in respect of information to be supplied in relation to goods.

7 Duties of suppliers in relation to plant and substances

- (1) A supplier of any plant or substance that the supplier ought reasonably to expect will be used by employees at work must take all reasonable steps:

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Part 2 Occupational health and safety

Division 1 General duties relating to occupational health and safety

Clause 7

- (a) to ensure that, at the time of supply, the plant or substance is in such condition as to be, when properly used, safe for employees and without risk to their health; and
- (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to the health or safety of employees that may arise from the condition of the plant or substance; and
- (c) to make available to an employer, in connection with the use of the plant or substance by employees at work, adequate information about:
 - (i) the condition of the plant or substance at the time of supply; and
 - (ii) any risk to the health and safety of employees to which the condition of the plant or substance may give rise unless it is properly used; and
 - (iii) the steps that need to be taken in order to eliminate such risk; and
 - (iv) in the case of a substance—the first aid and medical procedures that should be followed if the condition of the substance causes injury to an employee.

Penalty: 200 penalty units.

- (2) For the purposes of subclause (1), where a person (in this subclause called the *ostensible supplier*) supplies to an employer any plant or substance that is to be used by employees at work, and the ostensible supplier:
 - (a) carries on the business of financing the acquisition or the use of goods by other persons; and
 - (b) has, in the course of that business, acquired an interest in the plant or substance solely for the purpose of financing its acquisition by the employer from a third person, or its provision to the employer by a third person; and

- (c) has not taken possession of the plant or substance or has taken possession of the plant or substance solely for the purpose of passing possession of the plant or substance to that employer;

the reference in subclause (1) to a supplier is, in relation to the plant or substance referred to in this subclause, to be read as a reference to the third person and not as a reference to the ostensible supplier.

- (3) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a Territory that imposes an obligation in respect of the sale or supply of goods or in respect of the information to be supplied in relation to goods.

8 Duties of persons erecting or installing plant in a workplace

- (1) A person who erects or installs any plant in a workplace for the use of employees at work must take all reasonable steps to ensure that the plant is not erected or installed in such a way that it is unsafe for employees who use the plant or constitutes a risk to their health.

Penalty: 200 penalty units.

- (2) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a Territory that imposes an obligation in respect of the erection or installation of goods or the supply of services.

9 Duties of employees in relation to occupational health and safety

- (1) An employee must, at all times while at work, take all reasonable steps:
- (a) to ensure that the employee does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the health or safety of the employee, or of other persons (whether employees or not) at or near the place at which the employee is at work; and

Clause 9

- (b) in respect of any duty or obligation imposed on the employee's employer, or on any other person, by or under this Schedule or the regulations, to co-operate with the employer, or that other person, to the extent necessary to enable the employer or other person to fulfil that duty or obligation; and
- (c) to use equipment, in accordance with any instructions given by the employer consistent with its safe and proper use, that is:
 - (i) supplied to the employee by the employer; and
 - (ii) necessary to protect the health and safety of the employee, or of other persons (whether employees or not) at or near the place at which the employee is at work.

Penalty: 50 penalty units.

- (2) Subclause (1) does not imply that the choice or manner of use, or choice and manner of use, of equipment of the kind referred to in subparagraph (1)(c)(ii) is not a matter that may be, consistently with this Schedule and the regulations:
 - (a) agreed on between the employer and any relevant involved union; or
 - (b) agreed on by a health and safety committee.
- (3) If an agreement of the kind referred to in paragraph (2)(a) (whether or not entered into before the commencement of this clause) or of the kind referred to in paragraph (2)(b) provides a process for choosing equipment of a particular kind that is to be provided by the employer, action must not be taken against an employee for failure to use equipment of that kind that is so provided unless the equipment has been chosen in accordance with that process.
- (4) If an agreement of the kind referred to in paragraph (2)(a) (whether or not entered into before the commencement of this clause) or of the kind referred to in paragraph (2)(b) provides a process for determining the manner of use of equipment of a particular kind, action must not be taken against an employee for failure to use, in the manner required by the employer, equipment of that kind that is

so provided unless the manner has been determined in accordance with that process.

10 Reliance on information supplied or results of research

- (1) Without limiting the generality of what constitutes taking reasonable steps as required by clause 4 or 5, for the purpose of the application of that clause to the use of plant or a substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonable steps as that clause requires, in relation to the use of the plant or substance, to the extent that:
 - (a) the person ensured, so far as practicable, that its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to health and safety in its use; and
 - (b) it was reasonable for the person to rely on that information.
- (2) Without limiting the generality of what constitutes taking reasonable steps as required by clause 8, for the purpose of the application of that clause to the erection or installation of plant in a workplace, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonable steps as that clause requires to the extent that:
 - (a) the person ensured, so far as practicable, that the erection or installation of the plant was in accordance with information supplied by the manufacturer or the supplier of the plant relating to the erection or installation of the plant in a manner that ensures the health and safety of employees who use the plant; and
 - (b) it was reasonable for the person to rely on that information.
- (3) Without limiting the generality of what constitutes taking reasonable steps as required by clause 6 or 7, for the purpose of the application of that clause to carrying out research, testing and examining plant or a substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonable steps as that clause requires, in relation to carrying out

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Clause 10

research, testing and examining the plant or substance, to the extent that:

- (a) the research, testing or examination has already been carried out by or on behalf of someone else; and
- (b) it was reasonable for the person to rely on that research, testing or examination.

Division 2—Specific duties relating to occupational health and safety

11 Regulations relating to occupational health and safety

- (1) Subject to this Schedule, the regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of employees or contractors.
- (2) Without limiting the generality of subclause (1), those regulations may make provision for any or all of the following:
 - (a) prohibiting or restricting the performance of all work or specified work at a workplace or by employees or contractors at work;
 - (b) prohibiting or restricting the use of all plant or specified plant at a workplace or by employees or contractors at work;
 - (c) prohibiting or restricting the carrying out of all processes or a specified process at a workplace or by employees or contractors at work;
 - (d) prohibiting or restricting the storage or use of all substances or specified substances at a workplace or by employees or contractors at work;
 - (e) specifying the form in which information required to be made available to an employer under paragraph 6(1)(c) or 7(1)(c) is to be so made available;
 - (f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or specified substances at a workplace or by employees or contractors at work;
 - (g) providing for the issue, variation, renewal, transfer, suspension and cancellation of such licences, the conditions to which the licences may be subject and the fees payable for the issue, variation or transfer of the licences;
 - (h) regulating the maintenance and testing of plant used at a workplace or by employees or contractors at work;

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Clause 11

- (j) regulating the labelling or marking of substances used at a workplace or by employees or contractors at work;
- (k) regulating the transport of specified plant or specified substances for use at a workplace or by employees or contractors at work;
- (m) prohibiting the performance, at a workplace or by employees or contractors at work, of specified activities or work except:
 - (i) by persons who satisfy requirements of the regulations as to qualifications, training or experience; or
 - (ii) under the supervision specified in the regulations;
- (n) requiring specified action to avoid accidents or dangerous occurrences;
- (p) providing for, or prohibiting, specified action in the event of accidents or dangerous occurrences;
- (q) providing for the employment at workplaces of persons to perform specified duties relating to the maintenance of occupational health and safety at workplaces;
- (r) regulating the provision and use, at a workplace or by employees or contractors at work, of protective clothing and equipment, safety equipment and rescue equipment;
- (s) providing for monitoring the health of employees and the conditions at workplaces;
- (t) requiring employers to keep records of matters related to the occupational health and safety of employees;
- (u) providing for the provision of first aid equipment and facilities at workplaces.

Part 3—Workplace arrangements

Division 1—Health and safety representatives

12 Designated work groups

- (1) A request to an employer to enter into consultations to establish designated work groups in respect of employees of the employer, or to vary designated work groups that have already been established, may be made by:
 - (a) if there are involved unions in relation to employees of the employer—any such involved union; or
 - (b) if there is no involved union in relation to any employee of the employer—any such employee.
- (2) The employer may, at any time, and must, within 14 days after receiving such a request, enter into such consultations with:
 - (a) if there are involved unions in relation to employees of the employer—each such involved union; or
 - (b) if there is no involved union in relation to any employee of the employer—the employee who made the request.
- (3) If an employer believes that designated work groups should be varied, the employer may, at any time, enter into consultations about the variation of the designated work groups with:
 - (a) if there are involved unions in relation to employees of the employer—each such involved union; or
 - (b) if there is no involved union in relation to any employee of the employer—the health and safety representative of each designated work group proposed to be varied.
- (4) If, in the course of consultations under subclause (2) or (3), there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a designated work group, any party may, for the purpose of facilitating that consultation, refer the matter of disagreement to the reviewing authority and, where this is done, the parties to the disagreement must complete the

Clause 12

consultation in accordance with the resolution of that matter by the reviewing authority.

- (5) Within 14 days after the completion of consultations about the establishment of the designated work groups, the employer must, by notifying the employees, establish the designated work groups in accordance with the outcome of the consultations.
- (6) Within 14 days after the completion of consultations about the variation of designated work groups that have already been established, the employer must, if it has been determined that the variation of some or all of those designated work groups is justified, by notifying the employees who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.
- (7) Consultations about the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping employees:
 - (a) that best and most conveniently enables the employees' interests relating to occupational health and safety to be represented and safeguarded; and
 - (b) that best takes account of the need for any health and safety representative selected for that designated work group to be accessible to each employee in the group.
- (8) The parties to the consultations must have regard, in particular, to:
 - (a) the number of the employees; and
 - (b) the nature of each type of work performed by the employees; and
 - (c) the number and grouping of the employees who perform the same or similar types of work; and
 - (d) the workplaces, and the areas within the workplaces, where each type of work is performed; and
 - (e) the nature of any risks to health and safety at the workplaces; and
 - (f) any overtime or shift working arrangements at the workplaces.

- (9) The designated work groups must be established or varied in such a way that, so far as practicable, each of the employees is in a designated work group.
- (10) All the employees may be in one designated work group.

13 Health and safety representatives

- (1) One health and safety representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the health and safety representative for a designated work group unless the person is an employee included in the group.
- (3) A person is taken to have been selected as the health and safety representative for a designated work group if:
 - (a) all the employees in the group unanimously agree to the selection; or
 - (b) the person is elected as the health and safety representative of the group.
- (4) An election of a health and safety representative for the designated work group may be conducted:
 - (a) if there is only one involved union in relation to the group—by that involved union; or
 - (b) if there is more than one involved union and all the involved unions are in agreement that a specified one of those unions should conduct the election—by that specified union; or
 - (c) if there is no involved union in relation to the group—by a person authorised by the Designated Authority to conduct elections under this clause.
- (5) An employee in the designated work group may be a candidate in the election if and only if:
 - (a) the employee is not disqualified under clause 21; and
 - (b) if an involved union in relation to the group is conducting the election—the employee is nominated by an involved union in relation to the group.

Clause 14

- (6) All the employees in the designated work group are entitled to vote in the election.
- (7) If there is only one candidate for the election, that person is taken to have been elected.
- (8) If a person is selected as the health and safety representative for a designated work group:
 - (a) if the person is selected by agreement in accordance with paragraph (3)(a)—the person; and
 - (b) if the person is selected by election in accordance with paragraph (3)(b)—the involved union or other person authorised under subclause (4) to conduct the election;must, as soon as practicable after the person has been so selected, inform the employer of the name of the person so selected.
- (9) As soon as practicable after being so informed, the employer must cause a notice of the selection to be displayed in a prominent place at such workplaces, under the employer's control, as will allow all the employees in the group to be notified of the selection.
- (10) An employer must prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising employees of the employer, and must ensure that the list is at all reasonable times available for inspection by:
 - (a) the employees; and
 - (b) involved unions in relation to the designated work groups; and
 - (c) investigators.

14 Term of office

Subject to this Part, a health and safety representative for a designated work group holds office:

- (a) if, in consultations that took place under clause 12, the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office— for such a period; or

(b) if paragraph (a) does not apply—for 2 years;
beginning at the first moment of the day on which he or she was
selected, but is eligible to be selected for further terms of office.

15 Training of health and safety representatives

- (1) A health and safety representative for a designated work group must undertake a course of training relating to occupational health and safety that is accredited by the Designated Authority for the purposes of this clause.
- (2) The employer must permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to undertake the training.

16 Powers of health and safety representatives

- (1) A health and safety representative for a designated work group may, for the purposes of promoting or ensuring the health and safety at work of the employees in the group:
 - (a) in respect of a workplace at which work is performed, for the employer of all of the employees in the group, by some or all of those employees, do all or any of the following:
 - (i) inspect the whole or any part of the workplace if:
 - (A) there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or there is an immediate threat of such an accident or dangerous occurrence; or
 - (B) the health and safety representative has given the employer reasonable notice of the inspection;
 - (ii) make a request to an investigator or to the Designated Authority that an investigation be conducted at the workplace;
 - (iii) accompany an investigator during any investigation at the workplace by the investigator (whether or not the investigation is being conducted as a result of a request made by the health and safety representative);

Clause 16

- (iv) if there is no health and safety committee in respect of the employer's employees at the workplace—represent the employees in the group in consultations with the employer about the development, implementation and review of measures to ensure the health and safety at work of the employees in the group;
 - (v) where a health and safety committee has been established in respect of the employer's employees at the workplace—examine any of the records of that committee; and
 - (b) investigate complaints made by any of the employees in the group to the health and safety representative about the health and safety of any of the employees at work; and
 - (c) with the consent of the employee concerned, be present at any interview, about health and safety at work, between an employee in the group and:
 - (i) an investigator; or
 - (ii) the employer or a person representing the employer; and
 - (d) obtain access to:
 - (i) any information under the employer's control relating to risks to health and safety of any employees:
 - (A) at any workplace under the employer's control; or
 - (B) arising from the conduct by the employer of an undertaking or from plant or substances used for the purposes of the undertaking; and
 - (ii) subject to subclause (6), any information under the employer's control relating to the health and safety of any of the employees; and
 - (e) issue provisional improvement notices in accordance with clause 17.
- (2) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.
- (3) A health and safety representative for a designated work group must not:

- (a) be assisted by a consultant at a workplace at which work is performed for an employer of the employees in the group; or
 - (b) provide to a consultant information which has been provided to the health and safety representative by an employer under paragraph (1)(d);
- unless the employer or the Designated Authority has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.
- (4) An employer does not, because of the agreement under subclause (3) to the provision of assistance by a consultant, become liable for any remuneration or other expenses incurred in connection with the consultant's activities.
 - (5) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between an employee in the group and:
 - (a) an investigator; or
 - (b) the employer or a person representing the employer;if, and only if, the employee consents to the presence of the consultant.
 - (6) The health and safety representative is not entitled, or, where the health and safety representative is assisted by a consultant, the health and safety representative and the consultant are not entitled, under subparagraph (1)(d)(ii), to have access:
 - (a) to information in respect of which the employer is entitled to claim, and does claim, legal professional privilege; or
 - (b) to information of a confidential medical nature relating to a person who is or was an employee unless:
 - (i) the person has delivered to the employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
 - (ii) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

Clause 17

- (7) This Schedule does not:
- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or
 - (b) render a person liable in civil proceedings because of:
 - (i) a failure to exercise such a power; or
 - (ii) the way such a power was exercised.

17 Provisional improvement notices

- (1) If a health and safety representative for a designated work group believes, on reasonable grounds, that a person:
- (a) is contravening a provision of this Schedule or the regulations; or
 - (b) has contravened a provision of this Schedule or the regulations and is likely to contravene that provision again;
- being a contravention that affects or that may affect one or more employees included in the group, the representative must consult with the person supervising the work performed by the employee or employees in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.
- (2) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional improvement notice to the person (in this clause called the *responsible person*) responsible for the contravention.
- (3) If the responsible person is an employer but it is not practicable to issue the notice to the employer by giving it to the employer, the notice may be issued to the employer by giving it to the person who is, or may reasonably be presumed to be, for the time being, in charge of the activity in connection with which, in the health and safety representative's opinion, the employer is contravening, or is likely to contravene, this Schedule or the regulations and, if the notice is so issued, a copy of the notice must be given to the employer as soon as practicable afterwards.
- (4) The notice must:

- (a) specify the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and
 - (b) specify a period of not less than 7 days beginning on the day after the notice is issued, being a period that is, in the representative's opinion, reasonable, within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.
- (5) The notice may specify action that the responsible person is to take during the period specified in the notice.
- (6) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.
- (7) Upon issuing the notice, the health and safety representative must give a copy of the notice to:
- (a) if the notice is issued to an employee in connection with work performed by the employee for an employer—that employer; and
 - (b) if the notice relates to any workplace, plant, substance or thing that is owned by a person, not being the responsible person or a person who is an employer referred to in paragraph (a)—that owner; and
 - (c) if the notice is issued to a person (not being an employer) who owns any workplace, plant, substance or thing because of which a contravention of this Schedule or the regulations has occurred or is likely to occur—the employer of the employees who work in that workplace or who use that plant, substance or thing.

18 Effect of provisional improvement notice

- (1) Within 7 days after a notice is issued under clause 17, the responsible person, or any other person, to whom a copy of the notice has been given under subclause 17(7) may make a request to

Clause 18

the Designated Authority or to an investigator that an investigation of the matter be conducted.

- (2) Upon the request being made, the operation of the notice is suspended pending the determination of the matter by an investigator.
- (3) As soon as possible after a request is made, an investigation must be conducted of the work that is the subject of the disagreement, and the investigator conducting the investigation must:
 - (a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under subclause 17(2) accordingly; and
 - (b) make such decisions, and exercise such powers, under Part 4, as the investigator considers necessary in relation to the work.
- (4) Where the investigator varies the notice, the notice as so varied has effect, and, except in so far as it imposes additional obligations on the responsible person, is taken to have always had effect, accordingly.
- (5) If the notice is issued to an employer, the employer must:
 - (a) notify each employee who is affected by the notice of the fact of the issue of the notice; and
 - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.
- (6) The notice ceases to have effect if:
 - (a) it is cancelled by an investigator or by the health and safety representative; or
 - (b) the responsible person:
 - (i) takes such action, if any, as is specified in the notice; or
 - (ii) if no action is so specified—takes the action necessary to prevent the further contravention, or likely contravention, concerned.
- (7) The responsible person:

- (a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and
 - (b) must take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
- (8) For the purposes of clause 37, if the investigator confirms or varies the notice, the investigator is taken to have decided, under clause 36, to issue an improvement notice in those terms.

19 Duties of employers in relation to health and safety representatives

- (1) The employer of all the employees included in a designated work group for which there is a health and safety representative must:
- (a) upon being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the employees in the group perform work for the employer, being changes that may affect the health and safety at work of the employees; and
 - (b) in respect of a workplace at which some or all of the employees perform work for the employer:
 - (i) permit the representative to make such inspection of the workplace as the representative is entitled to make in accordance with subparagraph 16(1)(a)(i), and to accompany an investigator during any investigation at the workplace by the investigator; and
 - (ii) if there is no health and safety committee in respect of the employees at the workplace—upon being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety at work of those employees; and
 - (c) permit the representative to be present at any interview at which the representative is entitled to be present under paragraph 16(1)(c); and

Clause 20

- (d) subject to subclauses (2) and (3), provide to the representative access to any information to which the representative is entitled to obtain access under subparagraph 16(1)(d)(i) or (ii) and to which access has been requested; and
 - (e) permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to exercise the powers of a health and safety representative; and
 - (f) provide the representative with access to such facilities as are:
 - (i) prescribed for the purposes of this paragraph; or
 - (ii) necessary for the purposes of exercising the powers of a health and safety representative.
- (2) An employer must not permit a health and safety representative to have access to information of a confidential medical nature under the control of the employer, being information relating to a person who is or was an employee, unless:
- (a) the person has delivered to the employer a written authority permitting the representative to have access to the information; or
 - (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (3) An employer is not required to give a health and safety representative access to any information in respect of which the employer is entitled to claim, and does claim, legal professional privilege.

20 Resignation etc. of health and safety representatives

- (1) A person must cease to be the health and safety representative for the designated work group if:
- (a) the person resigns as the health and safety representative; or
 - (b) the person ceases to be an employee included in the designated work group; or
 - (c) the person's term of office expires without the person having been selected, under clause 13, to be the health and safety

representative for the designated work group for a further term; or

- (d) the person is disqualified under clause 21.
- (2) A person may resign as the health and safety representative for a designated work group:
- (a) if the person was last selected as the health and safety representative in an election conducted by an involved union in relation to the group—by notice in writing delivered to the involved union that nominated the person as a candidate in the election; or
 - (b) in any other case—by notice in writing delivered to the employer of all the employees included in the group.
- (3) If a person has resigned as the health and safety representative for a designated work group:
- (a) if paragraph (2)(a) applies—the involved union to which the notice of resignation was delivered; or
 - (b) in any other case—the person;
- must notify the employees included in the group, and, in a case to which paragraph (2)(a) applies, the employer of all those employees, of the resignation.
- (4) If a person has ceased to be the health and safety representative for a designated work group because of paragraph (1)(b), the person must notify in writing:
- (a) the employees included in the group; and
 - (b) the employer of all those employees; and
 - (c) if the person was last selected as the health and safety representative in an election conducted by an involved union in relation to the group—the involved union, in relation to the group, that nominated the person as a candidate in the election;
- that the person has ceased to be the health and safety representative for that designated work group.

Clause 21

21 Disqualification of health and safety representatives

- (1) An application for the disqualification of a health and safety representative for a designated work group may be made to the Designated Authority by the employer of all the employees included in the designated work group, or by an involved union in relation to the designated work group, on one or both of the following grounds:
 - (a) that action taken by the representative in the exercise or purported exercise of a power under subclause 16(1) or any other provision of this Schedule was taken:
 - (i) with the intention of causing harm to the employer or to an undertaking of the employer; or
 - (ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the representative;
 - (b) that the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a health and safety representative, information acquired from the employer.
- (2) If, upon an application by an employer under subclause (1), the Designated Authority is satisfied that the health and safety representative has acted in a manner referred to in paragraph (1)(a) or (b), the Designated Authority may, after having regard to:
 - (a) the harm (if any) that was caused to the employer or to an undertaking of the employer as a result of the action of the representative; and
 - (b) the past record of the representative in exercising the powers of a health and safety representative; and
 - (c) the effect (if any) on the public interest of the action of the representative; and
 - (d) such other matters as the Authority thinks relevant;disqualify the representative, for a specified period not exceeding 5 years, from being a health and safety representative for any designated work group.

22 Deputy health and safety representatives

- (1) One deputy health and safety representative may be selected for each designated work group for which a health and safety representative has been selected.
- (2) A deputy health and safety representative is to be selected in the same way as a health and safety representative under clause 13.
- (3) If the health and safety representative for a designated work group ceases to be the health and safety representative or is unable (because of absence or for any other reason) to exercise the powers of a health and safety representative:
 - (a) the powers may be exercised by the deputy health and safety representative (if any) for the group; and
 - (b) this Schedule (other than this clause) applies in relation to the deputy health and safety representative accordingly.

Division 2—Health and safety committees

23 Health and safety committees

- (1) A health and safety committee must be established in respect of employees at a particular workplace if:
 - (a) the number of employees who work at the workplace is normally not less than 50 (whether or not the employees are all at work at the workplace at the same time); and
 - (b) the employees are included in one or more designated work groups in respect of the employer; and
 - (c) the employer is requested to establish the committee by:
 - (i) a health and safety representative for the designated work group or for one of the designated work groups; or
 - (ii) an involved union in relation to such a group.
- (2) The health and safety committee consists of:
 - (a) the number of members specified in an agreement reached between the employer and:
 - (i) the involved unions in relation to the designated work group that includes, or the designated work groups that include, all of the employees; or
 - (ii) if there are no such involved unions—the employees; or
 - (b) if there is no such agreement—an equal number of members, chosen by employees, to represent the interests of the employees and members, chosen by the employer, to represent the interests of management.
- (3) The agreement referred to in paragraph (2)(a) may:
 - (a) specify the persons who are to be members to represent the interests of management; and
 - (b) provide for the way in which persons who are to be members to represent the interests of employees are to be chosen.
- (4) If regulations made for the purposes of this clause specify procedures for the selection of persons as members of health and safety committees, to represent the interests of employees, an

agreement referred to in paragraph (2)(a) must not provide for such members to be chosen in a way inconsistent with the regulations.

- (5) A health and safety committee must hold meetings at least once every 3 months.
- (6) The procedure at meetings of a health and safety committee must, except to the extent provided for by the regulations, be the procedure agreed upon by the committee.
- (7) A health and safety committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.
- (8) This clause does not prevent an employer from establishing, in consultation with registered unions or any other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the employer.

24 Functions of health and safety committees

- (1) A health and safety committee has the following functions:
 - (a) to assist the employer:
 - (i) to develop and implement measures designed to protect; and
 - (ii) to review and update measures used to protect; the health and safety at work of employees;
 - (b) to facilitate co-operation between the employer and employees in relation to occupational health and safety matters;
 - (c) to assist the employer to disseminate among employees, in appropriate languages, information relating to health and safety at work;
 - (d) such functions as are prescribed;
 - (e) such other functions as are agreed upon between the employer and the health and safety committee.

Clause 25

- (2) A health and safety committee has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (3) This Schedule does not:
 - (a) impose an obligation on a person to do any act, because the person is a member of a health and safety committee, in connection with the performance of a function conferred on the committee; or
 - (b) render such a person liable in civil proceedings because of:
 - (i) a failure to do such an act; or
 - (ii) the manner in which such an act was done.

25 Duties of employers in relation to health and safety committees

- (1) If there is a health and safety committee, the employer must:
 - (a) subject to subclauses (2) and (3), make available to the committee any information possessed by the employer relating to risks to the health and safety of employees:
 - (i) at any workplace under the employer's control; or
 - (ii) arising from the conduct by the employer of an undertaking, or from plant or substances used for the purposes of the undertaking; and
 - (b) permit any member of the committee who is an employee to take such time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.
- (2) An employer must not make available to a health and safety committee information of a confidential medical nature relating to a person who is or was an employee, unless:
 - (a) the person has delivered to the employer an authority permitting the information to be made available to the committee; or
 - (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

- (3) An employer is not required to make available to a health and safety committee any information in respect of which the employer is entitled to claim, and does claim, legal professional privilege.

Division 3—Emergency procedures

26 Action by health and safety representatives

- (1) If a health and safety representative for a designated work group has reasonable cause to believe that there is an immediate threat to the health or safety of one or more of the employees included in the group unless the employee ceases to perform particular work, the representative must:
 - (a) inform a person (in this clause called a *supervisor*) supervising the employee or employees in the performance of the work of the threat to health or safety; or
 - (b) if no supervisor can be contacted immediately—direct the employee or employees to cease, in a safe manner, to perform the work, and as soon as practicable inform a supervisor that the direction has been given.
- (2) If a supervisor is informed under paragraph (1)(a) of a threat to the health and safety of one or more of the employees, the supervisor must take such action as he or she considers appropriate to remove that threat, and any such action may include directing the employee or employees to cease, in a safe manner, to perform the work.
- (3) If a health and safety representative:
 - (a) is unable to agree with a supervisor whom the representative has informed under paragraph (1)(a) of a threat to the health or safety of persons performing work, and who has taken such action as the supervisor considers appropriate to remove that threat, that the action taken was sufficient to remove that threat; or
 - (b) is unable to agree with a supervisor whom the representative has informed under paragraph (1)(b) that there is a need for a direction under that paragraph;the representative or the supervisor may make a request to the Designated Authority or to an investigator that an investigation be conducted of the work that is the subject of the disagreement.

- (4) As soon as possible after a request is made, an investigation must be conducted of the work that is the subject of the disagreement, and the investigator conducting the investigation must make such decisions, and exercise such powers, under Part 4 as the investigator considers necessary in relation to the work.

27 Directions to perform other work

If an employee has ceased to perform work, in accordance with a direction by a health and safety representative under paragraph 26(1)(b), not being a cessation of work that continues after:

- (a) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed, that the cessation of work was not, or is no longer, necessary; or
- (b) an investigator has, under subclause 26(4), made a decision that has the effect that the employee should perform the work;

the employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

Part 4—Advice and investigations

Division 1—Advice

28 Designated Authority may refer persons seeking advice to experts

If the Designated Authority has been requested to advise an employer, employee or contractor about an occupational health and safety matter, it may, in the exercise of its function to provide that advice, refer the employer, employee or contractor to a person who has special knowledge or experience relevant to the request.

Division 2—Investigations

29 Investigators

- (1) A person who, under section 125, holds an appointment as an inspector in relation to an adjacent area has the powers, functions and duties of an investigator under this Schedule.
- (2) The Designated Authority may, in writing, give directions specifying the manner in which, and any conditions subject to which, powers conferred on investigators under this Schedule are to be exercised. If it does so, the powers of investigators must be exercised in accordance with those directions.
- (3) The Designated Authority may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular investigator under this Schedule. If it does so, the powers of the investigator are taken to have been restricted accordingly.

30 Investigations

- (1) An investigator may, at any time, conduct an investigation:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, this Schedule or the regulations are being complied with; or
 - (b) concerning a contravention or possible contravention of this Schedule or the regulations; or
 - (c) concerning an accident or dangerous occurrence that has happened in the performing of work.
- (2) The Designated Authority may direct an investigator to conduct an investigation:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, this Schedule or the regulations are being complied with; or
 - (b) concerning a contravention or possible contravention of this Schedule or the regulations; or

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- (c) concerning an accident or dangerous occurrence that has happened in the performing of work;
and the investigator must, unless the Authority revokes the direction, conduct an investigation accordingly.
- (3) An involved union may make a request to an investigator or to the Designated Authority that an investigation be conducted at a workplace at which an employee, who is a member of the union, performs work for an employer.

31 Power of entry

- (1) In conducting an investigation, an investigator may, to the extent that it is reasonably necessary to do so in connection with the investigation, enter a workplace at any reasonable time during the day or night and:
 - (a) search the workplace; or
 - (b) inspect, examine, take measurements of or conduct tests concerning the workplace or any plant, substance or thing at the workplace; or
 - (c) take photographs, or make sketches, of the workplace or any plant, substance or thing at the workplace.
- (2) Immediately upon entering the workplace, an investigator must take reasonable steps to notify the purpose of the entry to:
 - (a) the person who is for the time being in charge of operations at the workplace; and
 - (b) if there is a health and safety representative for a designated work group that includes an employee performing, at the workplace, work to which the investigation may relate—that representative;and must, upon being requested to do so by the person referred to in paragraph (a), produce for inspection by that person:
 - (c) the investigator's certificate issued under section 125; and
 - (d) a copy of the Designated Authority's written direction (if any) to conduct the investigation; and
 - (e) a copy of the restrictions (if any) imposed on the powers of the investigator under subclause 29(3).

- (3) If an investigator who has entered a workplace fails to produce those documents for inspection upon being so requested, the investigator cannot remain at the workplace.

32 Power to require assistance and information

- (1) An investigator may, to the extent that it is reasonably necessary to do so in connection with the conduct of an investigation, require:
- (a) any employer; or
 - (b) any person representing an employer; or
 - (c) any owner or occupier of a workplace at which the investigation is being conducted; or
 - (d) any employee or contractor;
- to give to the investigator reasonable assistance, to answer any questions put by the investigator, and to produce any documents requested by the investigator, reasonably connected with the conduct of the investigation.

- (2) A person must not fail to comply with a requirement under this clause.

Penalty: Imprisonment for 6 months.

- (2A) Subclause (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subclause (2A), see subsection 13.3(3) of the *Criminal Code*.

- (2B) An offence against subclause (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A person must not, in purported compliance with a requirement made under this clause, give information that is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

- (4) A person is not excused from answering a question or producing a document when required to do so under subclause (1) on the ground that the answer to the question, or the production of the

Clause 33

document, may tend to incriminate him or her or make him or her liable to a penalty.

- (5) However, any answer given or document produced pursuant to the requirement, and any information or thing (including any document) obtained as a direct or indirect consequence of the answering of the question or the production of the document, as the case may be, is not admissible in evidence against the person in any civil proceedings or in any criminal proceedings other than proceedings for an offence against this clause.

33 Power to take possession of plant, take samples of substances etc.

- (1) In conducting an investigation, an investigator may, to the extent that it is reasonably necessary for the purposes of inspecting, examining, taking measurements of or conducting tests concerning, any plant, substance or thing at a workplace in connection with the investigation:
- (a) take possession of the plant, substance or thing and remove it from the workplace; or
 - (b) take a sample of the substance or thing and remove that sample from the workplace.
- (2) Upon taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the investigator must, by notice in writing, inform:
- (a) the employer for which work is performed using the plant, substance or thing; and
 - (b) if the plant, substance or thing is owned by a person other than an employer—that person; and
 - (c) if there is a health and safety representative for a designated work group that includes an employee performing, at the workplace, work to which the investigation relates—that representative;
- of the taking of possession or the taking of the sample, as the case may be, and the reasons for it.
- (3) If the investigator gives the notice to an employer, the employer must cause a copy of the notice to be displayed in a prominent

place at the workplace from which the plant, substance or thing was removed.

- (4) If the investigator takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of or conducting tests concerning, the plant, substance or thing, the investigator must:
 - (a) ensure that the inspection, examination, measuring or testing is conducted as soon as practicable; and
 - (b) return it to the workplace as soon as practicable afterwards.
- (5) As soon as practicable after completing any such inspection, examination, measurement or testing, the investigator must give a written statement setting out the results to each person whom the investigator is required to notify under subclause (2).

34 Power to direct that workplace etc. not be disturbed

- (1) In conducting an investigation, an investigator may, if he or she is satisfied that it is reasonably necessary to give a direction in order to:
 - (a) remove an immediate threat to the health or safety of any person; or
 - (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a workplace or any plant, substance or thing at a workplace;direct, by written notice given to the person who is for the time being in charge of operations at the workplace, that the person ensure that:
 - (c) a particular workplace, or a specified part of a particular workplace; or
 - (d) particular plant, or a particular substance or thing;not be disturbed for the period, specified in the direction, that is, in the investigator's opinion, necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.
- (2) The direction may be renewed by another direction in the same terms.

Clause 35

- (3) If an investigator gives a notice to a person under subclause (1), that person must cause the notice to be displayed in a prominent place at the workplace:
 - (a) that is, or a specified part of which is, to be left undisturbed; or
 - (b) where the plant, substance or thing that is to be left undisturbed is located.
- (4) As soon as practicable after giving the direction, the investigator must take reasonable steps to notify:
 - (a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than an employer—that person; and
 - (b) if there is a health and safety representative for a designated work group that includes an employee performing work:
 - (i) at a workplace or a part of a workplace; or
 - (ii) involving the plant, substance or thing; to which the direction relates—that representative;of the direction and the reasons for giving it.
- (5) An employer who has control over the workplace, plant, substance or thing to which the direction relates, and whose employees use the workplace, plant, substance or thing in the performance of work for the employer, must ensure that the direction is complied with.

Penalty: 250 penalty units.
- (6) The direction must include the reasons for the direction.

35 Power to issue prohibition notices

- (1) If, having conducted an investigation, an investigator forms the opinion that it is reasonably necessary to issue a prohibition notice to an employer in order to remove an immediate threat to the health or safety of any person, the investigator may issue such a notice, in writing, to the employer.

- (2) The notice must be issued to the employer by giving it to the person who is, or may reasonably be presumed to be, for the time being in charge of the activity, undertaken by the employer, in respect of which, in the investigator's opinion, the threat to health or safety has arisen.
- (3) The notice must:
- (a) specify the activity in respect of which, in the investigator's opinion, the threat to health or safety has arisen, and set out the reasons for that opinion; and
 - (b) either:
 - (i) direct the employer to ensure that the activity is not engaged in; or
 - (ii) direct the employer to ensure that the activity is not engaged in in a specified manner, being a manner that may relate to any one or more of the following:
 - (A) any workplace, or part of a workplace, at which the activity is not to be engaged in;
 - (B) any plant or substance that is not to be used in connection with the activity;
 - (C) any procedure that is not to be followed in connection with the activity.
- (4) The employer must ensure that the notice is complied with to the extent that it relates to any matter over which the employer has control.
- Penalty: 250 penalty units.
- (5) If an investigator is satisfied that action taken by an employer to remove the threat to health and safety is not adequate, the investigator must inform the employer accordingly.
- (6) The notice ceases to have effect when an investigator notifies the employer that the investigator is satisfied that the employer has taken adequate action to remove the threat to health or safety.
- (7) In making a decision under subclause (5), an investigator may exercise such of the powers of an investigator conducting an

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investigation as the investigator considers necessary for the purposes of making the decision.

- (8) The notice may specify action that may be taken to satisfy an investigator that adequate action has been taken to remove the threat to health and safety.
- (9) The employer must:
 - (a) give a copy of the notice to each health and safety representative (if any) for a group of the employer's employees performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which that work is being performed.
- (10) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than an employer, the investigator must, upon issuing the notice, give a copy of the notice to that person.

36 Power to issue improvement notices

- (1) If, having conducted an investigation, an investigator forms the opinion that a person:
 - (a) is contravening a provision of this Schedule or the regulations; or
 - (b) has contravened a provision of this Schedule or the regulations and is likely to contravene that provision again;the investigator may issue an improvement notice, in writing, to the person (in this clause called the *responsible person*).
- (2) If the responsible person is an employer but it is not practicable to give the notice to the employer, the improvement notice may be issued to the employer by giving it to the person who is, or may reasonably be presumed to be, for the time being in charge of the activity in connection with which, in the investigator's opinion, the employer is contravening, or is likely to contravene, this Schedule or the regulations and, if the notice is so issued, a copy of the

notice must be given to the employer as soon as practicable afterwards.

- (3) The notice must:
 - (a) specify the contravention that, in the investigator's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and
 - (b) specify a period, being a period that is, in the investigator's opinion, reasonable, within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.
- (4) The notice may specify action that the responsible person is to take during the period specified in the notice.
- (5) If, in the investigator's opinion, it is appropriate to do so, the investigator may, in writing and before the end of the period, extend the period specified in the notice.
- (6) The responsible person must ensure that the notice is complied with to the extent that it relates to any matter over which the person has control.

Penalty: 100 penalty units.
- (7) If the notice is issued to an employer, the employer must:
 - (a) give a copy of the notice to each health and safety representative for a designated work group of the employees performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which that work is being performed.
- (8) Upon issuing the notice, the investigator must give a copy of the notice to:
 - (a) if the notice is issued to an employee in connection with work performed by the employee—the employer; and
 - (b) if the notice relates to any workplace, plant, substance or thing that is owned by a person, not being the responsible

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person or a person who is an employer referred to in paragraph (a)—that owner; and

- (c) where the notice is issued to a person (not being an employer) who owns any workplace, plant, substance or thing because of which a contravention of this Schedule or the regulations has occurred or is likely to occur—the employer of the employees who work in that workplace or who use that plant, substance or thing.

37 Appeals

- (1) If an investigator, in conducting an investigation or having conducted an investigation:
 - (a) decides, under clause 17, to confirm or vary a provisional improvement notice; or
 - (b) decides, under clause 33, to take possession of plant, a substance or a thing at a workplace; or
 - (c) decides, under clause 34, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or
 - (d) decides, under clause 35, to issue a prohibition notice; or
 - (e) decides, under clause 35, that an employer to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or
 - (f) decides, under clause 36, to issue an improvement notice;an appeal against the decision may be made, by notice in writing, to the reviewing authority by:
 - (g) an employer affected by the decision; or
 - (h) a person to whom a notice has been issued under subclause 17(2) or 36(1); or
 - (j) the health and safety representative for a designated work group that includes an employee affected by the decision; or
 - (k) an involved union in relation to such a designated work group; or
 - (m) if there is no such designated work group—an involved union in relation to an employee who is affected by the decision; or

- (n) a person who owns any workplace, plant, substance or thing to which the decision referred to in paragraph (a), (b), (c) or (f) relates.
- (2) If an investigator, having conducted an investigation:
- (a) decides under clause 17 to cancel a provisional improvement notice; or
 - (b) decides under clause 35 that an employer to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued;
- an appeal against a decision may be made, by notice in writing, to the reviewing authority by:
- (c) the health and safety representative for a designated work group that includes an employee affected by the decision; or
 - (d) an involved union in relation to such a designated work group; or
 - (e) if there is no such designated work group—an involved union in relation to an employee who is affected by the decision.
- (3) Subject to this clause, the making of an appeal against a decision referred to in subclause (1) or (2) does not affect the operation of the decision or prevent the taking of action to implement the decision, except to the extent that the reviewing authority makes an order to the contrary.
- (4) If the decision appealed against is a decision, under clause 36, to issue an improvement notice, the operation of the decision is suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.
- (5) If the decision appealed against is a decision of an investigator, under clause 17, to confirm or vary a provisional improvement notice whose operation has been suspended pending the investigation of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.

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- (6) The reviewing authority may affirm or revoke the decision appealed against under subclause (1) or (2) and may, if it revokes the decision, substitute such other decision of the kind appealed against as it thinks appropriate.
- (7) If the decision is varied, revoked, or revoked with the substitution of another decision, the decision is taken to have effect, and always to have had effect, accordingly.
- (8) If the decision appealed against is a decision, under clause 33, to take possession of plant, substance or a thing at a workplace, and the decision is not affirmed, the investigator who made the decision must ensure that, to the extent that the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.

38 Liability of investigators

An investigator is not subject to any civil liability in respect of any act done, in good faith, in connection with:

- (a) the conduct of an investigation by the investigator; or
- (b) the exercise of any of his or her powers under this Part in relation to the investigation.

39 Notices not to be tampered with or removed

- (1) A person must not:
 - (a) tamper with any notice that has been displayed under subclause 33(3), 34(3), 35(9) or 36(7) while that notice is so displayed; or
 - (b) remove any notice that has been so displayed:
 - (i) in the case of a notice displayed under subclause 33(3)—until the plant or thing to which the notice relates is returned to the workplace from which it was removed; or

- (ii) in the case of a notice displayed under subclause 34(3), 35(9) or 36(7)— before the notice has ceased to have effect.

Penalty: Imprisonment for 6 months.

- (2) Subclause (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subclause (2), see subsection 13.3(3) of the *Criminal Code*.

- (3) An offence against subclause (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 3—Reports on investigations

40 Reports on investigations

- (1) If an investigator has conducted an investigation, the investigator must, as soon as practicable, prepare a written report relating to the investigation and give the report to the Designated Authority.
- (2) The report must include:
 - (a) the investigator's conclusions from conducting the investigation and the reasons for those conclusions; and
 - (b) any recommendations that the investigator wishes to make arising from the investigation of those conclusions; and
 - (c) such other matters, if any, as are prescribed.
- (3) As soon as practicable after receiving the report, the Designated Authority must give the employer a copy of the report, together with any written comments that it wishes to make.
- (4) The Designated Authority may, in writing, request the employer to provide to the Authority, within a reasonable period specified in the request, particulars of:
 - (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and
 - (b) if a notice has been issued under clause 35 or 36 in relation to work being performed for the employer—any action taken, or proposed to be taken, in respect of that notice;and the employer must comply with the request.
- (5) As soon as practicable after receiving a report, the employer must give a copy of the report, together with any written comment made by the Designated Authority on the report:
 - (a) if there is at least one health and safety committee in respect of some or all of the employees concerned—to each such committee; and

- (b) if there is no such committee in respect of some or all of the employees concerned but some or all of those employees (in respect of which there is no such committee) are in at least one designated work group for which there is a health and safety representative—to each such health and safety representative.

Part 5—Miscellaneous

41 Notifying and reporting accidents and dangerous occurrences

- (1) If, at or near a workplace at which an undertaking is being conducted by an employer, there is, arising out of the conduct of the undertaking:
 - (a) an accident that causes the death of, or serious personal injury to, any person; or
 - (b) an accident that causes an employee who performs work in connection with the undertaking to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence;the employer must, in accordance with the regulations, give to the Designated Authority notice of, and a report about, the accident or dangerous occurrence.
- (2) Without limiting the provision that may be made by regulations for the purposes of this clause, the regulations (not being regulations made for the purpose of paragraph (1)(b)) may prescribe:
 - (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given, and the form of such a notice; and
 - (b) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given, and the form of such a report.

42 Records of accidents and dangerous occurrences to be kept

- (1) An employer must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the employer is required by clause 41 to notify the Designated Authority.

- (2) Without limiting the provision that may be made by regulations for the purposes of this clause, the regulations may prescribe:
 - (a) the nature of the contents of a record maintained under this clause; and
 - (b) the period for which such a record must be retained.

43 Codes of practice

- (1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to employers.
- (2) A person is not liable to any civil or criminal proceedings for contravening a code of practice.

44 Use of codes of practice in proceedings

If, in any proceedings for an offence against this Schedule or the regulations, it is alleged that a person contravened a provision of this Schedule or the regulations in relation to which a code of practice was in effect at the time of the alleged contravention:

- (a) the code of practice is admissible in evidence in those proceedings; and
- (b) if the court is satisfied, in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention, that:
 - (i) any provision of the code of practice is relevant to that matter; and
 - (ii) the person failed at any material time to comply with that provision of the code of practice;

that matter is treated as proved unless the court is satisfied that in respect of that matter the person complied with that provision of this Schedule or the regulations otherwise than by complying with the code of practice.

45 Interference etc. with equipment etc.

- (1) A person must not perform an act that results in the interference with, or the rendering ineffective of, any protective equipment or

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safety device provided for the health, safety or welfare of employees or contractors at work which the person knew (or ought reasonably to have known) was protective equipment or a safety device.

Penalty: Imprisonment for 6 months.

- (2) Subclause (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subclause (2), see subsection 13.3(3) of the *Criminal Code*.

46 Employer not to levy employees etc.

An employer must not levy, or permit to be levied, on any employees any charge in respect of anything done or provided, in accordance with this Schedule or the regulations, in order to ensure the health, safety or welfare of the employees at work.

Penalty: 250 penalty units.

47 Annual occupational health and safety report

- (1) As soon as practicable after each 30 June, the Designated Authority must cause to be prepared a report on the operation of this Schedule and the regulations during the year ending on that date.
- (2) The report must include, in relation to the year:
- (a) statistics, with appropriate details, of all accidents and dangerous occurrences notified to the Designated Authority under clause 41; and
 - (b) details of all prosecutions instituted under this Schedule and the regulations; and
 - (c) statistics, with appropriate details, of all:
 - (i) investigations conducted; and
 - (ii) instances of the taking of possession of plant, substances or things, or of the taking of samples of substances or things, under clause 33; and
 - (iii) directions given under clause 34; and

- (iv) notices issued under clauses 35 and 36; and
 - (v) appeals instituted under clause 37 against investigators' decisions; and
 - (vi) requests made under subclause 40(4); and
 - (d) such other matters as are prescribed.
- (3) The Designated Authority must cause a copy of the report to be transmitted to the Joint Authority.
- (4) If this clause commences within 3 months before 30 June, the first report may be prepared after the second 30 June following that commencement. In that event it must cover the whole period from that commencement to that second 30 June.

48 Employer not to dismiss etc. employees on certain grounds

- (1) An employer must not:
- (a) dismiss an employee; or
 - (b) perform an act that results in injury to an employee in his or her employment; or
 - (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
 - (d) threaten to do any of those things;
- because the employee:
- (e) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work; or
 - (f) has assisted or proposes to assist, by giving information or otherwise, the conduct of an investigation; or
 - (g) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under paragraph 26(1)(b), not being a cessation or proposed cessation that continues after:
 - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or

Clause 49

- (ii) an investigator has, under subclause 26(4), made a decision that has the effect that the employee should perform the work.

Penalty: \$25,000.

- (2) In proceedings for an offence against subclause (1), if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, it lies upon the defendant to establish that the action was not taken for that reason.

Note: A defendant bears a legal burden in relation to the matter in subclause (2), see section 13.4 of the *Criminal Code*.

49 Institution of prosecutions

- (1) Proceedings for an offence against this Schedule or the regulations may be instituted by the Designated Authority or by an investigator.
- (2) If proceedings for an offence against this Schedule or the regulations have not been instituted within 6 months after the occurrence of an act or omission which, in the opinion of a health and safety representative for a designated work group or an involved union in relation to such a designated work group, constitutes an offence against this Schedule or the regulations, that health and safety representative or that involved union may, in writing, request the Designated Authority to institute such proceedings.
- (3) The Authority must, within 3 months after receiving the request, advise the health and safety representative or the involved union, as the case may be, whether proceedings under subclause (1) have been or will be instituted, and, if not, give reasons why not.

50 Conduct of directors, servants and agents

- (1) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of actual or apparent authority; and
 - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) If it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a servant or agent of the individual within the scope of actual or apparent authority; and
 - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of an individual by a servant or agent of the individual within the scope of actual or apparent authority is taken to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) If:
 - (a) an individual is convicted of an offence; and
 - (b) he or she would not have been convicted of the offence if subclauses (3) and (4) had not been enacted;he or she is not liable to be punished by imprisonment for that offence.
- (6) A reference in subclause (1) or (3) to the state of mind of a person includes a reference to:
 - (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) This clause has effect for the purposes of any proceeding for an offence against this Schedule or the regulations.

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51 Act not to give rise to other liabilities etc.

This Schedule does not:

- (a) confer a right of action in any civil proceeding in respect of any contravention of a provision of this Schedule or the regulations; or
- (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

52 Circumstances preventing compliance with Schedule may be defence to prosecution

It is a defence to a prosecution for refusing or failing to do anything required by this Act or the regulations if the defendant proves that it was not practicable to do it because of an emergency prevailing at the relevant time.

Note: A defendant bears a legal burden in relation to the matter in this clause, see section 13.4 of the *Criminal Code*.

53 Regulations—general

- (1) Without limiting the generality of the power to make regulations for the purposes of this Schedule, the regulations may prescribe:
 - (a) procedures for the election of persons, under clause 13, as health and safety representatives; and
 - (b) procedures for the selection of persons, under clause 23, as members of health and safety committees, to represent the interests of employees; and
 - (c) procedures to be followed at meetings of health and safety committees; and
 - (d) the manner in which notices are to be served under this Schedule or the regulations; and
 - (e) forms for the purposes of this Schedule or the regulations.
- (2) If the Governor-General is satisfied that:
 - (a) a power, function or duty is conferred or imposed on a person under a law of the Commonwealth or of a State or Territory; and

- (b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule;
- regulations made for the purposes of this subclause may declare that this Schedule, or the provision, as the case may be, does not apply to that person, or does not apply to that person in the circumstances specified in the regulations.
- (3) Regulations made for the purposes of subclause (2) do not remain in force for longer than 5 years after they commence, but this subclause does not prevent the making of further regulations of the same substance.
- (4) In subclause (2), *this Schedule* includes regulations made for the purposes of this Schedule.

Table of Acts**Notes to the *Petroleum (Submerged Lands) Act 1967*****Note 1**

The *Petroleum (Submerged Lands) Act 1967* as shown in this compilation comprises Act No. 118, 1967 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequential and Transitional) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 30 July 1998 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Petroleum (Submerged Lands) Act 1967</i>	118, 1967	22 Nov 1967	22 Nov 1967	
<i>Petroleum (Submerged Lands) Act 1968</i>	1, 1968	29 Mar 1968	29 Mar 1968	—
<i>Petroleum (Submerged Lands) Act 1973</i>	36, 1973	27 May 1973	S. 6: 1 Sept 1973 (see <i>Gazette</i> 1973, No. 126, p. 3) Remainder: Royal Assent	S. 8
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
as amended by <i>Statute Law Revision Act 1974</i>	20, 1974	25 July 1974	31 Dec 1973	—
<i>Petroleum (Submerged Lands) Act 1974</i>	57, 1974	27 Sept 1974	Ss. 1–3: Royal Assent Remainder: 3 Apr 1975 (see <i>Gazette</i> 1975, No. S55)	S. 6(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Petroleum (Submerged Lands) Amendment Act 1980</i>	80, 1980	29 May 1980	14 Feb 1983 (see <i>Gazette</i> 1983, No. S29)	Ss. 15(2), 22(2), 27(2), 57(2), 62(2), (3) and 63(1), (3)–(8) S. 49(2) (ad. by 176, 1981, s. 57) S. 63(2) (am. by 79, 1981, s. 13) S. 63(2A) and (2B) (ad. by 79, 1981, s. 12)
as amended by				
<i>Petroleum (Submerged Lands—Miscellaneous Amendments) Act 1981</i>	79, 1981	18 June 1981	(see 79, 1981 below)	—
<i>Statute Law (Miscellaneous Amendments) Act 1981</i>	176, 1981	2 Dec 1981	Part XVII (ss. 56, 57): 14 Feb 1983 (see <i>Gazette</i> 1983, No. S29) (a)	—
<i>Petroleum (Submerged Lands—Miscellaneous Amendments) Act 1981</i>	79, 1981	18 June 1981	Parts I and II (ss. 1–8): Royal Assent Remainder: 14 Feb 1983 (see s. 2(2) and <i>Gazette</i> 1983, No. S29)	—
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LIV (ss. 210–212): Royal Assent (b)	—
<i>Torres Strait Treaty (Miscellaneous Amendments) Act 1984</i>	22, 1984	26 Apr 1984	Part VIII (ss. 22–24): 15 Feb 1985 (see <i>Gazette</i> 1985, No. S38) (c)	—
<i>Petroleum (Submerged Lands) Amendment Act 1984</i>	166, 1984	25 Oct 1984	Ss. 1 and 2: Royal Assent Ss. 3–11, 13–26 and 28: 22 July 1985 (see <i>Gazette</i> 1985, No. S275) Remainder: 1 Nov 1984 (see <i>Gazette</i> 1984, No. S462)	Ss. 8(2) and 12(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Petroleum (Submerged Lands) Amendment Act 1985</i>	80, 1985	6 June 1985	Ss. 1 and 2: Royal Assent Ss. 3, 4, 6, 7, 9–32 and 34–37: 22 July 1985 (see <i>Gazette</i> 1985, No. S275) Ss. 5, 8 and 38: 2 Dec 1985 (see <i>Gazette</i> 1985, No. S506) Remainder: 6 Sept 1985 (see <i>Gazette</i> 1985, No. S356)	Ss. 18(2)–(4), 20(2)–(5) and 27(2), (3)
<i>Petroleum (Submerged Lands) (Cash Bidding) Amendment Act 1985</i>	132, 1985	22 Nov 1985	22 Nov 1985	—
as amended by				
<i>Petroleum (Submerged Lands) Legislation Amendment Act 1987</i>	106, 1987	13 Nov 1987	(see 106, 1987 below)	—
<i>Petroleum (Submerged Lands) Legislation Amendment Act 1987</i>	106, 1987	13 Nov 1987	S. 11: 1 Jan 1988 (see <i>Gazette</i> 1987, No. S347) Remainder: Royal Assent	Ss. 5(2), 9(2)–(6), 11(2), (3), 13(2), (3) and 17
<i>Petroleum Resource Rent Tax (Miscellaneous Provisions) Act 1987</i>	145, 1987	18 Dec 1987	15 Jan 1988 (see s. 2)	S. 4
<i>ANL (Conversion into Public Company) Act 1988</i>	127, 1988	14 Dec 1988	S. 11: 1 July 1989 (see <i>Gazette</i> 1989, No. S210) (d)	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 2) 1989</i>	15, 1990	17 Jan 1990	S. 3: 1 Mar 1990 (see <i>Gazette</i> 1990, No. S52) (e)	—
<i>Petroleum (Australia-Indonesia Zone of Cooperation) (Consequential Provisions) Act 1990</i>	37, 1990	7 June 1990	18 Feb 1991 (see s. 2 and <i>Gazette</i> 1991, No. S47)	S. 24
<i>Petroleum (Submerged Lands) Amendment Act 1991</i>	75, 1991	25 June 1991	25 June 1991	Ss. 14 and 15
<i>Primary Industries and Energy Legislation Amendment Act 1992</i>	17, 1992	10 Apr 1992	10 Apr 1992	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Territories Law Reform Act 1992</i>	104, 1992	30 June 1992	S. 24: 1 July 1992 (f)	—
<i>Petroleum (Submerged Lands) Amendment Act 1992</i>	217, 1992	24 Dec 1992	24 June 1993	—
<i>Native Title Act 1993</i>	110, 1993	24 Dec 1993	Ss. 3–200 and 202–253: 1 Jan 1994 (see <i>Gazette</i> 1993, No. S402) Part 10 (s. 201): 1 July 1994 (see <i>Gazette</i> 1993, No. S402) Remainder: Royal Assent	S. 221(3)
<i>Maritime Legislation Amendment Act 1994</i>	20, 1994	15 Feb 1994	1 Aug 1994 (see <i>Gazette</i> 1994, No. S289)	—
<i>Petroleum (Submerged Lands) Legislation Amendment Act 1994</i>	93, 1994	29 June 1994	Part 4 (s. 9): 1 July 1994 Remainder: Royal Assent	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 2) 1995</i>	133, 1995	14 Nov 1995	Schedule 3 (Part 3): 1 Jan 1996 Schedule 4 (items 9–12): 1 Dec 1985 Remainder: Royal Assent	Sch. 4 (items 13–15)
<i>Workplace Relations and Other Legislation Amendment Act 1996</i>	60, 1996	25 Nov 1996	Schedule 19 (item 38): Royal Assent (g)	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 2) 1997</i>	94, 1997	30 June 1997	Schedule 6: 4 Sept 1997 (see <i>Gazette</i> 1997, S347) (h)	—
<i>Gas Pipelines Access (Commonwealth) Act 1998</i>	101, 1998	30 July 1998	Schedule 1 (items 5–10): 30 July 1998 (i)	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 1) 1998</i>	102, 1998	30 July 1998	30 July 1998	Sch. 1 (item 47) (am. by 28, 2001, Sch. 3) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
as amended by				
<i>Petroleum (Submerged Lands) Legislation Amendment Act 2001</i>	28, 2001	28 Apr 2001	(see 28, 2001 below)	—
<i>Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000</i>	5, 2000	7 Mar 2000	Schedule 1 (items 34, 35, 43, 44, 60–62, 64, 65, 74, 103, 145): 7 Sept 2000 Remainder: Royal Assent	Sch. 1 (items 32, 68, 72, 142, 152) [see Table A]
<i>Crimes at Sea Act 2000</i>	13, 2000	31 Mar 2000	Ss. 1 and 2: Royal Assent Remainder: 31 Mar 2001	Sch. 2 (item 11) [see Table A]
<i>Timor Gap Treaty (Transitional Arrangements) Act 2000</i>	25, 2000	3 Apr 2000	Ss. 4–6 and Schedule 2 (item 40): (j)	Ss. 4–6 [see Table A]
<i>Petroleum (Submerged Lands) Legislation Amendment Act (No. 2) 2000</i>	73, 2000	27 June 2000	27 June 2000	—
<i>Petroleum (Submerged Lands) Legislation Amendment Act 2001</i>	28, 2001	28 Apr 2001	Schedule 1 (items 1–21): 26 May 2001 Schedule 1 (items 26–28A): 7 Mar 2000 (k) Schedule 1 (items 29–36): 28 Oct 2001 Schedule 3: 30 July 1998 Remainder: Royal Assent	Sch. 1 (items 19–21, 25, 28, 28A, 39) [see Table A]
as amended by				
<i>Industry, Tourism and Resources Legislation Amendment Act 2003</i>	21, 2003	11 Apr 2003	Schedule 1 (item 14): (l)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 416, 417): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (<i>m</i>)	Ss. 4–14
<i>Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001</i>	140, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]
<i>Taxation Laws Amendment Act (No. 6) 2001</i>	169, 2001	1 Oct 2001	Schedule 1 (items 13–15): Royal Assent (<i>n</i>)	Sch. 1 (items 14, 15) [see Table A]
<i>Petroleum (Submerged Lands) Amendment Act 2002</i>	93, 2002	31 Oct 2002	31 Oct 2002	Sch. 1 (item 5) [see Table A]
<i>Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002</i>	105, 2002	14 Nov 2002	Schedule 3 (item 60): 12 May 2003 (see s. 2(1) and <i>Gazette</i> 2002, No. GN49)	—
<i>Petroleum (Timor Sea Treaty) (Consequential Amendments) Act 2003</i>	10, 2003	2 Apr 2003	Schedule 1 (items 1–52, 54–75, 78–82): 20 May 2002 Remainder: Royal Assent	—
<i>Petroleum (Submerged Lands) Amendment Act 2003</i>	118, 2003	4 Dec 2003	Schedule 1 (items 5–201): [see Note 2 and Table A] Schedule 2: 1 Jan 2004 Schedule 3: 4 June 2004 Remainder: Royal Assent	Sch. 1 (items 198–201), Sch. 2 (item 4) and Sch. 3 (item 15) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Greater Sunrise Unitisation Agreement Implementation Act 2004</i>	47, 2004	21 Apr 2004	Schedule 1 (items 1–86, 89–110): [see (o) and Note 3] Schedule 1 (items 87, 88): [see (o) and Note 3] Schedule 1 (items 111–116): (o)	—

Act Notes

- (a) The *Petroleum (Submerged Lands) Amendment Act 1980* was amended by Part XVII (sections 56 and 57) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2(11) of which provides as follows:
- (1) Part XVII shall come into operation on the date of commencement of the *Petroleum (Submerged Lands) Amendment Act 1980*.
- (b) The *Petroleum (Submerged Lands) Act 1967* was amended by Part LIV (sections 210–212) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (c) The *Petroleum (Submerged Lands) Act 1967* was amended by Part VIII (sections 22–24) only of the *Torres Strait Treaty (Miscellaneous Amendments) Act 1984*, subsection 2(1) of which provides as follows:
- (1) This Act, other than Part X, shall come into operation on the day fixed under section 2 of the *Torres Strait Fisheries Act 1984*.
- (d) The *Petroleum (Submerged Lands) Act 1967* was amended by section 11 only of the ANL (Conversion into Public Company) Act 1988, subsection 2(3) of which provides as follows:
- (3) Section 6, subsection 7(2) and sections 9 and 11 commence on a day to be fixed by Proclamation.
- (e) The *Petroleum (Submerged Lands) Act 1967* was amended by section 3 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1989*, subsection 2(2)(a) of which provides as follows:
- (2) Subject to subsection (3), the amendments of:
- (a) the *Petroleum (Submerged Lands) Act 1967*;
- made by this Act commence on a day or days to be fixed by Proclamation.
- (f) The *Petroleum (Submerged Lands) Act 1967* was amended by section 24 only of the *Territories Law Reform Act 1992*, subsection 2(3) of which provides as follows:
- (3) The remaining provisions of this Act commence on 1 July 1992.
- (g) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 19 (item 38) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (h) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 6 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1997*, subsection 2(4) of which provides as follows:
- (4) The items of Schedules 4, 6, 7 and 8 commence on a day or days to be fixed by Proclamation.
- (i) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 1 (items 5–10) only of the *Gas Pipelines Access (Commonwealth) Act 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences at the commencement of sections 13 and 14 of the *Gas Pipelines Access (South Australia) Act 1997* of South Australia.

Act Notes

Sections 13 and 14 of the Gas Pipelines Access (South Australia) Act 1997 of South Australia commenced on 30 July 1998 (see South Australian Government Gazette, 2 April 1998, p. 1606).

- (j) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 2 (item 40) only of the *Timor Gap Treaty (Transitional Arrangements) Act 2000*, subsection 2(2) of which provides as follows:
- (2) Sections 3 to 7 and Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) are taken to have commenced at the transition time. [see Table A]
- (k) Subsection 2(3) of the *Petroleum (Submerged Lands) Legislation Amendment Act 2001*, provides as follows:
- (3) Part 3 of Schedule 1 is taken to have commenced on 7 March 2000, immediately after the commencement of the items in Schedule 1 to the *Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000* that commenced on that day.
- (l) Subsections 2(1) (item 6) of the *Industry, Tourism and Resources Legislation Amendment Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
6. Schedule 1, item 14	Immediately after the time specified in the <i>Petroleum (Submerged Lands) Legislation Amendment Act 2001</i> for the commencement of item 17 of Schedule 1 to that Act	26 May 2001

- (m) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 3 (items 416 and 417) only of the *Corporations (Repeals, Consequential and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (n) The *Petroleum (Submerged Lands) Act 1967* was amended by Schedule 1 (item 13) only of the *Taxation Laws Amendment Act (No. 6) 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (o) Subsection 2(1) (items 3–6) of the *Greater Sunrise Unitisation Agreement Implementation Act 2004* provide as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 1, items 1 to 86	A single day to be fixed by Proclamation.	[see Note 3]

Act Notes

Provision(s)	Commencement	Date/Details
4. Schedule 1, items 87 and 88	The later of: (a) immediately after the commencement of section 4 of this Act; and (b) immediately after the commencement of item 1 of Schedule 3 to the <i>Petroleum (Submerged Lands) Amendment Act 2003</i> .	[see Note 3]
5. Schedule 1, items 89 to 110	At the same time as the provision(s) covered by table item 3.	[see Note 3]
6. Schedule 1, Part 2	Immediately after the commencement of item 47 of Schedule 1 to the <i>Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000</i> .	7 March 2000

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	am. No. 94, 1997
Preamble	am. No. 36, 1973; No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1982; No. 20, 1994
Part I	
S. 2.....	am. No. 79, 1981
S. 3.....	rep. No. 80, 1980
S. 4.....	rep. No. 216, 1973 (as am. by No. 20, 1974)
S. 5.....	am. No. 36, 1973; No. 216, 1973 (as am. by No. 20, 1974); No. 57, 1974; No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 37, 1990; No. 20, 1994; No. 133, 1995; No. 94, 1997; No. 101, 1998; Nos. 5 and 25, 2000; No. 28, 2001; No. 10, 2003
S. 5A	ad. No. 80, 1980 (as am. by No. 79, 1981) am. No. 37, 1990; No. 104, 1992; No. 93, 1994; No. 10, 2003
Note to s. 5A(7)	ad. No. 28, 2001
S. 5AAA.....	ad. No. 94, 1997 rs. No. 5, 2000
S. 5AAB.....	ad. No. 5, 2000
S. 5AA	ad. No. 217, 1992
S. 6A	ad. No. 80, 1980 (as am. by No. 79, 1981) am. No. 80, 1982; No. 80, 1985; No. 145, 1987
S. 7.....	am. No. 216, 1973 (as am. by No. 20, 1974) rs. No. 57, 1974; No. 80, 1980; No. 104, 1992
S. 8AA	ad. No. 94, 1997
S. 8AB	ad. No. 140, 2001
Part IA	
Part IA	ad. No. 80, 1980
Ss. 8A–8C	ad. No. 80, 1980
S. 8D	ad. No. 80, 1980 am. No. 80, 1982; No. 106, 1987
S. 8E	ad. No. 80, 1980 rep. No. 106, 1987
Ss. 8F, 8G	ad. No. 80, 1980 (as am. by No. 79, 1981)
S. 8H	ad. No. 75, 1991 am. No. 17, 1992; No. 93, 1994
Part II	
S. 9.....	am. No. 36, 1973 rs. No. 80, 1980 am. No. 94, 1997; No. 101, 1998; No. 13, 2000
S. 10.....	rs. No. 80, 1980

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 11.....	am. No. 36, 1973 rs. No. 80, 1980 (as am. by No. 79, 1981) am. No. 94, 1997; No. 101, 1998; No. 13, 2000
S. 12.....	rs. No. 80, 1980
S. 13.....	am. No. 36, 1973 rs. No. 80, 1980
Part III	
Division 1	
S. 14.....	rs. No. 80, 1980
S. 15.....	am. No. 36, 1973 rs. No. 80, 1980
S. 16.....	am. No. 1, 1968; No. 36, 1973; No. 57, 1974 rep. No. 80, 1980
S. 17.....	am. No. 80, 1982
Note to s. 17.....	ad. No. 28, 2001
S. 18.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000
Division 2	
S. 19.....	rs. No. 80, 1980 am. No. 75, 1991; No. 5, 2000
S. 20.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 132, 1985; No. 106, 1987
S. 21.....	am. No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 5, 2000
S. 21A.....	ad. No. 5, 2000
S. 22.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 75, 1991
Ss. 22AA–22AC.....	ad. No. 5, 2000
S. 22A.....	ad. No. 132, 1985 am. No. 15, 1990; No. 28, 2001
S. 22B.....	ad. No. 132, 1985
S. 22C.....	ad. No. 132, 1985 rs. No. 106, 1987 am. No. 28, 2001
S. 23.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; Nos. 80 and 132, 1985; No. 106, 1987; No. 5, 2000
S. 24.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 5, 2000
S. 25.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 106, 1987; No. 75, 1991; No. 5, 2000
Ss. 26, 27.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 75, 1991; No. 5, 2000
S. 29.....	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 5, 2000
S. 30.....	am. No. 80, 1980; No. 80, 1982; No. 132, 1985; No. 15, 1990; No. 5, 2000; No. 93, 2002
S. 30A.....	ad. No. 37, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 31.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 132, 1985; No. 106, 1987; No. 5, 2000
Note to s. 31.....	ad. No. 93, 2002
S. 31A.....	ad. No. 93, 2002
S. 32.....	am. No. 36, 1973; No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1982; No. 132, 1985; No. 15, 1990; No. 75, 1991
S. 33.....	am. No. 80, 1980; Nos. 80 and 132, 1985; No. 133, 1995
S. 34.....	am. No. 80, 1980; No. 80, 1982; No. 5, 2000
S. 35.....	am. No. 80, 1980; No. 80, 1982 rep. No. 5, 2000
S. 36.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985 rs. No. 106, 1987 am. No. 28, 2001
S. 37.....	am. No. 80, 1982; No. 166, 1984 rs. No. 106, 1987 am. No. 5, 2000; No. 28, 2001
S. 38.....	am. No. 80, 1982; No. 106, 1987
Division 2A	
Div. 2A of Part III.....	ad. No. 80, 1985
S. 38A.....	ad. No. 80, 1985 am. No. 15, 1990; No. 5, 2000
S. 38B.....	ad. No. 80, 1985 am. No. 75, 1991; No. 5, 2000
S. 38BA.....	ad. No. 15, 1990
Ss. 38BB–38BD.....	ad. No. 102, 1998
S. 38C.....	ad. No. 80, 1985
S. 38D.....	ad. No. 80, 1985
S. 38E.....	ad. No. 80, 1985 am. No. 28, 2001
S. 38F.....	ad. No. 80, 1985 am. No. 15, 1990; No. 5, 2000
S. 38G.....	ad. No. 80, 1985 am. No. 15, 1990; No. 75, 1991
S. 38H.....	ad. No. 80, 1985 am. No. 28, 2001; No. 93, 2002
S. 38J.....	ad. No. 80, 1985 am. No. 5, 2000
S. 38K.....	ad. No. 80, 1985 rep. No. 5, 2000
Division 3	
S. 39.....	rs. No. 80, 1980 am. No. 5, 2000
S. 39A.....	ad. No. 80, 1985 am. No. 106, 1987; No. 28, 2001

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 40.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 106, 1987; No. 15, 1990; No. 28, 2001
S. 40A.....	ad. No. 80, 1985
S. 40B.....	ad. No. 80, 1985 am. No. 106, 1987; No. 15, 1990
S. 41.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 15, 1990; No. 5, 2000; No. 169, 2001
S. 42.....	am. No. 80, 1980; No. 80, 1982
S. 43.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 75, 1991; No. 5, 2000
S. 44.....	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 75, 1991; No. 5, 2000; No. 47, 2004
S. 44A.....	ad. No. 15, 1990 am. No. 47, 2004
S. 45.....	am. No. 36, 1973; No. 80, 1982; No. 166, 1984; No. 5, 2000
S. 46.....	am. No. 36, 1973; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 106, 1987
S. 47.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; Nos. 106 and 145, 1987; No. 15, 1990; No. 5, 2000
S. 48.....	am. No. 80, 1980; No. 80, 1982; Nos. 106 and 145, 1987; No. 15, 1990; No. 5, 2000
S. 49.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; Nos. 106 and 145, 1987; No. 75, 1991; No. 5, 2000
S. 50.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 75, 1991; No. 5, 2000
S. 51.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 15, 1990; No. 75, 1991; No. 5, 2000
S. 52.....	am. No. 80, 1980
S. 53.....	rs. No. 80, 1980 am. No. 166, 1984; No. 102, 1998
S. 53A.....	ad. No. 102, 1998
S. 54.....	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 15, 1990; No. 102, 1998; No. 5, 2000
S. 55.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 75, 1991; No. 102, 1998
S. 56.....	am. No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1985
S. 57.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 106, 1987 rep. No. 15, 1990
S. 58.....	am. No. 80, 1980; No. 80, 1982; No. 166, 1984
S. 59.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 145, 1987
Division 3A	
Div. 3A of Part III.....	ad. No. 5, 2000
Ss. 59A–59H	ad. No. 5, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 59J, 59K	ad. No. 5, 2000
Division 4	
S. 60	am. No. 36, 1973 rs. No. 80, 1980 (as am. by No. 79, 1981) am. No. 5, 2000
S. 61	am. No. 80, 1982; No. 5, 2000
S. 62	am. No. 36, 1973; No. 80, 1982; No. 5, 2000
Subheads. to s. 64(1)–(4)	ad. No. 94, 1997
S. 64	am. No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 94, 1997; No. 5, 2000
Subheads. to s. 65(1), (2)	ad. No. 94, 1997
Subhead. to s. 65(2A)	ad. No. 94, 1997
Subheads. to s. 65(3)–(5)	ad. No. 94, 1997
Subheads. to s. 65(7)–(11)	ad. No. 94, 1997
S. 65	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 75, 1991; No. 94, 1997
S. 67	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 94, 1997; No. 5, 2000
S. 67A	ad. No. 5, 2000
S. 68	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 15, 1990 rep. No. 5, 2000
S. 69	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 15, 1990; No. 75, 1991 rep. No. 5, 2000
S. 70	am. No. 80, 1980; No. 80, 1982; No. 5, 2000
S. 71	am. No. 80, 1980; No. 80, 1982; No. 106, 1987; No. 15, 1990; No. 5, 2000
S. 72	am. No. 36, 1973; No. 216, 1973 (as am. by No. 20, 1974); No. 80, 1980; No. 80, 1982; No. 5, 2000
S. 73	am. No. 80, 1980; No. 101, 1998
S. 74	am. No. 80, 1980; No. 80, 1982; No. 106, 1987; No. 5, 2000
Division 5	
S. 75	rep. No. 80, 1980 ad. No. 80, 1985 am. No. 5, 2000
S. 76	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 5, 2000
S. 77	am. No. 80, 1985
S. 78	am. No. 36, 1973; No. 80, 1980; No. 80, 1982 rs. No. 80, 1985 am. No. 75, 1991; No. 28, 2001
S. 79	am. No. 80, 1980; No. 80, 1985; No. 15, 1990
S. 80	rep. No. 80, 1985

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 81.....	am. No. 36, 1973; No. 80, 1980 rs. No. 80, 1985 am. No. 106, 1987; Nos. 28 and 55, 2001
S. 81A.....	ad. No. 80, 1985 am. No. 5, 2000; No. 28, 2001
S. 82.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000; No. 140, 2001
S. 83.....	am. No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1985
S. 84.....	am. No. 80, 1980; No. 80, 1985; No. 75, 1991; No. 5, 2000; Nos. 28 and 140, 2001
S. 85.....	am. No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1982; No. 80, 1985; No. 5, 2000; No. 28, 2001 (as am. by No. 21, 2003); No. 140, 2001
S. 86.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 106, 1987; No. 15, 1990
S. 87.....	am. No. 80, 1980; No. 15, 1990
S. 87A.....	ad. No. 80, 1985
S. 89.....	am. No. 80, 1980; No. 80, 1982 rep. No. 28, 2001
S. 90.....	am. No. 80, 1980; No. 5, 2000; No. 140, 2001
S. 91.....	am. No. 80, 1982
S. 92.....	am. No. 216, 1973 (as am. by No. 20, 1974); No. 80, 1980; No. 28, 2001
Division 6	
S. 93.....	rep. No. 80, 1980
S. 94.....	am. No. 80, 1980; No. 80, 1985; No. 5, 2000
S. 95.....	am. No. 166, 1984; No. 80, 1985; No. 5, 2000
S. 96.....	am. No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 133, 1995; No. 5, 2000
S. 97.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 217, 1992; No. 5, 2000
Note to s. 97(6).....	ad. No. 140, 2001
S. 97A.....	ad. No. 80, 1980 am. No. 80, 1985 rs. No. 75, 1991 am. No. 5, 2000
S. 98.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000; No. 140, 2001
S. 99.....	am. No. 36, 1973; No. 79, 1981; No. 80, 1982
S. 100.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985 rep. No. 5, 2000
S. 101.....	am. No. 36, 1973 rs. No. 80, 1980 am. No. 166, 1984; No. 80, 1985; No. 5, 2000; No. 140, 2001
Note to s. 101(8).....	ad. No. 140, 2001

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 102.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000
S. 103.....	am. No. 36, 1973; No. 80, 1982; No. 80, 1985; No. 106, 1987; No. 5, 2000
S. 103A.....	ad. No. 80, 1980 (as am. by No. 79, 1981) am. No. 80, 1985
S. 104.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 133, 1995; No. 5, 2000
S. 105.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000
S. 106.....	am. No. 80, 1982; No. 80, 1985 rs. No. 5, 2000
S. 107.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 5, 2000; No. 28, 2001
S. 108.....	am. No. 80, 1982; No. 80, 1985; No. 5, 2000
S. 109.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984 rep. No. 5, 2000
S. 110.....	am. No. 80, 1982 rep. No. 5, 2000
S. 111.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 15, 1990; No. 5, 2000
S. 112.....	am. No. 36, 1973; No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 15, 1990; No. 75, 1991; No. 93, 1994; No. 5, 2000
S. 113.....	am. No. 36, 1973; No. 80, 1982; No. 80, 1985; No. 5, 2000
S. 114.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1985; No. 15, 1990 rep. No. 75, 1991
S. 115.....	am. No. 36, 1973; No. 5, 2000
S. 116.....	am. No. 80, 1982
S. 117.....	am. No. 36, 1973; No. 80, 1980; No. 5, 2000 rs. No. 140, 2001
S. 118.....	am. No. 36, 1973; No. 216, 1973 (as am. by No. 20, 1974); No. 80, 1980; No. 80, 1982; No. 166, 1984; No. 80, 1985; No. 106, 1987; No. 15, 1990; No. 75, 1991 rep. No. 5, 2000
S. 118A.....	ad. No. 80, 1985
S. 119.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 5, 2000; No. 140, 2001
S. 120.....	am. No. 80, 1980; No. 80, 1985; No. 5, 2000
S. 121.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985 rep. No. 5, 2000
S. 122.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 106, 1987; No. 5, 2000
S. 122A.....	ad. No. 118, 2003
S. 123.....	am. No. 36, 1973; No. 80, 1982
S. 124.....	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 133, 1995; No. 5, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 124A.....	ad. No. 5, 2000 am. No. 140, 2001
S. 125.....	am. No. 80, 1980; No. 106, 1987; No. 5, 2000
S. 126.....	am. No. 80, 1980; No. 80, 1982; No. 5, 2000; No. 140, 2001
S. 127.....	am. No. 80, 1985 rs. No. 110, 1993
S. 128.....	rep. No. 80, 1980
S. 129.....	am. No. 80, 1980; Nos. 80 and 132, 1985; No. 118, 2003
S. 130.....	am. No. 216, 1973 (as am. by No. 20, 1974) rep. No. 57, 1974 ad. No. 80, 1985 am. No. 75, 1991 rep. No. 73, 2000
S. 131.....	am. No. 36, 1973; No. 80, 1980; No. 80, 1982 rep. No. 5, 2000
S. 132.....	am. No. 36, 1973; No. 216, 1973 (as am. by No. 20, 1974); No. 80, 1980 (as am. by No. 176, 1981); No. 79, 1981 rep. No. 75, 1991
S. 133.....	am. No. 36, 1973; No. 79, 1981; No. 80, 1982; No. 75, 1991; No. 5, 2000; No. 140, 2001
S. 134.....	rep. No. 57, 1974
S. 135.....	am. No. 80, 1982; No. 75, 1991; No. 5, 2000
S. 138.....	am. No. 80, 1980; No. 80, 1982
S. 138A.....	ad. No. 80, 1985 am. No. 5, 2000
S. 139.....	am. No. 80, 1980; No. 80, 1985
Heading to s. 140AA.....	am. No. 28, 2001
S. 140AA.....	ad. No. 93, 1994 am. No. 28, 2001; No. 118, 2003
Division 6A	
Div. 6A of Part III.....	ad. No. 166, 1984
S. 140A.....	ad. No. 166, 1984 am. No. 127, 1988
Ss. 140B, 140C.....	ad. No. 166, 1984
S. 140D.....	ad. No. 166, 1984 am. No. 140, 2001
Note to s. 140D(2).....	ad. No. 140, 2001
S. 140E.....	ad. No. 166, 1984 am. No. 5, 2000; No. 140, 2001
Ss. 140F, 140G.....	ad. No. 166, 1984
Division 6B	
Heading to Div. 6B of Part III.....	am. No. 133, 1995
Div. 6B of Part III.....	ad. No. 217, 1992

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 140H	ad. No. 217, 1992 am. No. 133, 1995
S. 140I	ad. No. 133, 1995
Division 7	
S. 141	rep. No. 80, 1980
Ss. 142–145	am. No. 36, 1973 rep. No. 80, 1980
S. 146	am. No. 1, 1968; No. 36, 1973; No. 80, 1980; No. 80, 1982; No. 166, 1984
S. 147	am. No. 36, 1973; No. 80, 1982; No. 166, 1984
S. 148	am. No. 36, 1973; No. 80, 1980 (as am. by No. 79, 1981); No. 80, 1982
S. 149	am. No. 36, 1973; No. 80, 1982; No. 80, 1985
Part IIIA	
Part IIIA	ad. No. 5, 2000
Division 1	
S. 150	rep. No. 80, 1980 ad. No. 5, 2000 am. No. 118, 2003
S. 150A	ad. No. 5, 2000
Division 2	
Div. 2 of Part IIIA	rs. No. 118, 2003
Subdivision A	
Ss. 150B–150D	ad. No. 5, 2000 rs. No. 118, 2003
Subdivision B	
Ss. 150E, 150F	ad. No. 5, 2000 rs. No. 118, 2003
Subdivision C	
S. 150G	ad. No. 5, 2000 rs. No. 118, 2003
Div. 3 of Part IIIA	rep. No. 118, 2003
Ss. 150H, 150J	ad. No. 5, 2000 rs. No. 118, 2003
Division 4	
S. 150K	ad. No. 5, 2000
Part IIIB	
Part IIIB	ad. No. 28, 2001
Division 1	
Ss. 150L–150N	ad. No. 28, 2001
Ss. 150P–150W	ad. No. 28, 2001
Division 2	
S. 150X	ad. No. 28, 2001

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part IIIC	
Part IIIC	ad. No. 118, 2003
Division 1	
Ss. 150XA–150XC	ad. No. 118, 2003
Division 2	
Ss. 150XD–150XK	ad. No. 118, 2003
Division 3	
Subdivision A	
Ss. 150XL–150XO	ad. No. 118, 2003
Subdivision B	
S. 150XP	ad. No. 118, 2003
Subdivision C	
Ss. 150XQ–150XW	ad. No. 118, 2003
Division 4	
Ss. 150XX–150XZ	ad. No. 118, 2003
S. 150Y	ad. No. 118, 2003
Ss. 150YA–150YI	ad. No. 118, 2003
Division 5	
Ss. 150YJ, 150YK	ad. No. 118, 2003
Division 6	
Ss. 150YL, 150YM	ad. No. 118, 2003
Division 7	
Ss. 150YN–150YP	ad. No. 118, 2003
Division 8	
Ss. 150YQ–150YU	ad. No. 118, 2003
Division 9	
Ss. 150YV–150YZ	ad. No. 118, 2003
S. 150Z	ad. No. 118, 2003
Part IV	
S. 151	am. No. 80, 1980
S. 152	rep. No. 80, 1980 ad. No. 80, 1985 am. No. 5, 2000; No. 28, 2001; No. 118, 2003
Ss. 153, 154	rep. No. 80, 1980
S. 155	rs. No. 80, 1980 (as am. by No. 79, 1981)
S. 156	am. No. 36, 1973; No. 80, 1982 rep. No. 28, 2001
S. 156A	ad. No. 36, 1973 am. No. 22, 1984 rep. No. 28, 2001
S. 157	am. No. 80, 1980; No. 80, 1982; No. 80, 1985; No. 20, 1994; No. 5, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to The Schedules.....	rep. No. 36, 1973
Heading to First Schedule.....	rep. No. 36, 1973
Heading to Schedule 1.....	ad. No. 36, 1973 rep. No. 20, 1994
Schedule 1	rep. No. 20, 1994
Schedule 2	
Heading to Second Schedule.....	rep. No. 36, 1973
Heading to Schedule 2.....	ad. No. 36, 1973
Second Schedule.....	am. No. 36, 1973
Schedule 2	am. No. 57, 1974; No. 80, 1980; No. 79, 1981; No. 80, 1982; No. 22, 1984; No. 20, 1994; No. 102, 1998; No. 28, 2001
Schedule 3	
Heading to Third Schedule.....	rep. No. 36, 1973
Heading to Schedule 3.....	ad. No. 36, 1973
Schedule 4	ad. No. 80, 1980 rep. No. 106, 1987
Schedule 5	ad. No. 80, 1980 am. No. 166, 1984; No. 80, 1985 rep. No. 106, 1987
Schedule 6	
Schedule 6	ad. No. 166, 1984 am. No. 28, 2001
Schedule 7	
Schedule 7	ad. No. 217, 1992 am. No. 60, 1996; No. 5, 2000; No. 140, 2001; No. 105, 2002

Note 2

Note 2

Petroleum (Submerged Lands) Amendment Act 2003 (No. 118, 2003)

The following amendments commence on 1 January 2005:

Schedule 1

5 After subsection 9(2)

Insert:

Applied laws do not include State OHS laws

- (2A) Despite subsection (1), the laws or parts of laws of a State, as in force from time to time, that are prescribed in the regulations in relation to that State do not apply in relation to a facility located in the adjacent area of that State.
- (2B) Laws or parts of laws prescribed under subsection (2A) must be laws or parts of laws with respect to occupational health and safety.

State OHS laws do not apply of their own force in adjacent areas

- (2C) The laws or parts of laws, as in force from time to time, that are prescribed in regulations made under subsection (2A) in relation to a State do not apply by force of the law of that State in relation to a facility located in the adjacent area of that State.

Substantive criminal provisions of State OHS laws are not applied by Crimes at Sea Act 2000 in adjacent areas

- (2D) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws or parts of laws of a State that are referred to in those subclauses and that are prescribed in the regulations in relation to that State do not apply in relation to a facility located in the adjacent area in respect of that State either:
 - (a) by force of the law of the State; or
 - (b) by force of subclause 2(2) of that Schedule.
- (2E) Laws or parts of laws prescribed under subsection (2D) must be laws or parts of laws relating to occupational health and safety.

Note 2

- (2F) Laws or parts of laws of a State that are prescribed for the purposes of subsection (2A) or (2D) may be laws or parts of laws that relate to occupational health and safety and to other matters.
- (2G) A reference in subsections (2A) to (2F) to a law or a part of a law of a State includes a reference to an instrument or a part of an instrument made under a law of a State.

Substantive criminal provisions of State section 140H OHS laws are not applied by Crimes at Sea Act 2000 in adjacent areas.

- (2H) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws to which subsection (2I) applies do not apply in relation to a facility located in the adjacent area of the relevant State, either:
- (a) by force of the law of that State; or
 - (b) by force of subclause 2(2) of that Schedule.
- (2I) This subsection applies to provisions of a State PSLA, or of regulations under a State PSLA, that substantially correspond to the terms of the section 140H OHS laws.

6 At the end of section 9

Add:

- (11) If this section provides that laws or parts of laws do not apply in relation to a facility located in a particular adjacent area of a State, those laws or parts of laws do not apply in relation to:
- (a) a facility that is so located; or
 - (b) persons at or near a facility that is so located; or
 - (c) activities that take place on a facility that is so located.
- (12) In this section:

facility has the same meaning as in Schedule 7.

section 140H OHS laws has the same meaning as in section 140H.

State PSLA has the same meaning as it has for the purposes of Part IIIC.

Note 2

7 After subsection 11(2)

Insert:

Applied laws do not include Northern Territory OHS laws

- (2A) Despite subsection (1), the laws or parts of laws of the Northern Territory, as in force from time to time, that are prescribed in the regulations in relation to that Territory do not apply in relation to a facility located in the adjacent area of that Territory.
- (2B) Laws or parts of laws prescribed under subsection (2A) must be laws or parts of laws with respect to occupational health and safety.

Northern Territory OHS laws do not apply of their own force in the adjacent area in respect of the Northern Territory

- (2C) The laws or parts of laws, as in force from time to time, that are prescribed in regulations made under subsection (2A) in relation to the Northern Territory do not apply by force of the law of that Territory in relation to a facility located in the adjacent area of that Territory.

Substantive criminal provisions of Northern Territory OHS laws are not applied by Crimes at Sea Act 2000 in the adjacent area

- (2D) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws or parts of laws of the Northern Territory that are referred to in those subclauses and that are prescribed in the regulations in relation to that Territory do not apply in relation to a facility located in the adjacent area of that Territory either:
- (a) by force of the law of that Territory; or
 - (b) by force of subclause 2(2) of that Schedule.
- (2E) Laws or parts of laws prescribed under subsection (2D) must be laws or parts of laws relating to occupational health and safety.
- (2F) Laws or parts of laws of the Northern Territory that are prescribed for the purposes of subsection (2A) or (2D) may be laws or parts of laws that relate to occupational health and safety and to other matters.

Note 2

- (2G) A reference in subsections (2A) to (2F) to a law or a part of a law of the Northern Territory includes a reference to an instrument or a part of an instrument made under a law of the Northern Territory.

Substantive criminal provisions of the Northern Territory section 140H OHS laws are not applied by Crimes at Sea Act 2000 in adjacent area.

- (2H) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws to which subsection (2I) applies do not apply in relation to a facility located in the adjacent area of the Northern Territory, either:
- (a) by force of the law of that Territory; or
 - (b) by force of subclause 2(2) of that Schedule.

- (2I) This subsection applies to provisions of the Territory PSLA, or of regulations under that PSLA, that substantially correspond to the terms of the section 140H OHS laws.

Northern Territory OHS laws do not apply in the adjacent area of Ashmore and Cartier Islands

- (2J) The laws or parts of laws that are prescribed in the regulations made under subsection (2A) in relation to the Northern Territory do not apply in relation to a facility located in the adjacent area of the Territory of Ashmore and Cartier Islands either:
- (a) by force of the *Ashmore and Cartier Islands Acceptance Act 1933*; or
 - (b) by force of subsection (1) of this section.

Note 1: Laws in force in the Northern Territory (except Commonwealth Acts) are applied in the Territory of Ashmore and Cartier Islands by the *Ashmore and Cartier Islands Acceptance Act 1933*.

Note 2: The adjacent area of Ashmore and Cartier Islands includes land areas and the coastal sea area.

Substantive criminal provisions of Northern Territory OHS laws are not applied by Crimes at Sea Act 2000 in the adjacent area of Ashmore and Cartier Islands

- (2K) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws or parts of laws of the Northern Territory that are referred to in those subclauses and that are prescribed in the

Note 2

regulations under subsection (2D) in relation to that Territory do not apply in relation to a facility located in the adjacent area of the Territory of Ashmore and Cartier Islands, either:

- (a) by force of the *Ashmore and Cartier Islands Acceptance Act 1933*; or
- (b) by force of subclause 2(2) of that Schedule.

Note: Laws in force in the Northern Territory (except Commonwealth Acts) are applied in the Territory of Ashmore and Cartier Islands by the *Ashmore and Cartier Islands Acceptance Act 1933*.

Substantive criminal provisions of Northern Territory section 140H OHS laws are not applied by Crimes at Sea Act 2000 in the adjacent area of Ashmore and Cartier Islands

(2L) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, the laws to which subsection (2I) applies do not apply in relation to a facility located in the adjacent area of the Territory of Ashmore and Cartier Islands, either:

- (a) by force of the *Ashmore and Cartier Islands Acceptance Act 1933*; or
- (b) by force of subclause 2(2) of that Schedule.

8 At the end of section 11

Add:

(10) If this section provides that laws or parts of laws do not apply, in relation to a facility located in the adjacent area of the Northern Territory or of the Territory of Ashmore and Cartier Islands, those laws or parts of laws do not apply in relation to:

- (a) a facility that is so located; or
- (b) persons at or near a facility that is so located; or
- (c) activities that take place on a facility that is so located.

(11) In this section:

facility has the same meaning as in Schedule 7.

section 140H OHS laws has the same meaning as it has in section 140H.

Territory PSLA has the same meaning as it has for the purposes of Part IIIC.

9 After section 11

Insert:

11A Disapplication of the *Navigation Act 1912* and the *Occupational Health and Safety (Maritime Industry) Act 1993* in adjacent areas

Disapplication of Maritime legislation

- (1) The Maritime legislation does not apply in relation to a facility located in the adjacent area of a State or Territory, while it is a facility.

Note: Instead, a facility located in the adjacent area of a State or Territory will be covered by the occupational health and safety laws that are referred to in section 140H.

Joint operation of this Act and Maritime legislation otherwise disappplied

- (2) However, subsection (1) does not prevent the application of the Maritime legislation to the extent that it relates to the transfer of persons or goods between a ship and a facility.

Note: In these cases, the Maritime legislation will generally apply in addition to the occupational health and safety laws that are referred to in section 140H.

- (3) In this section:

facility has the same meaning as in Schedule 7.

Maritime legislation means:

- (a) the *Navigation Act 1912*; and
- (b) the *Occupational Health and Safety (Maritime Industry) Act 1993*; and
- (c) any subordinate legislation under either of those Acts.

ship means any kind of vessel used in navigation by water, however propelled or moved, that is not, for the time being, a facility or part of a facility.

Note 2

11B Disapplication of the *Navigation Act 1912* and the *Occupational Health and Safety (Maritime Industry) Act 1993* in designated coastal waters in certain circumstances

- (1) This section applies in relation to the designated coastal waters of a State or of the Northern Territory if the relevant State or Territory PSLA and regulations under the relevant State or Territory PSLA, in their application to those designated coastal waters, substantially correspond to the terms of the section 140H OHS laws.
- (2) The Maritime legislation is disappplied in those designated coastal waters to the same extent as the Maritime legislation is disappplied in the adjacent area.
- (3) In this section:

designated coastal waters, in relation to a State or the Northern Territory, has the same meaning as it has for the purposes of Part IIIC.

Maritime legislation has the same meaning as it has in section 11A.

State PSLA has the same meaning as it has for the purposes of Part IIIC.

Territory PSLA has the same meaning as it has for the purposes of Part IIIC.

10 Section 140H

Repeal the section, substitute:

140H Application of occupational health and safety laws

- (1) Schedule 7 has effect.
- (2) The following provisions are the *section 140H OHS laws* for the purposes of this Act:
 - (a) Schedule 7 to this Act;
 - (b) the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996*;

Note 2

- (c) the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002*;
- (d) the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*;
- (e) the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*, to the extent that those regulations relate to occupational health and safety matters;
- (f) any other regulations relating to occupational health and safety matters that are prescribed for the purposes of this paragraph.

11 Clause 1 of Schedule 7

Repeal the clause, substitute:

1 Objects

The objects of this Schedule are, in relation to facilities located in Commonwealth waters:

- (a) to secure the health, safety and welfare of persons at or near such facilities; and
- (b) to protect persons at or near such facilities from risks to health and safety arising out of activities being conducted at such facilities; and
- (c) to ensure that expert advice is available on occupational health and safety matters in relation to such facilities; and
- (d) to promote an occupational environment for members of the workforce at such facilities that is adapted to their needs relating to health and safety; and
- (e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at such facilities.

12 Clause 2 of Schedule 7

Insert:

associated offshore place, in relation to a facility, means any offshore place near the facility where activities (including diving activities) relating to the construction, operation, maintenance or decommissioning of the facility take place, but does not include:

Note 2

- (a) another facility; or
- (b) a supply vessel, offtake tanker, anchor handler or tugboat; or
- (c) a vessel, or structure, that is declared by the regulations not to be an associated offshore place.

13 Clause 2 of Schedule 7

Insert:

Commonwealth waters has the same meaning as in Part IIIC.

14 Clause 2 of Schedule 7 (definition of *contractor*)

Repeal the definition, substitute:

contractor has the meaning given by clause 2D.

15 Clause 2 of Schedule 7 (definition of *designated work group*)

Repeal the definition, substitute:

designated work group means a group of members of the workforce at a facility that is established as a designated work group under clause 12, or that group as varied in accordance with that clause.

16 Clause 2 of Schedule 7 (definition of *employer*)

Repeal the definition, substitute:

employer means an employer who carries on an activity at a facility.

17 Clause 2 of Schedule 7

Insert:

facility means a facility as defined by clause 2A, and:

- (a) includes a facility (as defined by clause 2A) that is being constructed or installed; and
- (b) except in the definition of *associated offshore place*, includes an associated offshore place in relation to a facility (as defined by clause 2A).

18 Clause 2 of Schedule 7

Insert:

group member, in relation to a designated work group at a facility, means a member of the workforce at that facility included in that designated work group.

19 Clause 2 of Schedule 7

Insert:

inspection means an inspection conducted under Part 4 of this Schedule. For this purpose, an *inspection* may include an investigation or inquiry.

20 Clause 2 of Schedule 7 (definition of *investigation*)

Repeal the definition.

21 Clause 2 of Schedule 7 (definition of *investigator*)

Repeal the definition.

22 Clause 2 of Schedule 7 (definition of *involved union*)

Repeal the definition.

23 Clause 2 of Schedule 7

Insert:

member of the workforce, in relation to a facility, means an individual who does work at the facility, whether as an employee of the operator of the facility or of another person, or as a contractor of the operator or of another person.

24 Clause 2 of Schedule 7

Insert:

offshore petroleum operations has the same meaning as in Part IIIC.

25 Clause 2 of Schedule 7

Insert:

Note 2

OHS inspector means an OHS inspector appointed under section 150YL.

26 Clause 2 of Schedule 7

Insert:

operator, in relation to a facility or proposed facility, means the person who, under the regulations, is taken to be the operator of that facility or proposed facility.

27 Clause 2 of Schedule 7

Insert:

operator's representative at a facility means a person present at the facility in compliance with the obligations imposed on the operator by clause 2B.

28 Clause 2 of Schedule 7

Insert:

premises includes the following:

- (a) a structure or building;
- (b) a place (whether or not enclosed or built on);
- (c) a part of a thing referred to in paragraph (a) or (b).

29 Clause 2 of Schedule 7

Insert:

proposed facility means a facility proposed to be constructed, installed or operated.

30 Clause 2 of Schedule 7

Insert:

recovery, in relation to petroleum, includes all processes directly or indirectly associated with its recovery. This definition does not, by implication, limit the meaning of the expression *recovery* when used in a provision of this Act other than this Schedule.

31 Clause 2 of Schedule 7

Insert:

Note 2

registered organisation means an organisation within the meaning of the *Workplace Relations Act 1996*.

32 Clause 2 of Schedule 7 (definition of *registered union*)

Repeal the definition.

33 Clause 2 of Schedule 7

Insert:

regulated business premises means:

- (a) a facility; or
- (b) premises that are:
 - (i) occupied by a person who is the operator of a facility; and
 - (ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations.

34 Clause 2 of Schedule 7 (definition of *work*)

Repeal the definition, substitute:

work means work offshore that is directly or indirectly related to the construction, operation, maintenance or decommissioning of a facility.

35 Clause 2 of Schedule 7

Insert:

workforce representative means:

- (a) in relation to a person who is a member of the workforce at a facility—a registered organisation of which that person is a member, if the person is qualified to be a member of that organisation because of the work the person performs at the facility; or
- (b) in relation to a designated work group or a proposed designated work group—a registered organisation of which a person who is, or who is likely to be, in the work group is a member, if the person is qualified to be a member of that organisation because of the work the person performs, or will perform, at a facility as a member of the group.

Note 2

36 Clause 2 of Schedule 7

Insert:

work group employer, in relation to a designated work group at a facility, means an employer, other than the operator, of one or more group members.

37 Clause 2 of Schedule 7 (definition of *workplace*)

Repeal the definition, substitute:

workplace, in relation to a facility, means either the whole facility or any part of the facility.

38 Clause 3 of Schedule 7

Repeal the clause, substitute:

2A Definitions and other provisions relating to facilities

Vessels or structures that are facilities

- (1) Subject to subclauses (4) and (5), a vessel or structure (whether floating or fixed) is taken to be a facility for the purposes of this Schedule, whether or not it is capable of independent navigation, while that vessel or structure:
 - (a) is located at a site in Commonwealth waters; and
 - (b) is being used, or prepared for use, at that site:
 - (i) for the recovery of petroleum, for the processing of petroleum, or for the storage and offloading of petroleum, or for any combination of those activities; or
 - (ii) for the provision of accommodation for persons working on another facility, whether connected by a walkway to that other facility or not; or
 - (iii) for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process; or
 - (iv) for laying pipes for petroleum, including any manufacturing of such pipes, or for doing work on an existing pipe; or

Note 2

- (v) for the erection, dismantling or decommissioning of a vessel or structure referred to in a previous subparagraph of this paragraph; or
 - (vi) for any other purpose related to offshore petroleum operations that is prescribed for the purposes of this subparagraph.
- (2) For the purposes of subclause (1), a vessel or structure that is located offshore for the purpose of laying pipes as described in subparagraph (1)(b)(iv) is taken to be located at a site, despite the fact that the vessel or structure moves as the pipe laying process proceeds.
- (3) A vessel or structure used for a purpose referred to in subparagraph (1)(b)(i) includes:
- (a) any wells and associated plant and equipment by means of which petroleum processed or stored at the vessel or structure is recovered; and
 - (b) any pipe or system of pipes through which petroleum is conveyed from a well to the vessel or structure; and
 - (c) any secondary line associated with the vessel or structure.

Vessels or structures that are not facilities

- (4) Despite subclause (1), a vessel or structure is taken not to be a facility if it is:
- (a) an offtake tanker; or
 - (b) a tug or an anchor handler; or
 - (c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore; or
 - (d) a vessel or structure used for any purpose such that it is declared by the regulations not to be a facility.

Meaning of use for a particular purpose

- (5) In determining when a vessel or structure that has the potential to be used for one or more of the purposes referred to in paragraph (1)(b) is in fact being so used, the vessel or structure is to be taken:

Note 2

- (a) to commence to be so used only at the time when it arrives at the site where it is to be so used and any activities necessary to make it operational at that site are begun; and
- (b) to cease to be so used when operations cease, and the vessel or structure has been returned either to a navigable form or to a form in which it can be towed to another place.

Pipelines that are facilities

- (6) Each of the following is taken to be a facility for the purposes of this Schedule:
 - (a) a pipeline licensed under Division 4 of Part III;
 - (b) if a pipeline licensed under Division 4 of Part III conveys petroleum recovered from a well without the petroleum having passed through another facility—that pipeline, together with:
 - (i) that well and associated plant and equipment; and
 - (ii) any pipe or system of pipes through which petroleum is conveyed from that well to that pipeline.
- (7) In paragraph (6)(b):
facility does not include a pipeline.

2B Operator must ensure presence of operator's representative

- (1) The operator of a facility must ensure that, at all times when one or more individuals are present at a facility, there is also present an individual (the *operator's representative at the facility*) who has day-to-day management and control of operations at the facility.

Penalty: 50 penalty units.
- (2) The operator must ensure that the name of the operator's representative at the facility is displayed in a prominent place at the facility.

Penalty: 50 penalty units.
- (3) Subclause (1) does not imply that, if the operator is an individual, the operator's representative at the facility may not be, from time to time, the operator.

2C Health and safety of persons using an accommodation facility

For the avoidance of doubt, a reference in this Schedule to the occupational health and safety of a person includes a reference to the health and safety of a person using an accommodation facility provided for the accommodation of persons working on another facility.

2D Contractor

For the purposes of this Schedule, if an individual does work at a facility under a contract for services between:

- (a) a person (the *relevant person*); and
 - (b) either:
 - (i) the individual; or
 - (ii) the employer of the individual;
- the individual is taken to be a *contractor* of the relevant person.

3 Duties of operator

- (1) The operator of a facility must take all reasonably practicable steps to ensure that:
 - (a) the facility is safe and without risk to the health of any person at or near the facility; and
 - (b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Penalty: 1,000 penalty units.

- (2) Without limiting the generality of subclause (1), the operator of a facility must:
 - (a) provide and maintain a physical environment at the facility that is safe and without risk to health; and
 - (b) provide and maintain adequate facilities for the welfare of all members of the workforce at the facility; and
 - (c) ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health; and
 - (d) implement and maintain systems of work at the facility that are safe and without risk to health; and

Note 2

- (e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility; and
- (f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the health and safety of persons at the facility; and
- (g) monitor the health and safety of all members of the workforce and keep records of that monitoring; and
- (h) provide appropriate medical and first aid services at the facility; and
- (i) develop, in consultation with members of the workforce and any workforce representatives, a policy, relating to occupational health and safety, that will:
 - (i) enable the operator and the members of the workforce to cooperate effectively in promoting and developing measures to ensure the occupational health and safety of persons at the facility; and
 - (ii) provide adequate mechanisms for reviewing the effectiveness of the measures.

Penalty: 1,000 penalty units.

- (3) Paragraph (2)(i) does not require the operator of a facility to engage in consultations with a workforce representative unless a member of the workforce at the facility has requested the workforce representative to be involved in those consultations.
- (4) A policy relating to occupational health and safety referred to in paragraph (2)(i) that is developed in consultation with members of the workforce and one or more workforce representatives must provide for the making of an agreement between:
 - (a) on the one hand—the operator; and
 - (b) on the other hand:
 - (i) the members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement—that workforce representative;

that:

- (c) provides appropriate mechanisms for continuing consultation between the parties to the agreement; and
- (d) provides for such other matters (if any) as are agreed between the parties to the agreement.

39 Clauses 4 and 5 of Schedule 7

Repeal the clauses, substitute:

4 Duties of persons in control of parts of facility or particular work

- (1) A person who is in control of any part of a facility, or of any particular work carried out at a facility, must take all reasonably practicable steps to ensure that:
 - (a) that part of the facility, or the place where that work is carried out, is safe and without risk to health; and
 - (b) if the person is in control of particular work—the work is carried out in a manner that is safe and without risk to health.

Penalty: 1,000 penalty units.

- (2) Without limiting the generality of subclause (1), a person who is in control of any part of a facility, or of any particular work carried out at a facility, must:
 - (a) ensure that the physical environment at that part of the facility or at the place where the work is carried out is safe and without risk to health; and
 - (b) ensure that any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health; and
 - (c) implement and maintain systems of work at that part of the facility, or in carrying out work at that place, that are safe and without risk to health; and
 - (d) ensure a means of access to, and egress from, that part of the facility or that place that is safe and without risk to health; and
 - (e) provide all members of the workforce located at that part of the facility or engaged on that work, in appropriate languages, with the information, instruction, training and

Note 2

supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty for contravention of this subclause: 1,000 penalty units.

5 Duties of employers

- (1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Penalty: 1,000 penalty units.

- (2) Without limiting the generality of subclause (1), an employer must:
- (a) provide and maintain a working environment that is safe for employees and without risk to their health; and
 - (b) ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health; and
 - (c) implement and maintain systems of work that are safe and without risk to health; and
 - (d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health; and
 - (e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: 1,000 penalty units.

- (3) A person has, in respect of a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in respect of an employee of that employer, but only in relation to:
- (a) matters over which the first-mentioned person has control; or
 - (b) matters over which the first-mentioned person would have had control apart from express provision to the contrary in a contract, being matters over which the first-mentioned person would, in the circumstances, usually be expected to have had control.
- (4) Without limiting the generality of subclause (1) so far as it applies in relation to employees, an employer must take all reasonable

Note 2

steps to monitor the health and safety of the employees and to keep records of that monitoring.

Penalty for contravention of this subclause: 1,000 penalty units.

40 Subclause 6(1) of Schedule 7

Omit “by employees at work” (first occurring), substitute “by members of the workforce at a facility”.

41 Paragraph 6(1)(a) of Schedule 7

Omit “safe for employees and without risk to their health”, substitute “safe and without risk to health”.

42 Paragraph 6(1)(b) of Schedule 7

Omit “the health or safety of employees”, substitute “health and safety”.

43 Paragraph 6(1)(c) of Schedule 7

Omit “to an employer, in connection with the use of the plant by employees at work, adequate”, substitute “, in connection with the use of the plant at a facility, adequate written”.

44 Subparagraph 6(1)(c)(iii) of Schedule 7

Omit “safe for employees and without risk to their health”, substitute “safe and without risk to health”.

45 Subclause 6(2) of Schedule 7

Omit “by employees at work” (first occurring), substitute “by members of the workforce at a facility”.

46 Paragraph 6(2)(a) of Schedule 7

Omit “safe for employees and without risk to their health”, substitute “safe and without risk to health”.

47 Paragraph 6(2)(b) of Schedule 7

Omit “the health and safety of employees”, substitute “health and safety”.

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48 Paragraph 6(2)(c) of Schedule 7

Omit “to an employer, in connection with the use of the substance by employees at work, adequate”, substitute “, in connection with the use of the substance at a facility, adequate written”.

49 Subparagraph 6(2)(c)(iii) of Schedule 7

Omit “safe for employees and without risk to their health”, substitute “safe and without risk to health”.

50 Subclauses 7(1) and (2) of Schedule 7

Repeal the subclauses, substitute:

- (1) A supplier of a facility, or of any plant or substance that the supplier ought reasonably to expect will be used by members of the workforce at a facility, must take all reasonably practicable steps:
 - (a) to ensure that, at the time of supply, the facility, or the plant or substance, is in such condition as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health or safety that may arise from the condition of the facility, plant or substance; and
 - (c) to make available:
 - (i) in the case of a facility—to the operator of a facility; and
 - (ii) in the case of plant or substance—to the person to whom the plant or substance is supplied; adequate written information, in connection with the use of the facility, plant or substance, as the case requires, about:
 - (iii) the condition of the facility, plant or substance at the time of supply; and
 - (iv) any risk to the health and safety of members of the workforce at the facility to which the condition of the facility, plant or substance may give rise unless it is properly used; and
 - (v) the steps that need to be taken in order to eliminate such risk; and
 - (vi) in the case of a substance—the first aid and medical procedures that should be followed if the condition of

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the substance causes injury to a member of the workforce at the facility.

Penalty: 200 penalty units.

- (2) For the purposes of subclause (1), if a person (the *ostensible supplier*) supplies to a person either a facility, or any plant or substance that is to be used by members of the workforce at a facility, and the ostensible supplier:
- (a) carries on the business of financing the acquisition or the use of goods by other persons; and
 - (b) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the *actual supplier*), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and
 - (c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied;

a reference in subclause (1) to a supplier is, in relation to the facility, plant or substance referred to in this subclause, to be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

Note: The heading to clause 7 of Schedule 7 is replaced by heading “**Duties of suppliers of facilities, plant and substances**”.

51 Subclause 8(1) of Schedule 7

Repeal the subclause, substitute:

- (1) A person who erects or installs a facility, or erects or installs any plant at a facility, must take all reasonably practicable steps to ensure that the facility or plant is not erected or installed in such a way that it is unsafe or constitutes a risk to health.

Penalty: 200 penalty units.

Note: The heading to clause 8 of Schedule 7 is replaced by the heading “**Duties of persons erecting facilities or installing plant**”.

52 Subclause 9(1) of Schedule 7

Repeal the subclause, substitute:

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- (1) A person at a facility must, at all times, take all reasonably practicable steps:
- (a) to ensure that the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the health or safety of that person or of any other person at or near the facility; and
 - (b) in respect of any obligation imposed on the operator or on any other person by or under this Schedule or the regulations—to cooperate with the operator or that other person to the extent necessary to enable the operator or that other person to fulfil that obligation; and
 - (c) to use equipment that is:
 - (i) supplied to the person by the operator, an employer of the person or any other person having control of work at a facility (the *equipment supplier*); and
 - (ii) necessary to protect the health and safety of the person, or of any other person at or near the facility;
in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Penalty: 50 penalty units.

Note: The heading to clause 9 is altered by omitting “employees” and substituting “persons”.

53 Subclauses 9(2) and (3) of Schedule 7

Omit “employer” (wherever occurring), substitute “equipment supplier”.

54 Paragraph 9(2)(a) of Schedule 7

Omit “involved union”, substitute “health and safety representative”.

55 Subclause 9(3) of Schedule 7

Omit “an employee”, substitute “a person”.

56 Subclause 9(4) of Schedule 7

Omit “an employee for failure to use, in the manner required by the employer,”, substitute “a person for failure to use, in the manner required by the equipment supplier,”.

57 Subclause 10(1) of Schedule 7

Omit “reasonable steps as required by clause 4 or 5”, substitute “reasonably practicable steps as required by clause 3, 4 or 5”.

58 Subclause 10(1) of Schedule 7

Omit “such reasonable steps”, substitute “such reasonably practicable steps”.

59 Subclause 10(2) of Schedule 7

Repeal the subclause, substitute:

- (2) Without limiting the generality of what constitutes reasonably practicable steps as required by clause 8, for the purpose of the application of that clause to the erection of a facility or the erection or installation of plant at a facility, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires to the extent that:
- (a) the person ensured, so far as is reasonably practicable, that the erection of the facility, or the erection or installation of the plant, was in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation, consistent with the health and safety of persons at the facility; and
 - (b) it was reasonable for the person to rely on that information.

60 Subclause 10(3) of Schedule 7

Omit all the words before paragraph (a), substitute:

- (3) Without limiting the generality of what constitutes taking reasonably practicable steps as required by clause 6 or 7, for the purpose of the application of that clause to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires, in relation to carrying out research, testing and examining the facility, plant or substance, to the extent that:

61 Subclause 11(1) of Schedule 7

Omit “employees or contractors”, substitute “persons at a facility”.

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62 Paragraphs 11(2)(a), (b), (c) and (d) of Schedule 7

Omit “at a workplace or by employees or contractors at work” (wherever occurring), substitute “at a facility”.

63 Paragraph 11(2)(e) of Schedule 7

Repeal the paragraph, substitute:

- (e) specifying the form in which information required to be made available under paragraph 6(1)(c) or 7(1)(c) is to be so made available;

64 Paragraphs 11(2)(f), (h), (j), (k) and (m) of Schedule 7

Omit “at a workplace or by employees or contractors at work” (wherever occurring), substitute “at a facility”.

65 Paragraph 11(2)(q) of Schedule 7

Omit “at workplaces” (first occurring), substitute “at a facility”.

66 Paragraph 11(2)(q) of Schedule 7

Omit “at workplaces” (second occurring), substitute “at the facility”.

67 Paragraph 11(2)(r) of Schedule 7

Omit “at a workplace or by employees or contractors at work”, substitute “at a facility”.

68 Paragraph 11(2)(s) of Schedule 7

Omit “employees and the conditions at workplaces”, substitute “members of the workforce at a facility and the conditions at the facility”.

69 Paragraph 11(2)(u) of Schedule 7

Omit “workplaces”, substitute “facilities”.

70 At the end of clause 11 of Schedule 7

Add:

- (3) Regulations made for the purposes of this clause may make different provision in respect of different classes of facility.

- (4) Subclause (3) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

71 Subclauses 12(1), (2) and (3) of Schedule 7

Repeal the subclauses, substitute:

- (1) A request to the operator of a facility to enter into consultations to establish designated work groups in respect of the members of the workforce at the facility, or to vary designated work groups that have already been established, may be made by:
- (a) any member of the workforce; or
 - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator—that workforce representative.
- (2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with:
- (a) if any member of the workforce made a request to establish designated work groups:
 - (i) that member of the workforce; and
 - (ii) if that member requests that the operator enter into consultations with a workforce representative in relation to the member—that workforce representative; and
 - (iii) each employer (if any) of members of the workforce; and
 - (b) if any member of the workforce made a request to vary designated work groups:
 - (i) that member of the workforce; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation; and
 - (c) if a workforce representative made a request to establish designated work groups:
 - (i) if a member of the workforce requests that the operator enter into consultations with that workforce representative—that workforce representative; and
 - (ii) each employer of members of the workforce; and
-

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- (d) if a workforce representative made a request to vary designated work groups:
 - (i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with a workforce representative in relation to the group—that workforce representative; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

- (2A) If, at any time, the operator of a facility considers that designated work groups should be established, the operator must enter into consultations with:
 - (a) all members of the workforce; and
 - (b) if a member of the workforce requests that the operator enter into consultations with a workforce representative in relation to the member—that workforce representative; and
 - (c) each employer (if any) of members of the workforce.

- (3) If the operator of a facility believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with:
 - (a) the health and safety representative of each of the designated work groups affected by the proposed variation; and
 - (b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with a workforce representative in relation to the group—that workforce representative; and
 - (c) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

72 Subclause 12(4) of Schedule 7

Omit “subclause (2) or (3)”, substitute “subclause (2), (2A) or (3)”.

73 Subclause 12(5) of Schedule 7

Omit “the employer must, by notifying the employees”, substitute “the operator must, by notifying the members of the workforce”.

74 Subclause 12(6) of Schedule 7

Omit “the employer must, if it has been determined that the variation of some or all of those designated work groups is justified, by notifying the employees”, substitute “the operator must, if it has been determined that the variation of some or all of those designated work groups is justified, by notifying the members of the workforce”.

75 Subclause 12(7) of Schedule 7

Omit “manner of grouping employees”, substitute “manner of grouping members of the workforce”.

76 Paragraph 12(7)(a) of Schedule 7

Omit “the employees””, substitute “their”.

77 Paragraph 12(7)(b) of Schedule 7

Omit “each employee in the group”, substitute “each group member”.

78 Subclause 12(8) of Schedule 7

Repeal the subclause, substitute:

- (8) The parties to the consultations must have regard, in particular, to:
- (a) the number of members of the workforce at the facility to which the consultation relates; and
 - (b) the nature of each type of work performed by such members; and
 - (c) the number and grouping of such members who perform the same or similar types of work; and
 - (d) the workplaces where each type of work is performed; and
 - (e) the nature of any risks to health and safety at each such workplace; and
 - (f) any overtime or shift working arrangement at the facility.

79 Subclauses 12(9) and (10) of Schedule 7

Omit “the employees” (wherever occurring), substitute “the members of the workforce at a facility”.

80 Subclause 13(2) of Schedule 7

Omit “an employee”, substitute “a member of the workforce”.

Note 2

81 Paragraph 13(3)(a) of Schedule 7

Omit “employees”, substitute “members of the workforce”.

82 At the end of paragraph 13(3)(b) of Schedule 7

Add “in accordance with clause 13A”.

83 Subclauses 13(4) to (10) of Schedule 7

Repeal the subclauses.

84 After clause 13 of Schedule 7

Insert:

13A Election of health and safety representatives

- (1) If:
 - (a) there is a vacancy in the office of health and safety representative for a designated work group; and
 - (b) within a reasonable time after the vacancy occurs, a person has not been selected under paragraph 13(3)(a);the operator of the facility must invite nominations from all group members for election as the health and safety representative of the group.
- (2) If the office of health and safety representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Safety Authority may direct the operator to do so.
- (3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator’s expense.
- (4) An election conducted or arranged to be conducted under subclause (3) must be conducted in accordance with regulations made for the purposes of this subclause if this is requested by the lesser of:
 - (a) 100 members of the workforce normally in the designated work group; or
 - (b) a majority of the members of the workforce normally in the designated work group.

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- (5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.
- (6) A person cannot be a candidate in the election if he or she is disqualified under clause 21.
- (7) All the members of the workforce in the designated work group are entitled to vote in the election.
- (8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Safety Authority.

13B List of health and safety representatives

The operator of a facility must:

- (a) prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising members of the workforce performing work at the facility; and
- (b) ensure that the list is available for inspection, at all reasonable times, by:
 - (i) the members of the workforce at the facility; and
 - (ii) OHS inspectors.

13C Members of designated work group must be notified of selection etc. of health and safety representative

The operator of a facility must:

- (a) notify members of a designated work group in relation to the facility of a vacancy in the office of health and safety representative for the designated work group within a reasonable time after the vacancy arises; and
- (b) notify those members of the name of any person selected (whether under paragraph 13(3)(a) or (b)) as health and safety representative for the designated work group within a reasonable time after the selection is made.

85 Subclause 15(1) of Schedule 7

Omit “Designated Authority”, substitute “Safety Authority”.

Note 2

86 Subclause 15(2) of Schedule 7

Omit “The employer”, substitute “The operator of the facility concerned and, if a person other than the operator is the employer of the representative, that person,”.

87 Clause 16 of Schedule 7

Repeal the clause, substitute:

16 Powers of health and safety representatives

- (1) A health and safety representative for a designated work group may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members:
 - (a) do all or any of the following:
 - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;
 - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator’s representative at the facility and to any other person having immediate control of the workplace;
 - (iii) make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace;
 - (iv) accompany an OHS inspector during any inspection at the workplace by the OHS inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);
 - (v) if there is no health and safety committee in respect of the members of the workforce at the facility—represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;
 - (vi) if a health and safety committee has been established in respect of the members of the workforce at the

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- facility—examine any of the records of that committee;
and
- (b) investigate complaints made by any group member to the health and safety representative about the health and safety of any of the members of the workforce (whether in the group or not); and
 - (c) with the consent of a group member, be present at any interview about health and safety at work between that member and:
 - (i) an OHS inspector; or
 - (ii) the operator or any work group employer or a person representing the operator or that employer; and
 - (d) obtain access to any information under the control of the operator or any work group employer:
 - (i) relating to risks to the health and safety of any group member; and
 - (ii) subject to subclause (6), relating to the health and safety of any group member; and
 - (e) issue provisional improvement notices in accordance with clause 17.
- (2) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.
- (3) A health and safety representative for a designated work group must not:
- (a) be assisted by a consultant at a workplace at which work is performed; or
 - (b) provide to a consultant information that has been provided to the health and safety representative by a group member under paragraph (1)(d);
- unless the operator or the Safety Authority has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.
- (4) Neither the operator nor any workplace employer becomes, because of the agreement under subclause (3) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.

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- (5) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between a group member and:
- (a) an OHS inspector; or
 - (b) the operator or any work group employer or a person representing the operator or that employer;
- if, and only if, the group member consents to the presence of the consultant.
- (6) The health and safety representative is not entitled or, where the health and safety representative is assisted by a consultant, the health and safety representative and the consultant are not entitled, under subparagraph (1)(d)(ii), to have access:
- (a) to information in respect of which a group member is entitled to claim, and does claim, legal professional privilege; or
 - (b) to information of a confidential medical nature relating to a person who is or was a group member unless:
 - (i) the person has delivered to the operator or any work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
 - (ii) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (7) This Schedule does not:
- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or
 - (b) render a person liable in civil proceedings because of:
 - (i) a failure to exercise such a power; or
 - (ii) the way such a power was exercised.

88 Subclause 17(1) of Schedule 7

Omit “employees included in the group, the representative must consult with the person supervising the work performed by the employee or employees”, substitute “group members, the representative must consult with the person supervising the relevant activity”.

89 Subclause 17(2) of Schedule 7

Omit “the person (in this clause called the *responsible person*)”, substitute “any or all of the persons (each of whom is in this clause called a *responsible person*)”.

90 Subclause 17(3) of Schedule 7

Repeal the subclause, substitute:

- (3) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator’s representative at the facility.
- (3A) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to that responsible person:
 - (a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and
 - (b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.

91 Subclause 17(7) of Schedule 7

Repeal the subclause, substitute:

- (7) On issuing the notice, the health and safety representative must give a copy of the notice to:
 - (a) if the operator is not a responsible person—the operator; and
 - (b) each work group employer other than a work group employer who is a responsible person; and
 - (c) if the supervisor is not a responsible person—the supervisor; and
 - (d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c)—that owner.

92 Subclause 18(1) of Schedule 7

Omit “Designated Authority or to an investigator that an investigation”, substitute “Safety Authority or to an OHS inspector that an inspection”.

Note 2

93 Subclauses 18(2) and (3) of Schedule 7

Omit “investigator” (wherever occurring), substitute “OHS inspector”.

94 Subclause 18(3) of Schedule 7

Omit “investigation” (wherever occurring), substitute “inspection”.

95 Subclause 18(4) of Schedule 7

Repeal the subclause, substitute:

- (4) If the OHS inspector varies a notice, the notice as so varied has effect:
 - (a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation—as if the notice as so varied resumed effect on the day of the variation; and
 - (b) so far as the notice concerns new obligations imposed by virtue of the variation—as if the notice as so varied were a new notice issued on the day of the variation.

96 Subclause 18(5) of Schedule 7

Omit all the words before paragraph (b), substitute:

- (5) If the notice is issued to a responsible person, the responsible person must:
 - (a) notify each group member who is affected by the notice of the fact of the issue of the notice; and

97 Subclauses 18(6) and (8) of Schedule 7

Omit “investigator” (wherever occurring), substitute “OHS inspector”.

98 Subclause 19(1) of Schedule 7

Omit all the words before paragraph (c), substitute:

- (1) The operator of a facility, in respect of which a designated work group having a health and safety representative has been established, must:
 - (a) on being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the group members

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perform work, being changes that may affect their health and safety; and

- (b) in respect of a workplace at which some or all of the group members perform work:
 - (i) permit the representative to make such inspection of the workplace as the representative is entitled to make in accordance with subparagraph 16(1)(a)(i) and to accompany an OHS inspector during an inspection at the workplace by the OHS inspector; and
 - (ii) if there is no health and safety committee in respect of the members of the workforce—on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety of group members; and

Note: The heading to clause 19 is altered by inserting “**the operator and other**” before “**employers**”.

99 Subclause 19(2) of Schedule 7

Omit all the words before paragraph (a), substitute:

- (2) The operator must not permit a health and safety representative in respect of a designated work group to have access to information of a confidential medical nature under the control of the operator, being information relating to a person who is or was a group member, unless:

100 Subclause 19(3) of Schedule 7

Repeal the subclause, substitute:

- (3) The operator is not required to give a health and safety representative access to any information in respect of which the operator is entitled to claim, and does claim legal professional privilege.
- (4) The duties imposed by this clause on the operator in respect of the health and safety representative for a designated work group apply equally, to the extent that the matters to which the duties relate are within the control of a work group employer or of a supervisor of particular work, to that employer and to that supervisor.

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101 Paragraph 20(1)(b) of Schedule 7

Repeal the paragraph, substitute:

- (b) the person ceases to be a group member of that designated work group; or

102 Subclauses 20(2) and (3) of Schedule 7

Repeal the subclauses, substitute:

- (2) A person may resign as the health and safety representative for a designated work group by notice in writing delivered to the operator and to each work group employer.
- (3) If a person resigns as the health and safety representative for a designated work group, the person must notify the resignation to:
 - (a) the group members; and
 - (b) the operator and each work group employer.

103 Paragraphs 20(4)(a), (b) and (c) of Schedule 7

Repeal the paragraphs, substitute:

- (a) the group members; and
- (b) the operator and each work group employer;

104 Subclause 21(1) of Schedule 7

Omit “Designated Authority by the employer of all of the employees included in the designated work group, or by an involved union in relation to the designated work group,”, substitute “Safety Authority by the operator, by a work group employer or, at the request of a group member of the designated work group, by a workforce representative in relation to the designated work group,”.

105 Paragraphs 21(1)(a) and (b) of Schedule 7

Omit “employer” (wherever occurring), substitute “operator or work group employer”.

106 Subclause 21(2) of Schedule 7

Omit all the words before paragraph (b), substitute:

- (2) If, on an application by the operator or work group employer under subclause (1), the Safety Authority is satisfied that the health and safety representative has acted in a manner referred to in

paragraph (1)(a) or (b), the Safety Authority may, after having regard to:

- (a) the harm (if any) that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative; and

107 Subclauses 23(1) and (2) of Schedule 7

Repeal the subclauses, substitute:

- (1) A health and safety committee must be established in respect of the members of the workforce at a facility if:
 - (a) the number of those members normally present at the facility is not less than 50 (whether or not those members are all at work at the facility at the same time); and
 - (b) the members of the workforce are included in one or more designated work groups; and
 - (c) the operator is requested to establish the committee by the health and safety representative for the designated work group or for one of the designated work groups.
- (2) The health and safety committee consists of:
 - (a) the number of members specified in an agreement reached between the operator and the members of the workforce; or
 - (b) if there is no such agreement—an equal number of members, chosen by the members of the workforce, to represent the interests of members of the workforce and members, chosen by the operator, to represent the interests of the operator and the employer (other than the operator) of members of the workforce.

108 Subclause 23(3) of Schedule 7

Omit “interests of management”, substitute “interests of the operator and employers (other than the operator) of members of the workforce”.

109 Subclauses 23(3) and (4) of Schedule 7

Omit “employees” (wherever occurring), substitute “members of the workforce”.

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110 Subclause 23(8) of Schedule 7

Omit “employer” (wherever occurring), substitute “operator”.

111 Subclause 23(8) of Schedule 7

Omit “registered unions”, substitute “members of the workforce”:

112 Paragraphs 24(1)(a), (b), (c), (d) and (e) of Schedule 7

Repeal the paragraphs, substitute:

- (a) to assist the operator of the facility concerned:
 - (i) to develop and implement measures designed to protect; and
 - (ii) to review and update measures used to protect; the health and safety at work of members of the workforce;
- (b) to facilitate cooperation between the operator of the facility, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational health and safety matters;
- (c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to health and safety at work;
- (d) such functions as are prescribed;
- (e) such other functions as are agreed upon between the operator and the health and safety committee.

113 Subclause 25(1) of Schedule 7

Repeal the subclause, substitute:

- (1) If there is a health and safety committee, the operator and any employer (other than the operator) of a member of the workforce must:
 - (a) subject to subclauses (2) and (3), make available to the committee any information possessed by the operator or that employer relating to risks to health and safety to members of the workforce; and
 - (b) permit any member of the committee who is a member of the workforce to take such time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.
-

Note 2

Note: The heading to clause 25 is altered by inserting “**the operator and other**” before “**employers**”.

114 Subclause 25(2) of Schedule 7

Omit all the words before paragraph (b), substitute:

- (2) The operator or any employer (other than the operator) of a member of the workforce must not make available to a health and safety committee information of a confidential nature relating to a person who is or was a member of the workforce, unless:
 - (a) the person has authorised the information to be made available to the committee; or

115 Subclause 25(3) of Schedule 7

Repeal the subclause, substitute:

- (3) The operator or any employer (other than the operator) of a member of the workforce is not required to make available to a health and safety committee any information in respect of which the operator or employer is entitled to claim, and does claim, legal professional privilege.

116 Clauses 26 and 27 of Schedule 7

Repeal the clauses, substitute:

26 Action by health and safety representatives

- (1) If a health and safety representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must:
 - (a) inform a person (a *supervisor*) supervising the group member or group members in the performance of the work of the danger; or
 - (b) if no supervisor can be contacted immediately:
 - (i) direct the group member or group members to cease, in a safe manner, to perform the work; and
 - (ii) as soon as practicable, inform a supervisor that the direction has been given.

Note 2

- (2) If a supervisor is informed under paragraph (1)(a) of a danger to the health or safety of any person at or near the facility, the supervisor must take such action as he or she thinks appropriate to remove that danger, and any such action may include directing a group member or group members to cease, in a safe manner, to perform the work.
- (3) If:
- (a) a health and safety representative has informed a supervisor under paragraph (1)(a) of a danger; and
 - (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the health or safety of any person at or near the facility unless the group member or group members cease to perform particular work;
- the representative must:
- (c) direct the group member or group members to cease, in a safe manner, to perform the work; and
 - (d) as soon as practicable, inform the supervisor that the direction has been given.
- (4) If:
- (a) a health and safety representative gives a direction under paragraph (1)(b), but is unable to agree with a supervisor whom the representative has informed under that paragraph that there is a need for a direction under that paragraph; or
 - (b) a health and safety representative gives a direction under paragraph (3)(c);
- the representative or the supervisor may make a request to the Safety Authority or to an OHS inspector that an inspection be conducted of the work that is the subject of the direction.
- (5) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the direction, and the OHS inspector conducting the inspection must make such decisions, and exercise such powers, under Part 4 as the OHS inspector considers necessary in relation to the work.
- (6) This clause does not limit the power of a health and safety representative under subparagraph 16(1)(a)(iii) to make a request

Note 2

to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace.

27 Directions to perform other work

If a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under paragraph 26(1)(b) or (3)(c), not being a cessation of work that continues after:

- (a) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or
- (b) an OHS inspector has, under subclause 26(5), made a decision to the effect that the employee should perform the work;

the employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

117 At the end of Part 3 of Schedule 7

Add:

Division 4—Exemptions**27A Exemptions**

- (1) The Safety Authority may, in accordance with the regulations, make a written order exempting a specified person from any or all of the provisions of this Part (other than this clause).

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (2) The Safety Authority must not make an order under subclause (1) unless it is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.
- (3) An order under subclause (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note 2

118 Part 4 of Schedule 7 (heading)

Repeal the heading, substitute:

Part 4—Inspections

119 Division 1 of Part 4 of Schedule 7

Repeal the Division.

120 Division 2 of Part 4 of Schedule 7 (heading)

Repeal the heading, substitute:

Division 1—Inspections

121 Clauses 29, 30 and 31 of Schedule 7

Repeal the clauses, substitute:

29 OHS inspectors

- (1) A person who is appointed under section 150YL as an OHS inspector has the powers, functions and duties of an OHS inspector conferred or imposed by this Schedule and by regulations set out in or prescribed for the purposes of subsection 140H(2).
- (2) The Safety Authority may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on OHS inspectors:
 - (a) by this Schedule; or
 - (b) by regulations set out in or prescribed for the purposes of subsection 140H(2);are to be exercised. If it does so, the powers of OHS inspectors must be exercised in accordance with those directions.
- (3) The Safety Authority may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular OHS inspector by this Schedule or by regulations set out in or prescribed for the purposes of subsection 140H(2). If it does so, the powers of the OHS inspector are taken to have been restricted accordingly.

30 Inspections

- (1) An OHS inspector may, at any time, conduct an inspection:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, this Schedule or regulations set out in or prescribed for the purposes of subsection 140H(2), are being complied with; or
 - (b) concerning a contravention or a possible contravention of this Schedule or those regulations; or
 - (c) concerning an accident or dangerous occurrence that has happened at a facility.
- (2) The Safety Authority may direct an OHS inspector to conduct an inspection:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, this Schedule or regulations set out in or prescribed for the purposes of subsection 140H(2), are being complied with; or
 - (b) concerning a contravention or a possible contravention of this Schedule or those regulations; or
 - (c) concerning an accident or dangerous occurrence that has happened at a facility;and the OHS inspector must, unless the Safety Authority revokes the direction, conduct an inspection accordingly.

31 Powers of entry and search—facilities

- (1) An OHS inspector may, for the purposes of an inspection, at any reasonable time during the day or night:
 - (a) enter the facility to which the inspection relates and do all or any of the following:
 - (i) search the facility;
 - (ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace at the facility or any plant, substance or thing at the facility;
 - (iii) take photographs of, or make sketches of, any workplace at the facility or any plant, substance or thing at the facility;

Note 2

- (iv) inspect, take extracts from, or make copies of, any documents at the facility that the OHS inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and
 - (b) inspect the seabed and subsoil in the vicinity of the facility to which the inspection relates.
- (2) Immediately on entering a facility for the purposes of an inspection, an OHS inspector must take reasonable steps to notify the purpose of entering the facility to:
 - (a) the operator's representative at the facility; and
 - (b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection—that representative; and must, on being requested to do so by the person referred to in paragraph (a) or (b), produce for inspection by that person:
 - (c) the OHS inspector's identity card; and
 - (d) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
 - (e) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 29(3).
- (3) If there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the OHS inspector must afford the health and safety representative a reasonable opportunity to consult on the matter the subject of the inspection.
- (4) A person is guilty of an offence if the person obstructs or hinders an OHS inspector in the exercise of an OHS inspector's powers under this clause.

Penalty: 50 penalty units.

- (5) Subclause (4) does not apply if the person has a reasonable excuse.

Note 1: The defendant bears an evidential burden in relation to the matter in subclause (5)—see section 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

Note 3: The same conduct may be an offence against subclause (4) of this clause and section 149.1 of the *Criminal Code*.

31A Powers of entry and search—regulated business premises (other than facilities)

- (1) An OHS inspector may, for the purposes of an inspection:
 - (a) at any reasonable time, enter any regulated business premises (other than a facility) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
 - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.
- (2) Immediately on entering premises referred to in subclause (1), an OHS inspector must take reasonable steps to notify the purpose of the entry to the occupier of those premises, and must, on being requested to do so by the occupier, produce for inspection by the occupier:
 - (a) the OHS inspector's identity card; and
 - (b) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
 - (c) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 29(3).
- (3) A person is guilty of an offence if the person obstructs or hinders an OHS inspector in the exercise of an OHS inspector's powers under this clause.

Penalty: 50 penalty units.

- (4) Subclause (3) does not apply if the person has a reasonable excuse.

Note 1: The defendant bears an evidential burden in relation to the matter in subclause (4)—see section 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

Note 3: The same conduct may be an offence against subclause (3) of this clause and section 149.1 of the *Criminal Code*.

31B Powers of entry and search—premises (other than regulated business premises)

- (1) An OHS inspector may, for the purposes of an inspection:
-

Note 2

- (a) enter any premises (other than regulated business premises) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
 - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.
- (2) An OHS inspector may exercise the powers referred to in subclause (1) to enter premises only:
 - (a) if the premises are not a residence:
 - (i) in accordance with a warrant under clause 31C; or
 - (ii) with the consent of the occupier of the premises; or
 - (b) if the premises are a residence—with the consent of the occupier of the premises.
- (3) Immediately on entering premises referred to in subclause (1), an OHS inspector must:
 - (a) take reasonable steps to notify the purpose of the entry to the occupier of those premises; and
 - (b) take reasonable steps to produce, for inspection by the occupier, the OHS inspector's identity card; and
 - (c) on being requested to do so by the occupier, produce, for inspection by the occupier:
 - (i) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
 - (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 29(3).
- (4) If:
 - (a) an OHS inspector enters premises in accordance with a warrant under clause 31C; and
 - (b) the occupier of the premises is present at the premises;the OHS inspector must make a copy of the warrant available to the occupier.
- (5) Before obtaining the consent of a person as mentioned in paragraph (2)(a) or (b), an OHS inspector must inform the person that:
 - (a) the person may refuse consent; and

Note 2

(b) the consent may be withdrawn.

(6) The consent of a person is not effective for the purposes of subclause (2) unless the consent is voluntary.

(7) A person is guilty of an offence if the person obstructs or hinders an OHS inspector in the exercise of an OHS inspector's powers under this clause.

Penalty: 50 penalty units.

(8) Subclause (7) does not apply if the person has a reasonable excuse.

Note 1: The defendant bears an evidential burden in relation to the matter in subclause (8)—see section 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

Note 3: The same conduct may be an offence against subclause (7) of this clause and section 149.1 of the *Criminal Code*.

31C Warrant to enter premises (other than regulated business premises)

(1) An OHS inspector may apply to a Magistrate for a warrant authorising the OHS inspector, with such assistance as the OHS inspector thinks necessary, to exercise the powers referred to in subclause 31B(1) in relation to particular premises (other than a residence).

(2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the OHS inspector is applying for the warrant.

(3) If the Magistrate is satisfied that there are reasonable grounds for issuing the warrant, the Magistrate may issue the warrant.

(4) A warrant issued under subclause (3) must state:

(a) the name of the OHS inspector; and

(b) whether the inspection may be carried out at any time or only during specified hours of the day; and

(c) the day on which the warrant ceases to have effect; and

(d) the purposes for which the warrant is issued.

Note 2

- (5) The day specified under paragraph (4)(c) is not to be more than 7 days after the day on which the warrant is issued.
- (6) The purposes specified under paragraph (4)(d) must include the identification of the premises in relation to which the warrant is issued.

122 Subclause 32(1) of Schedule 7

Repeal the subclause, substitute:

Requirement to give reasonable assistance to an OHS inspector

- (1) An OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection, require:
 - (a) the operator of a facility; or
 - (b) the person in charge of operations at a workplace in relation to a facility; or
 - (c) a member of the workforce at a facility; or
 - (d) any person representing a person referred to in paragraph (a) or (b);to provide the OHS inspector with reasonable assistance and facilities:
 - (e) that is or are reasonably connected with the conduct of the inspection at or near the facility; or
 - (f) for the effective exercise of the OHS inspector's powers under this Schedule in connection with the conduct of the inspection at or near the facility.
- (1A) The reasonable assistance referred to in subclause (1) includes, so far as the operator of the facility is concerned:
 - (a) appropriate transport to or from the facility for the OHS inspector and for any equipment required by the OHS inspector, or any article of which the OHS inspector has taken possession; and
 - (b) reasonable accommodation and means of subsistence while the OHS inspector is at the facility.

Requirement to answer questions

- (1B) If:

Note 2

- (a) an OHS inspector believes on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of an inspection; and
- (b) the person is covered by any of the following subparagraphs:
 - (i) the operator of a facility;
 - (ii) the person in charge of operations at a workplace in relation to a facility;
 - (iii) a member of the workforce at a facility;
 - (iv) any person representing a person referred to in subparagraph (i) or (ii);

the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the OHS inspector.

- (1C) If, at the time when a requirement under subclause (1B) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:

- (a) is in writing; and
- (b) specifies the day on or before which the question is to be answered; and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

The day specified under paragraph (b) must be at least 14 days after the day on which the requirement is imposed.

Requirement to produce documents or articles

- (1D) If:
 - (a) an OHS inspector believes on reasonable grounds that a person is capable of producing a document or article that is reasonably connected with the conduct of an inspection; and
 - (b) the person is covered by any of the following subparagraphs:
 - (i) the operator of a facility;
 - (ii) the person in charge of operations at a workplace in relation to a facility;
 - (iii) a member of the workforce at a facility;
 - (iv) any person representing a person referred to in subparagraph (i) or (ii);

Note 2

the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.

(1E) If, at the time when a requirement under subclause (1D) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:

- (a) is in writing; and
- (b) specifies the day on or before which the document or article is to be produced; and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

The day specified under paragraph (b) must be at least 14 days after the day on which the requirement is imposed.

Note: The following heading to subclause 32(2) of Schedule 7 is inserted “*Enforcement*”.

123 Subclause 32(2A) of Schedule 7 (note)

Omit “Note”, substitute “Note 1”.

124 At the end of subclause 32(2A) of Schedule 7 (after the note)

Add:

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

125 Subclause 32(2B) of Schedule 7

Repeal the subclause.

126 At the end of subclause 32(3) of Schedule 7

Add:

Note: The same conduct may be an offence against both subclause (3) of this clause and section 137.1 of the *Criminal Code*.

127 Subclause 32(4) of Schedule 7

After “document” (wherever occurring), insert “or article”.

128 Subclause 32(4) of Schedule 7

Omit “subclause (1)”, substitute “subclause (1B) or (1D)”.

129 Subclause 32(5) of Schedule 7

After “document” (wherever occurring), insert “or article”.

130 Subclause 33(1) of Schedule 7

Omit “investigation” (wherever occurring), substitute “inspection”.

131 Subclause 33(1) of Schedule 7

Omit “investigator”, substitute “OHS inspector”.

132 Subclause 33(1) of Schedule 7

Omit “workplace” (wherever occurring), substitute “facility”.

133 Subclause 33(2) of Schedule 7

Repeal the subclause, substitute:

- (2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the OHS inspector must, by notice in writing, inform:
- (a) the operator of the facility; and
 - (b) if the plant, substance or thing is used for the performance of work by an employer of a member or members of the workforce at the facility other than the operator of the facility—that employer; and
 - (c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b)—that person; and
 - (d) if there is a health and safety representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates—that representative;
- of the taking of possession or the taking of the sample, as the case may be, and the reasons for it.

134 Subclause 33(3) of Schedule 7

Repeal the subclause, substitute:

- (3) If the OHS inspector gives the notice to the operator of the facility to which the inspection relates, the operator’s representative at the facility must cause the notice to be displayed in a prominent place

Note 2

at the workplace from which the plant, substance or thing was removed.

135 Subclauses 33(4) and (5) of Schedule 7

Omit “the investigator” (wherever occurring), substitute “the OHS inspector”.

136 Subclause 34(1) of Schedule 7

Repeal the subclause, substitute:

- (1) In conducting an inspection, an OHS inspector may, if he or she has reasonable grounds to believe that it is reasonably necessary to give a direction in order to:
 - (a) remove an immediate threat to the health or safety of any person; or
 - (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility;direct, by written notice given to the operator’s representative at the facility, that the operator must ensure that:
 - (c) a particular workplace; or
 - (d) particular plant, or a particular substance or thing;not be disturbed for a period specified in the direction.
- (1A) The period specified in the direction must be a period that the OHS inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.

137 Subclauses 34(3) and (4) of Schedule 7

Repeal the subclauses, substitute:

- (3) If an OHS inspector gives a notice to the operator’s representative under subclause (1), the operator’s representative must cause the notice to be displayed in a prominent place at the workplace:
 - (a) that is to be left undisturbed; or
 - (b) where the plant, substance or thing that is to be left undisturbed is located.

Note 2

- (4) As soon as practicable after giving the direction, the OHS inspector must take reasonable steps to notify:
- (a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility—that person; and
 - (b) if there is a health and safety representative for a designated work group that includes a group member performing work:
 - (i) at a workplace; or
 - (ii) involving the plant, substance or thing; to which the direction relates—that representative: of the direction and the reasons for giving it.

138 Subclause 34(5) of Schedule 7

Repeal the subclause, substitute:

- (5) The operator of a facility to which a direction concerning a workplace, plant, substance or a thing relates must ensure that the direction is complied with.

Penalty: 250 penalty units.

139 Subclauses 35(1) and (2) of Schedule 7

Repeal the subclauses, substitute:

- (1) If, having conducted an inspection, an OHS inspector is satisfied on reasonable grounds that it is reasonably necessary to issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health or safety of any person, the OHS inspector may issue such a notice, in writing, to the operator.
- (2) The notice must be issued to the operator by giving it to the operator's representative at the facility.

140 Paragraph 35(3)(a) of Schedule 7

Omit "investigator's", substitute "OHS inspector's".

141 Paragraph 35(3)(b) of Schedule 7

Omit "employer" (wherever occurring), substitute "operator".

Note 2

142 Subclauses 35(4), (5) and (6) of Schedule 7

Repeal the subclauses, substitute:

- (4) The operator must ensure that the notice is complied with.

Penalty: 250 penalty units.

- (5) If an OHS inspector is satisfied that action taken by the operator to remove the threat to health and safety is not adequate, the OHS inspector must inform the operator accordingly.

- (6) The notice ceases to have effect when an OHS inspector notifies the operator that the OHS inspector is satisfied that the operator has taken adequate action to remove the threat to health or safety.

143 Subclauses 35(7) and (8) of Schedule 7

Omit “investigator” (wherever occurring), substitute “OHS inspector”.

144 Subclause 35(7) of Schedule 7

Omit “investigation”, substitute “inspection”.

145 Subclause 35(9) of Schedule 7

Repeal the subclause, substitute:

- (9) The operator’s representative at the facility must:
- (a) give a copy of the notice to each health and safety representative (if any) for any designated work group having group members performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which that work is performed.

146 Subclause 35(10) of Schedule 7

Omit “an employer, the investigator”, substitute “the operator, the OHS inspector”.

147 Subclause 36(1) of Schedule 7

Omit “having conducted an investigation, an investigator forms the opinion”, substitute “in conducting an inspection, an OHS inspector believes on reasonable grounds”.

148 Subclause 36(1) of Schedule 7

Omit “the investigator”, substitute “the OHS inspector”.

149 Subclause 36(2) of Schedule 7

Repeal the subclause, substitute:

- (2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator’s representative at the facility.
- (2A) If the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to that employer, the improvement notice may be issued to the employer by giving it to the operator’s representative at the facility and, if the notice is so issued, the operator must ensure that a copy of the notice is given to the employer as soon as practicable afterwards.

150 Paragraph 36(3)(a) of Schedule 7

Omit “, in the investigator’s opinion,”, substitute “the OHS inspector believes”.

151 Paragraph 36(3)(a) of Schedule 7

Omit “opinion”, substitute “belief”.

152 Paragraph 36(3)(b) of Schedule 7

Omit “investigator’s”, substitute “OHS inspector’s”.

153 Subclause 36(5) of Schedule 7

Repeal the subclause, substitute:

- (5) If the OHS inspector believes on reasonable grounds that it is appropriate to do so, the OHS inspector may, in writing and before the end of the period, extend the period specified in the notice.

154 Subclauses 36(7) and (8) of Schedule 7

Repeal the subclauses, substitute:

- (7) If a notice is issued to an employer (other than the operator) of members of the workforce in circumstances other than the

Note 2

circumstance referred to in subclause 36(2A), the employer must immediately ensure that a copy of the notice is given to the operator's representative at the facility.

- (7A) If a notice is issued to the operator or to an employer (other than the operator) of members of the workforce, the operator's representative at the facility must:
- (a) give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.
- (8) Upon issuing a notice, the OHS inspector must give a copy of the notice to:
- (a) if the notice is given to a member of the workforce who is an employee in connection with work performed by the employee—the employer of that employee; and
 - (b) if the notice relates to any workplace, plant, substance or thing that is owned by a person other than a responsible person or a person who is an employer referred to in paragraph (a)—that owner; and
 - (c) if the notice is issued to a person who owns any workplace, plant, substance or thing, because of which a contravention of this Schedule or the regulations has occurred or is likely to occur—the operator of the facility and, if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator, that employer.

155 Subclause 37(1) of Schedule 7

Omit "investigator", substitute "OHS inspector".

156 Subclause 37(1) of Schedule 7

Omit "investigation" (wherever occurring), substitute "inspection".

157 Paragraph 37(1)(e) of Schedule 7

Omit "an employer", substitute "the operator of a facility".

158 Paragraph 37(1)(g) of Schedule 7

Repeal the paragraph, substitute:

- (g) the operator of the facility or any employer (other than the operator) who is affected by the decision; or

159 Paragraph 37(1)(j) of Schedule 7

Omit “that includes an employee”, substitute “having a group member”.

160 Paragraphs 37(1)(k) and (m) of Schedule 7

Repeal the paragraphs, substitute:

- (k) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
- (m) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—that workforce representative; or

161 Subclause 37(2) of Schedule 7

Omit “investigator”, substitute “OHS inspector”.

162 Subclause 37(2) of Schedule 7

Omit “investigation”, substitute “inspection”.

163 Paragraph 37(2)(b) of Schedule 7

Omit “an employer”, substitute “the operator of a facility”.

164 Paragraph 37(2)(c) of Schedule 7

Omit “that includes an employee”, substitute “having a group member”.

165 Paragraphs 37(2)(d) and (e) of Schedule 7

Repeal the paragraphs, substitute:

- (d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or

Note 2

- (e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—that workforce representative.

166 Subclauses 37(5) and (8) of Schedule 7

Omit “investigator” (wherever occurring), substitute “OHS inspector”.

167 Subclause 37(5) of Schedule 7

Omit “investigation”, substitute “inspection”.

168 Clause 38 of Schedule 7

Repeal the clause.

169 Subclause 39(1) of Schedule 7

Omit “36(7)” (wherever occurring), substitute “36(7A)”.

170 Subclause 39(1) of Schedule 7 (penalty)

Repeal the penalty, substitute:

Penalty: 50 penalty units.

171 Subclause 39(2) of Schedule 7 (note)

Omit “Note”, substitute “Note 1”.

172 At the end of subclause 39(2) of Schedule 7 (after the note)

Add:

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

173 Division 3 of Part 4 of Schedule 7 (heading)

Repeal the heading, substitute:

Division 2—Reports on inspections

174 Subclauses 40(1), (2) and (3) of Schedule 7

Repeal the subclauses, substitute:

Note 2

- (1) If an OHS inspector has conducted an inspection, the OHS inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Safety Authority.
- (2) The report must include:
 - (a) the OHS inspector's conclusions from conducting the inspection and the reasons for those conclusions; and
 - (b) any recommendations that the OHS inspector wishes to make arising from the inspection; and
 - (c) such other matters, if any, as are prescribed.
- (3) As soon as practicable after receiving the report, the Safety Authority must give a copy of the report, together with any written comments that it wishes to make:
 - (a) to the operator of the facility to which the report relates; and
 - (b) if the report relates to activities performed by an employee of, or to any plant, substance or thing owned by, another person—that other person.

Note: The heading to clause 40 of Schedule 7 is replaced by the heading "**Reports on inspections**".

175 Subclause 40(4) of Schedule 7

Omit "The Designated Authority may, in writing, request the employer", substitute "The Safety Authority may, in writing, request the operator or any other person to whom the report is given".

176 Paragraph 40(4)(b) of Schedule 7

Omit "the employer", substitute "the operator or that other person".

177 Subclause 40(4) of Schedule 7

Omit "the employer must", substitute "the operator or that other person must".

178 Subclause 40(5) of Schedule 7

Repeal the subclause, substitute:

- (5) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Safety Authority on the report:

Note 2

- (a) if there is at least one health and safety committee in respect of some or all of the members of the workforce—to each such committee; and
- (b) if there is no such committee in respect of some or all of the members of the workforce, but some or all of those members (in respect of which there is no such committee) are in at least one designated work group for which there is a health and safety representative—to each such health and safety representative.

179 Subclause 41(1) of Schedule 7

Repeal the subclause, substitute:

- (1) If, at or near a facility, there is:
 - (a) an accident that causes the death of, or serious personal injury to, any person; or
 - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence;the operator must, in accordance with the regulations, give the Safety Authority notice of, and a report about, the accident or dangerous occurrence.

180 Subclause 42(1) of Schedule 7

Repeal the subclause, substitute:

- (1) The operator of a facility must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the operator is required by clause 41 to notify the Safety Authority.

181 Subclause 43(1) of Schedule 7

Omit “employers”, substitute “operators of facilities and employers (other than such operators) of members of the workforce at facilities”.

182 Subclause 45(1) of Schedule 7

Omit “employees or contractors at work”, substitute “members of the workforce at a facility”.

183 Subclause 45(2) of Schedule 7 (note)

Omit “Note”, substitute “Note 1”.

184 At the end of subclause 45(2) of Schedule 7 (after the note)

Add:

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

185 Clauses 46 and 47 of Schedule 7

Repeal the clauses, substitute:

46 Members of workforce not to be levied

The operator of a facility, or an employer (other than the operator) of members of the workforce at a facility, must not levy, or permit to be levied, on any member of the workforce, any charge in respect of anything done or provided in accordance with this Schedule or the regulations in order to ensure the health, safety or welfare of persons at or near the facility.

Penalty: 250 penalty units.

186 Subclause 48(1) of Schedule 7

After “employer”, insert “(whether the operator or another person)”.

187 Paragraph 48(1)(f) of Schedule 7

Omit “investigation”, substitute “inspection”.

188 Paragraph 48(1)(g) of Schedule 7

After “paragraph 26(1)(b)”, insert “or (3)(c)”.

189 Subparagraph 48(1)(g)(ii) of Schedule 7

Omit “investigator”, substitute “OHS inspector”.

190 Subparagraph 48(1)(g)(ii) of Schedule 7

Omit “subclause 26(4)”, substitute “subclause 26(5)”.

Note 2

191 Subclauses 49(1) and (2) of Schedule 7

Repeal the subclauses, substitute:

- (1) Proceedings for an offence against this Schedule or against regulations set out in or prescribed for the purposes of subsection 140H(2) may be instituted by the Safety Authority or by an OHS inspector.
- (2) A health and safety representative for a designated work group may request the Safety Authority to institute proceedings for an offence against this Schedule, or for an offence against regulations referred to in subclause (1), in relation to the occurrence of an act or omission if:
 - (a) a period of 6 months has elapsed since the act or omission occurred; and
 - (b) the health and safety representative considers that the occurrence of the act or omission constitutes an offence against this Schedule or those regulations; and
 - (c) proceedings in respect of the offence have not been instituted.
- (2A) A workforce representative in relation to a designated work group may request the Safety Authority to institute proceedings for an offence against this Schedule, or for an offence against regulations referred to in subclause (1), in relation to the occurrence of an act or omission if:
 - (a) a period of 6 months has elapsed since the act or omission occurred; and
 - (b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against this Schedule or those regulations; and
 - (c) proceedings in respect of the offence have not been instituted; and
 - (d) a group member included in the group requests the workforce representative to request the Safety Authority to institute the proceedings.
- (2B) A request under subclause (2) or (2A) must be in writing.

Note 3

192 Subclause 49(3) of Schedule 7

Omit “Authority”, substitute “Safety Authority”.

193 Subclause 49(3) of Schedule 7

Omit “involved union”, substitute “workforce representative”.

194 Subclause 50(7) of Schedule 7

Omit “the regulations”, substitute “regulations set out in or prescribed for the purposes of subsection 140H(2)”.

195 Clauses 51 and 52 of Schedule 7

Omit “the regulations” (wherever occurring), substitute “regulations set out in or prescribed for the purposes of subsection 140H(2)”.

196 Paragraph 53(1)(a) of Schedule 7

Repeal the paragraph.

197 Paragraph 53(1)(b) of Schedule 7

Omit “employees”, substitute “members of the workforce at a facility”.

As at 4 June 2004 the amendments are not incorporated in this compilation.

Note 3

Greater Sunrise Unitisation Agreement Implementation Act 2004
(No. 47, 2004)

The following amendments commence on proclamation:

Schedule 1

1 Subsection 5(1)

Insert:

Eastern Greater Sunrise area means the part of the adjacent area in respect of the Northern Territory that is described in Schedule 8 under the heading that refers to the Eastern Greater Sunrise area.

2 Subsection 5(1)

Insert:

Note 3

Greater Sunrise unit area means the area described in Schedule 8 under the heading that refers to the Greater Sunrise unit area.

3 Subsection 5(1)

Insert:

Greater Sunrise unitisation agreement means the Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields done at Dili on 6 March 2003.

Note: In 2004, the text of the agreement was available in the Australian Treaties Database of the Department of Foreign Affairs and Trade, accessible on the Internet through that Department's world-wide web site.

4 Subsection 5(1)

Insert:

Greater Sunrise unit reservoir licence means a licence in respect of one or more blocks within the Eastern Greater Sunrise area that would allow the licensee to recover petroleum from either or both of the Greater Sunrise unit reservoirs.

5 Subsection 5(1)

Insert:

Greater Sunrise unit reservoirs means the Unit Reservoirs within the meaning of the Greater Sunrise unitisation agreement.

6 Subsection 5(1)

Insert:

Greater Sunrise visiting inspector means an inspector who is specified in the certificate given to that inspector under subsection 125(2) as being a Greater Sunrise visiting inspector.

7 Subsection 5(1)

Insert:

Principal Northern Territory PSL area means the part of the adjacent area in respect of the Northern Territory that is comprised

of all of that adjacent area apart from the Eastern Greater Sunrise area.

8 Subsection 5(1) (definition of *Register*)

After “adjacent area”, insert “, or a part of an adjacent area”.

9 Subsection 5(1) (at the end of subparagraph (a)(iii) of the definition of *the Designated Authority*)

Add “, or a part of an adjacent area”.

10 Subsection 5(1) (at the end of paragraph (b) of the definition of *the Designated Authority*)

Add “, or a part of an adjacent area”.

11 Subsection 5(1) (at the end of the definition of *the Designated Authority*)

Add “, or that part of an adjacent area”.

12 Subsection 5(1) (at the end of subparagraph (a)(iii) of the definition of *the Joint Authority*)

Add “, or a part of an adjacent area”.

13 Subsection 5(1) (at the end of paragraph (b) of the definition of *the Joint Authority*)

Add “, or a part of an adjacent area”.

14 Subsection 5(1) (at the end of the definition of *the Joint Authority*)

Add “, or that part of an adjacent area”.

15 Subsection 5(1)

Insert:

Timor Sea Treaty means the Timor Sea Treaty between Australia and East Timor done on 20 May 2002 as amended from time to time.

Note: The text of the Treaty is set out in the Australian Treaty Series at [2003] ATS 13. In 2004 this was available in the Australian Treaties Database of the Department of Foreign Affairs and Trade, accessible on the Internet through that Department’s world-wide web site.

Note 3

16 Subsection 5(1)

Insert:

Timor Sea Treaty Designated Authority means the Designated Authority within the meaning of the *Petroleum (Timor Sea Treaty) Act 2003*.

17 Subsection 5(1)

Insert:

Western Greater Sunrise area means the area described in Schedule 8 under the heading that refers to the Western Greater Sunrise area.

Note: Activities occurring in the Western Greater Sunrise area in relation to the exploration, development and exploitation of the Greater Sunrise unit reservoirs are dealt with under the *Petroleum (Timor Sea Treaty) Act 2003*.

18 Subsection 8A(3)

Repeal the subsection, substitute:

- (3) For the purposes of this Act, the Joint Authority:
- (a) in respect of the adjacent area in respect of the Northern Territory; and
 - (b) consisting of the Commonwealth Minister and the Territory Minister; and
 - (c) known as the Commonwealth-Northern Territory Off-shore Petroleum Joint Authority; and
 - (d) that was established by this section before the commencement of Part 1 of Schedule 1 to the *Greater Sunrise Unitisation Agreement Implementation Act 2004*;
- is continued in existence under that name as the Joint Authority in respect of the Principal Northern Territory PSL area.
- (4) For the purposes of this Act, there is established in respect of the Eastern Greater Sunrise area a Joint Authority consisting of the Commonwealth Minister, and that Joint Authority is to be known as the Greater Sunrise Off-shore Petroleum Joint Authority.

19 Section 8C

After “adjacent area”, insert “, or the part of an adjacent area,”.

Note 3

20 Subsection 8D(1)

After “a Joint Authority”, insert “consisting of 2 members”.

21 Subsection 8D(2)

Omit “If the members of a Joint Authority”, substitute “If a Joint Authority consists of 2 members and they”.

22 Subsection 8D(3)

Omit “A”, substitute “If a Joint Authority consists of 2 members, a”.

23 Before subsection 8H(1)

Insert:

(1A) This section only applies in respect of a Joint Authority consisting of 2 members.

Note: The heading to section 8H is altered by adding at the end “—**other than Greater Sunrise Off-shore Petroleum Joint Authority**”.

24 Subsection 8H(1)

Omit “two persons together.”, substitute:

two persons together, each of whom is one of the following:

- (a) an APS employee who is an SES employee or acting SES employee;
- (b) an employee of a State, or of the Northern Territory.

Note 1: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

Note 2: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

25 Subsection 8H(2A)

Omit “Without”, substitute “Subject to subsection (1), and without”.

26 At the end of Part IA

Add:

Note 3

8J Greater Sunrise Off-shore Petroleum Joint Authority— consultations

The Greater Sunrise Off-shore Petroleum Joint Authority may consult with the Timor Sea Treaty Designated Authority before exercising any power, or performing any function, that is conferred on it under this Act, under an Act that incorporates this Act or under the regulations.

8K Delegation by Greater Sunrise Off-shore Petroleum Joint Authority

- (1) The Greater Sunrise Off-shore Petroleum Joint Authority may, by written instrument, delegate to:
- (a) an APS employee who is an SES employee or acting SES employee; or
 - (b) an employee of the Northern Territory;
- any or all of the powers or functions of the Joint Authority under this Act, under an Act that incorporates this Act or under the regulations.

Note 1: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

Note 2: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

- (2) If the Greater Sunrise Off-shore Petroleum Joint Authority delegates a power or function under this section, the delegation continues in force despite:
- (a) a vacancy in the office of Joint Authority; or
 - (b) a change in the identity of the holder of the office of Joint Authority.
- (3) Despite subsection (2), a delegation under this section may be revoked by the Greater Sunrise Off-shore Petroleum Joint Authority in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (4) A copy of each instrument making, varying or revoking a delegation under this section must be published in the *Gazette*.

27 Subsection 14(1)

After “adjacent area”, insert “(other than the adjacent area in respect of the Northern Territory)”.

Note: The heading to section 14 is altered by adding at the end “—**adjacent areas other than the Northern Territory adjacent area**”.

28 Subsections 14(5) and (6)

Repeal the subsections.

29 After section 14

Insert:

14A Designated Authorities—Northern Territory adjacent area

Principal Northern Territory PSL area

- (1) For the purposes of this Act, the Designated Authority:
 - (a) in respect of the adjacent area in respect of the Northern Territory; and
 - (b) consisting of the Northern Territory Minister; and
 - (c) that was established by subsection 14(1) of this Act before the commencement of Part 1 of Schedule 1 to the *Greater Sunrise Unitisation Agreement Implementation Act 2004*; is continued in existence as the Designated Authority in respect of the Principal Northern Territory PSL area.
- (2) The functions and powers of the Northern Territory Minister as the Designated Authority in respect of the Principal Northern Territory PSL area may be performed and exercised by another Northern Territory Minister acting for and on behalf of that Minister.

Eastern Greater Sunrise area

- (3) For the purposes of this Act, there is to be a Designated Authority in respect of the Eastern Greater Sunrise area.
- (4) The Designated Authority in respect of the Eastern Greater Sunrise area is the Commonwealth Minister.

Note 3

14B Eastern Greater Sunrise Designated Authority—consultations

The Designated Authority in respect of the Eastern Greater Sunrise area may consult with the Timor Sea Treaty Designated Authority before exercising any power, or performing any function, that is conferred on it under this Act, under an Act that incorporates this Act or under the regulations.

30 Subsection 15(1)

Repeal the subsection, substitute:

- (1) A Designated Authority may, by written instrument, delegate to:
- (a) an APS employee who is an SES employee or acting SES employee; or
 - (b) an employee of a State, or of the Northern Territory;
- any or all of the powers or functions of the Designated Authority under this Act, under an Act that incorporates this Act or under the regulations.

Note 1: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

Note 2: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

31 After subsection 41(1)

Insert:

- (1A) An application under section 39A or 40A for the grant of a Greater Sunrise unit reservoir licence must also:
- (a) nominate a person to be the unit operator, as defined in the Greater Sunrise unitisation agreement; and
 - (b) be accompanied by each Joint Venturers' Agreement, as defined in the Greater Sunrise unitisation agreement; and
 - (c) be accompanied by a copy of the proposed Development Plan, as defined in the Greater Sunrise unitisation agreement.

32 Subsection 43(1A)

After “must,”, insert “subject to subsection (1B),”.

33 After subsection 43(1A)

Insert:

Note 3

- (1B) The Greater Sunrise Off-shore Petroleum Joint Authority must not tell an applicant for the grant of a Greater Sunrise unit reservoir licence that the Joint Authority is prepared to grant to the applicant such a licence unless:
- (a) the Joint Authority has given to the Timor Sea Treaty Designated Authority a written notice that:
 - (i) states that the Joint Authority is considering granting the licence to the applicant and naming the person who the applicant has nominated to be the unit operator; and
 - (ii) is accompanied by a copy of each Joint Venturers' Agreement that accompanied the application; and
 - (iii) is accompanied by a copy of the proposed Development Plan that accompanied the application; and
 - (b) the Joint Authority has approved:
 - (i) a unit operator in respect of the development of the Greater Sunrise unit reservoirs in the blocks to which the licence relates; and
 - (ii) each Joint Venturers' Agreement in respect of that development; and
 - (iii) the Development Plan in respect of that development; and is satisfied that the Timor Sea Treaty Designated Authority has approved the same unit operator, Joint Venturers' Agreements and Development Plan in respect of that development; and
 - (c) the Joint Authority has determined the conditions subject to which the licence is to be granted.

34 After paragraph 43(3)(b)

Insert:

- or (c) in the case of an application for the grant of a Greater Sunrise unit reservoir licence—the Joint Authority is not satisfied that the Timor Sea Treaty Designated Authority has given the approvals mentioned in paragraph (1B)(b);

35 Paragraph 59(1)(a)

After “petroleum pool”, insert “(other than either of the Greater Sunrise unit reservoirs)”.

Note 3

36 Subsection 59B(1)

After “Designated Authority”, insert “in respect of an adjacent area or a part of an adjacent area”.

37 Subsection 59B(1)

After “Joint Authority”, insert “in respect of the adjacent area or the part of an adjacent area”.

38 Paragraph 59B(2)(b)

After “adjacent area,”, insert “or a part of an adjacent area,”.

39 Subsection 60(1)

Omit “the adjacent area”, substitute “an adjacent area, or a part of an adjacent area”.

40 Subsection 60(4)

Omit “the adjacent area”, substitute “an adjacent area, or a part of an adjacent area”.

41 Subsection 60(5)

Omit “the adjacent area”, substitute “an adjacent area, or a part of an adjacent area”.

42 Subsection 60(6)

Omit “The”, substitute “A”.

43 Subsection 62(1)

After “Designated Authority”, insert “in respect of an adjacent area, or a part of an adjacent area,”.

44 At the end of paragraph 62(1)(d)

Add “, or the part of an adjacent area”.

45 Section 63

After “Designated Authority”, insert “in respect of an adjacent area, or a part of an adjacent area,”.

46 Section 63

Omit “in an adjacent area”, substitute “in the adjacent area, or the part of an adjacent area,”.

47 Subsection 65(1)

After “an adjacent area”, insert “, or a part of an adjacent area,”.

48 Subsection 65(1)

After “, adjacent area”, insert “, or a part of an adjacent area”.

49 Subsection 65(2)

After “an adjacent area”, insert “, or a part of an adjacent area,”.

50 Subsection 65(2A)

After “an adjacent area”, insert “, or a part of an adjacent area,”.

51 Subsection 65(3)

After “an adjacent area”, insert “, or a part of an adjacent area,”.

52 Paragraph 66(a)

Omit “an adjacent area”, substitute “the adjacent area, or the part of an adjacent area, specified in the pipeline licence”.

53 Subparagraph 66(a)(i)

After “that adjacent area”, insert “, or that part of an adjacent area,”.

54 Paragraph 66(c)

After “adjacent area”, insert “, or that part of an adjacent area,”.

55 At the end of subsection 76(1)

Add “, or the part of the adjacent area, in respect of which the Designated Authority is the Designated Authority”.

56 Section 92

After “adjacent area”, insert “, or a part of the adjacent area,”.

Note 3

57 Subsection 101(1)

Omit “The Designated Authority”, substitute “A Designated Authority in respect of an adjacent area, or a part of an adjacent area,”.

58 Paragraph 101(2)(b)

After “the adjacent area” (wherever occurring), insert “, or the part of the adjacent area,”.

59 Subsection 101(2)

After “person who is in the adjacent area”, insert “, or the part of the adjacent area,”.

60 Subsection 101(2C)

After “Designated Authority”, insert “in respect of an adjacent area, or a part of an adjacent area,”.

61 Subsection 101(2C)

Omit “in an adjacent area”, substitute “in the adjacent area, or the part of an adjacent area”.

62 Subsection 102(1A)

Omit “by the Joint Authority”, substitute “by a Joint Authority comprised of 2 members”.

63 At the end of section 103A

Add:

- (6) For the purposes of subsection (5):
 - (a) the Commonwealth-Northern Territory Off-shore Petroleum Joint Authority; and
 - (b) the Greater Sunrise Off-shore Petroleum Joint Authority;are taken to have been established in relation to the Northern Territory.

64 Subsection 107(2)

After “The Designated Authority”, insert “, in respect of an adjacent area, or a part of an adjacent area,”.

65 Subsection 107(2)

Omit “is a permittee, lessee, licensee, infrastructure licensee or pipeline licensee”, substitute “holds a permit, lease, licence, infrastructure licence, or pipeline licence, in respect of one or more blocks in that adjacent area, or that part of an adjacent area”.

66 Paragraph 107(2)(a)

Omit “part of”, substitute “area in”.

67 Paragraph 107(2)(a)

Omit “or part by”, substitute “by”.

68 Paragraph 107(2)(b)

Omit “or part”.

69 Paragraph 107(2)(c)

Omit “or part”.

70 Paragraph 107(2)(d)

Omit “or part”.

71 Subsection 112(1)

After “Designated Authority”, insert “in respect of the adjacent area, or the part of the adjacent area, in which the blocks that the permit, lease or licence relates to are located,”.

72 Subsection 112(1)

Omit “being part of the adjacent area”, substitute “being part of that adjacent area, or that part of an adjacent area,”.

73 Subsection 112(1C)

After “within an adjacent area”, insert “, or a part of an adjacent area,”.

74 Subsection 112(1C)

After “that adjacent area”, insert “, or that part of an adjacent area,”.

75 Subsection 112(1C)

After “in an adjacent area”, insert “, or a part of an adjacent area,”.

Note 3

76 Subsection 112(1C)

After “first-mentioned adjacent area”, insert “, or part of an adjacent area”.

77 Subsection 112(4)

After “the Designated Authority”, insert “, in respect of an adjacent area, or a part of an adjacent area,”.

78 Subsection 112(4)

After “block” (wherever occurring), insert “in that adjacent area, or that part of an adjacent area,”.

79 Subsection 112(4A)

After “adjacent area”, insert “, or the part of an adjacent area,”.

80 Subsection 112(4B)

After “adjacent area”, insert “, or the part of an adjacent area,”.

81 Subsection 115(1)

After “an adjacent area”, insert “, or a part of an adjacent area,”.

82 Subsection 115(1)

After “recovery of petroleum”, insert “(including the measurement of the amount of petroleum recovered)”.

83 Subsection 115(1)

After “that adjacent area,”, insert “or that part of an adjacent area,”.

84 Subsection 119(1)

After “an adjacent area”, insert “, or a part of an adjacent area”.

85 Subsection 122(1)

After “Designated Authority”, insert “ in respect of an adjacent area, or a part of an adjacent area,”.

86 Subsection 122(1)

Omit “in an adjacent area”, substitute “in the adjacent area, or the part of an adjacent area,”.

89 Subsection 123(1)

Omit “The Designated Authority”, substitute “A Designated Authority in respect of an adjacent area, or a part of an adjacent area,”.

90 Subsection 123(1)

Omit “in an adjacent area”, substitute “in the adjacent area, or the part of an adjacent area,”.

91 Subsection 123(3)

After “the adjacent area”, insert “, or the part of the adjacent area,”.

92 Subsection 125(1)

After “adjacent area” (first occurring), insert “, or a part of an adjacent area,”.

93 At the end of subsection 125(1)

Add “, or that part of an adjacent area”.

94 After subsection 125(2)

Insert:

(2A) The Designated Authority in respect of the Eastern Greater Sunrise area may specify in a certificate given to an inspector under subsection (2) that the inspector is a Greater Sunrise visiting inspector.

95 Subsection 126(1)

After “an inspector”, insert “(other than a Greater Sunrise visiting inspector)”.

96 Paragraph 126(1)(a)

After “the adjacent area”, insert “or the part of an adjacent area,”.

97 Paragraph 126(1)(a)

After “that area” (wherever occurring), insert “or part”.

98 Paragraph 126(1)(b)

After “that area”, insert “or part”.

Note 3

99 Paragraph 126(1)(c)

After “in that area”, insert “or part”.

100 After subsection 126(1)

Insert:

- (1A) For the purposes of paragraph (1)(c), the Eastern Greater Sunrise area is taken to be specified in Schedule 2 as being an adjacent area in respect of the Northern Territory.
- (1B) For the purposes of this Act and the regulations, a Greater Sunrise visiting inspector who produces, at a reasonable time, a certificate given to him or her under section 125:
- (a) is to be given access to the regions in:
 - (i) the Eastern Greater Sunrise area; or
 - (ii) the Principal Northern Territory PSL area; specified in the certificate; and
 - (b) is to be given access to any structure, ship, aircraft or building in that region that, in his or her opinion, contains any equipment used to measure amounts of petroleum recovered from one or more of the Greater Sunrise unit reservoirs; and
 - (c) may inspect and test any equipment that, in his or her opinion, is being used in that region to measure amounts of petroleum recovered from one or more of the Greater Sunrise unit reservoirs.

101 Subsection 126(2)

After “subsection (1)”, insert “or (1B)”.

102 Section 127

After “if petroleum”, insert “, other than petroleum from the Greater Sunrise unit reservoirs,”.

103 At the end of section 127

Add:

- (2) Subject to this Act, if an amount of petroleum is recovered at a particular time from one of the Greater Sunrise unit reservoirs by a

Note 3

permittee, lessee or licensee in the permit area, lease area or licence area:

- (a) the current apportionment percentage of the amount of the petroleum becomes the property of the permittee, lessee or licensee; and
 - (b) property in the remainder of the amount of petroleum is determined under the Timor Sea Treaty; and
 - (c) the amount of petroleum is not subject to any rights of other persons (other than any person to whom the person whose property the petroleum becomes, under paragraph (a) or (b), assigns or otherwise disposes of the petroleum or an interest in the petroleum).
- (3) In this section:

current apportionment percentage, in relation to an amount of petroleum recovered at a particular time, means 79.9% unless, before that time, the Apportionment Ratio set out in article 7 of the Greater Sunrise unitisation agreement has changed, at least once, because it has been:

- (a) redetermined due to a technical redetermination undertaken in accordance with paragraph 8(1) of the agreement; or
- (b) altered due to an agreement in accordance with paragraph 8(2) of the Greater Sunrise unitisation agreement;

in which case it means the percentage of the production of petroleum from the Greater Sunrise unit reservoirs that is apportioned to Australia under the Greater Sunrise unitisation agreement immediately after the most recent change to the Apportionment Ratio.

104 Subsection 137(1)

After “adjacent area”, insert “, or a part of an adjacent area,”.

105 At the end of subsection 137(1)

Add “, or that part of an adjacent area”.

106 Subsection 157(3)

After “rights”, insert “, and compliance with Australia’s obligations,”.

Note 3

107 At the end of subsection 157(3)

Add “(whether in an adjacent area or not)”.

108 Subclause 29(1) of Schedule 7

After “an inspector”, insert “(other than a Greater Sunrise visiting inspector)”.

109 Subclause 29(1) of Schedule 7

After “adjacent area”, insert “, or a part of an adjacent area,”.

110 At the end of the Act

Add:

Schedule 8—Greater Sunrise areas

Note 1: See subsection 5(1) (definitions of *Greater Sunrise unit area*, *Western Greater Sunrise area* and *Eastern Greater Sunrise area*).

Note 2: For datum, see section 150M.

Greater Sunrise unit area

The Greater Sunrise unit area is the area the boundary of which commences at the point of Latitude 9° 50′ 00″ South, Longitude 127° 55′ 00″ East and runs:

- (a) thence easterly along the rhumb line to the point of Latitude 9° 50′ 00″ South, Longitude 128° 20′ 00″ East;
- (b) thence northerly along the rhumb line to the point of Latitude 9° 40′ 00″ South, Longitude 128° 20′ 00″ East;
- (c) thence easterly along the rhumb line to the point of Latitude 9° 40′ 00″ South, Longitude 128° 25′ 00″ East;
- (d) thence northerly along the rhumb line to the point of Latitude 9° 30′ 00″ South, Longitude 128° 25′ 00″ East;
- (e) thence westerly along the rhumb line to the point of Latitude 9° 30′ 00″ South, Longitude 128° 20′ 00″ East;
- (f) thence northerly along the rhumb line to the point of Latitude 9° 25′ 00″ South, Longitude 128° 20′ 00″ East;

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- (g) thence westerly along the rhumb line to the point of Latitude 9° 25' 00'' South, Longitude 128° 00' 00'' East;
- (h) thence south-westerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 127° 53' 20'' East;
- (i) thence westerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 127° 52' 30'' East;
- (j) thence southerly along the rhumb line to the point of Latitude 9° 35' 00'' South, Longitude 127° 52' 30'' East;
- (k) thence westerly along the rhumb line to the point of Latitude 9° 35' 00'' South, Longitude 127° 50' 00'' East;
- (l) thence southerly along the rhumb line to the point of Latitude 9° 37' 30'' South, Longitude 127° 50' 00'' East;
- (m) thence westerly along the rhumb line to the point of Latitude 9° 37' 30'' South, Longitude 127° 45' 00'' East;
- (n) thence southerly along the rhumb line to the point of Latitude 9° 45' 00'' South, Longitude 127° 45' 00'' East;
- (o) thence easterly along the rhumb line to the point of Latitude 9° 45' 00'' South, Longitude 127° 50' 00'' East;
- (p) thence southerly along the rhumb line to the point of Latitude 9° 47' 30'' South, Longitude 127° 50' 00'' East;
- (q) thence easterly along the rhumb line to the point of Latitude 9° 47' 30'' South, Longitude 127° 55' 00'' East;
- (r) thence southerly along the rhumb line to the point of commencement.

Eastern Greater Sunrise area

The Eastern Greater Sunrise area is the area the boundary of which commences at the point of Latitude 9° 50' 00'' South, Longitude 128° 03' 22.51'' East and runs:

- (a) thence easterly along the rhumb line to the point of Latitude 9° 50' 00'' South, Longitude 128° 20' 00'' East;
- (b) thence northerly along the rhumb line to the point of Latitude 9° 40' 00'' South, Longitude 128° 20' 00'' East;
- (c) thence easterly along the rhumb line to the point of Latitude 9° 40' 00'' South, Longitude 128° 25' 00'' East;
- (d) thence northerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 128° 25' 00'' East;

Note 3

- (e) thence westerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 128° 20' 00'' East;
- (f) thence northerly along the rhumb line to the point of Latitude 9° 25' 00'' South, Longitude 128° 20' 00'' East;
- (g) thence westerly along the rhumb line to the point of Latitude 9° 25' 00'' South, Longitude 128° 00' 00'' East;
- (h) thence south-westerly along the rhumb line to the point of Latitude 9° 28' 00'' South, Longitude 127° 56' 00'' East;
- (i) thence south-easterly along the geodesic to the point of Latitude 9° 29' 57'' South, Longitude 127° 58' 47'' East;
- (j) thence south-easterly along the geodesic to the point of commencement.

Western Greater Sunrise area

The Western Greater Sunrise area is the area the boundary of which commences at the point of Latitude 9° 28' 00'' South, Longitude 127° 56' 00'' East and runs:

- (a) thence south-westerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 127° 53' 20'' East;
- (b) thence westerly along the rhumb line to the point of Latitude 9° 30' 00'' South, Longitude 127° 52' 30'' East;
- (c) thence southerly along the rhumb line to the point of Latitude 9° 35' 00'' South, Longitude 127° 52' 30'' East;
- (d) thence westerly along the rhumb line to the point of Latitude 9° 35' 00'' South, Longitude 127° 50' 00'' East;
- (e) thence southerly along the rhumb line to the point of Latitude 9° 37' 30'' South, Longitude 127° 50' 00'' East;
- (f) thence westerly along the rhumb line to the point of Latitude 9° 37' 30'' South, Longitude 127° 45' 00'' East;
- (g) thence southerly along the rhumb line to the point of Latitude 9° 45' 00'' South, Longitude 127° 45' 00'' East;
- (h) thence easterly along the rhumb line to the point of Latitude 9° 45' 00'' South, Longitude 127° 50' 00'' East;
- (i) thence southerly along the rhumb line to the point of Latitude 9° 47' 30'' South, Longitude 127° 50' 00'' East;
- (j) thence easterly along the rhumb line to the point of Latitude 9° 47' 30'' South, Longitude 127° 55' 00'' East;

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- (k) thence southerly along the rhumb line to the point of Latitude 9° 50' 00'' South, Longitude 127° 55' 00'' East;
- (l) thence easterly along the rhumb line to the point of Latitude 9° 50' 00'' South, Longitude 128° 03' 22.51'' East;
- (m) thence north-westerly along the geodesic to the point of Latitude 9° 29' 57'' South, Longitude 127° 58' 47'' East;
- (n) thence north-westerly along the geodesic to the point of commencement.

The following amendments commence on the later of immediately after section 4 to the *Greater Sunrise Unitisation Agreement Implementation Act 2004* or immediately after item 1 of Schedule 3 to the *Petroleum (Submerged Lands) Amendment Act 2003* commences:

87 Paragraph 122A(1)(a)

After “adjacent area”, insert “, or a part of an adjacent area,”.

88 Paragraph 122A(2)(a)

After “adjacent area”, insert “, or a part of an adjacent area,”.

As at 4 June 2004 the amendments are not incorporated in this compilation.

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Table A

Application, saving or transitional provisions

Primary Industries and Energy Legislation Amendment Act (No. 1) 1998
(No. 102, 1998)

Schedule 1

47 Compensation—constitutional safety-net

(1) If:

- (a) apart from this item, the operation of any of items 40 to 46 would result in the acquisition of property from a person otherwise than on just terms; and
- (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;

the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Table A

Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000
(No. 5, 2000)

Schedule 1

32 Saving

Despite the repeal by item 31 of subsection 31(5) of the *Petroleum (Submerged Lands) Act 1967* as in force at the time immediately before the commencement of that item, that subsection as in force at that time continues to apply in respect of the first application after the commencement of that item for the renewal of a permit that was granted under that Act before that commencement.

68 Application

The amendment made by item 67 applies to pipeline licences in force immediately before the commencement of that item (including pipeline licences that had been renewed under section 69 of the *Petroleum (Submerged Lands) Act 1967* as in force before that commencement or to which subsection 69(8) of that Act as so in force applied) as well as to pipeline licences granted after that commencement.

72 Saving

A renewal of a pipeline licence that was in force under section 70 of the *Petroleum (Submerged Lands) Act 1967* immediately before the repeal of subsection (3) of that section continues, subject to Part III of that Act, to be subject to any conditions referred to in that subsection to which it was subject immediately before the repeal.

142 Saving

- (1) Despite the repeal of section 118 of the *Petroleum (Submerged Lands) Act 1967* by item 141, that section continues to apply in respect of information given to the Designated Authority before the commencement of item 161.
- (2) Any regulations providing for the calculation of a fee for the purposes of a provision of section 118 of the *Petroleum (Submerged Lands) Act 1967* as in force immediately before the repeal of that section:

Table A

- (a) continue in force for the purposes of that section as it continues to apply under subitem (1); and
 - (b) also separately continue in force as if they had been made for the purposes of the corresponding provision of Part IIIA inserted in that Act by item 161.
- (3) Any regulations in force under paragraph (2)(a) or (b) may, for the purposes of their application under that paragraph, be amended or repealed by regulations made under section 157 of the *Petroleum (Submerged Lands) Act 1967*.

152 Saving

An appointment of a person as an inspector under subsection 125(1) of the *Petroleum (Submerged Lands) Act 1967* by the Joint Authority that was in force immediately before the commencement of item 151 continues in force as if it had been made by the Designated Authority under that subsection as amended by that item.

Crimes at Sea Act 2000 (No. 13, 2000)

Schedule 2

11 Application of amendments

- (1) The amendments made by this Schedule apply to acts and omissions that take place after this Schedule commences.
- (2) Although this Schedule repeals the *Crimes at Sea Act 1979*, that Act continues to apply, in relation to acts and omissions that took place before this Schedule commences, as if the repeal had not happened.
- (3) For the purposes of this item, if an act or omission is alleged to have taken place between two dates, one before and one on or after the day on which this Schedule commences, the act or omission is alleged to have taken place before this Schedule commences.

Table A

Timor Gap Treaty (Transitional Arrangements) Act 2000 (No. 25, 2000)

4 The transition time

In this Act:

transition time means 1.23 am Australian Central Standard Time on 26 October 1999.

Note: This time corresponds to the time in New York when the United Nations Security Council adopted Resolution 1272 (1999), which established UNTAET and gave it responsibility for the administration of East Timor. In 2000 the text of the Resolution was available in the Library of the Department of Foreign Affairs and Trade and accessible on the Internet through the Department's or the United Nations' world-wide web site.

5 Validity of things done by the Ministerial Council and the Joint Authority

- (1) Any thing done by the Ministerial Council or the Joint Authority, during the period commencing on the transition time and ending on 5.55 pm Australian Central Standard Time on 10 February 2000, is not invalid:
- (a) merely because the Republic of Indonesia ceased to be a party to the Treaty, and UNTAET became a party to the Treaty, at the transition time; or
 - (b) merely because of an invalidity in the membership of the Ministerial Council or the Joint Authority.

- (2) In this section:

Joint Authority and **Ministerial Council** have the meanings given them by subsection 5(1) of the *Petroleum (Timor Gap Zone of Cooperation) Act 1990*.

Treaty has the meaning given by subsection 5(1) of the *Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990* (as in force immediately before the transition time).

UNTAET means the United Nations Transitional Administration in East Timor.

Table A

6 Protection against retrospective criminal liability

A person does not commit an offence if the person would not have committed the offence had the amendments made by the items in Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) commenced on the day on which this Act received the Royal Assent (rather than commencing at the transition time).

Petroleum (Submerged Lands) Legislation Amendment Act 2001 (No. 28, 2001)

Schedule 1

19 Transitional—acts of the Joint Authority to be attributed to the Designated Authority

- (1) This item applies to any thing done by, or in relation to, the Joint Authority under any of the following provisions of the *Petroleum (Submerged Lands) Act 1967* before the commencement of this item:
 - (a) subsection 22A(6);
 - (b) subsections 36(6) to (9) (inclusive);
 - (c) section 37;
 - (d) paragraph 38H(3)(b);
 - (e) subsection 38H(4);
 - (f) paragraph 39A(5)(b);
 - (g) paragraph 40(4)(b);
 - (h) section 78;
 - (i) section 81;
 - (j) subsection 81A(1);
 - (k) subsection 85(1).
- (2) The thing has effect, after the commencement of this item, as if it had been done by, or in relation to, the Designated Authority.

Table A**20 Transitional—references in instruments to the Joint Authority become references to the Designated Authority**

- (1) For the purposes of this item, an *eligible instrument* is an instrument that:
- (a) was in force immediately before the commencement of this item; and
 - (b) contains a reference to the Joint Authority; and
 - (c) arises out of, or is connected with, anything done by, or in relation to, the Joint Authority under any of the following provisions of the *Petroleum (Submerged Lands) Act 1967* before the commencement of this item:
 - (i) subsection 22A(6);
 - (ii) subsections 36(6) to (9) (inclusive);
 - (iii) section 37;
 - (iv) paragraph 38H(3)(b);
 - (v) subsection 38H(4);
 - (vi) paragraph 39A(5)(b);
 - (vii) paragraph 40(4)(b);
 - (viii) section 78;
 - (ix) section 81;
 - (x) subsection 81A(1);
 - (xi) subsection 85(1).
- (2) The Minister may, by writing, declare that a specified eligible instrument has effect, after the commencement of this item, as if each reference in the instrument to the Joint Authority were a reference to the Designated Authority.
- Note: An instrument may be specified by name, by inclusion in a specified class or in any other way.
- (3) A declaration under subitem (2) has effect accordingly.
- (4) In this item:
instrument includes a document.

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21 Transitional—regulations

The Governor-General may make regulations providing for matters of a transitional nature arising from the amendments made by this Part.

25 Application of amendments

The amendments made by this Part apply to acts or matters done or omitted to be done after the commencement of this item.

28 Transitional—section 107 of the *Petroleum (Submerged Lands) Act 1967*

- (1) This item applies if the Designated Authority purported to give a notice under subsection 107(1A) of the *Petroleum (Submerged Lands) Act 1967* during the period:
 - (a) beginning at the commencement of this item; and
 - (b) ending immediately before the day on which this Act received the Royal Assent.
- (2) The *Petroleum (Submerged Lands) Act 1967* has effect, after the commencement of this item, as if the notice had been given under subsection 107(1) of that Act as amended by this Part.

28A Transitional—acts or omissions that happen before Royal Assent

- (1) For the purposes of this item, the *transitional period* is the period:
 - (a) beginning at the commencement of this item; and
 - (b) ending immediately before the day on which this Act received the Royal Assent.
- (2) This Part does not have the effect of making a person liable to prosecution for an offence constituted by an act or omission that happens during the transitional period.
- (3) Paragraph 108(2)(b) of the *Petroleum (Submerged Lands) Act 1967* does not apply to a failure to remove property during the transitional period in accordance with a direction under section 107 of that Act.
- (4) Paragraphs 113(2)(b) and (3)(b) of the *Petroleum (Submerged Lands) Act 1967* do not apply in relation to the doing of any thing required to

Table A

be done during the transitional period by a direction under section 107 of that Act.

39 Application of amendments

The amendments made by this Part apply to decisions made after the commencement of this item.

Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001 (No. 140, 2001)

4 Application of amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Taxation Laws Amendment Act (No. 6) 2001 (No. 169, 2001)

Schedule 1

14 Transitional

If, before the commencement of this item, a notice was issued by a Designated Authority stating that sufficient information had been received to determine an application made under section 39A, 40 or 40A of the *Petroleum (Submerged Lands) Act 1967*, then, for the purposes of that Act as amended by this Act:

- (a) that notice is taken to have been issued under subsection 41(3) of that Act; and
- (b) the date that the notice was issued is taken to be the date specified in the notice.

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15 Application

The amendments made by this Part apply to projects in respect of which an application was made under section 39A, 40 or 40A of the *Petroleum (Submerged Lands) Act 1967* after 23 December 1998.

Petroleum (Submerged Lands) Amendment Act 2002 (No. 93, 2002)

Schedule 1

5 Transitional—section 38H of the *Petroleum (Submerged Lands) Act 1967*

If, before the commencement of this item:

- (a) a lessee had already complied with a notice of the kind referred to in paragraph 38H(3)(b) of the *Petroleum (Submerged Lands) Act 1967* during the term of the lease; and
- (b) the Designated Authority had given to the lessee during that term a further notice of that kind; and
- (c) the lessee had not complied with the further notice;

the *Petroleum (Submerged Lands) Act 1967* has effect, after the commencement of this item, as if the Designated Authority had not given the further notice.

Petroleum (Submerged Lands) Amendment Act 2003 (No. 118, 2003)

Schedule 2

4 Application of amendments

The amendments of section 129 of the *Petroleum (Submerged Lands) Act 1967* made by this Schedule apply to amounts that become payable under that Act after the commencement of this item.

Schedule 3**15 Transitional regulations**

The Governor-General may make regulations in relation to transitional matters arising out of the amendments of the *Petroleum (Submerged Lands) Act 1967* made by this Schedule.

The following provisions commence on 1 January 2005:

Schedule 1**198 Inspections**

(1) Clause 30 of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967* has effect, after the commencement of this item, as if the following paragraphs were inserted after each of paragraphs (1)(c) and (2)(c) of that clause:

(d) to ascertain whether the requirements of, or any requirements properly made under:

(i) this Schedule (as in force before the commencement of this paragraph); or

(ii) the regulations (within the meaning of this Schedule as in force before the commencement of this paragraph); were being complied with before the commencement of this paragraph; or

(e) concerning a contravention, or possible contravention, before the commencement of this paragraph, of:

(i) this Schedule (as in force before the commencement of this paragraph); or

(ii) the regulations (within the meaning of this Schedule as in force before the commencement of this paragraph); or

(f) concerning an accident or dangerous occurrence that has happened, before the commencement of this paragraph, in the performing of work (within the meaning of this Schedule as in force before the commencement of this paragraph).

(2) If an OHS inspector conducts an inspection under paragraph 30(1)(d), (e) or (f) or (2)(d), (e) or (f) of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967* in relation to a matter that was the subject of an

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investigation that was being conducted by an investigator under clause 30 of that Schedule immediately before the commencement of this item:

- (a) the OHS inspector may have regard to anything that happened in the course of the investigation conducted by the investigator; and
- (b) the investigator and the Designated Authority must take all reasonable steps to ensure that the OHS inspector is given, or is provided with access to, all information, documents and other material that:
 - (i) was obtained in the course of the investigation conducted by the investigator; and
 - (ii) is relevant to the inspection conducted by the OHS inspector.

199 Prosecutions

- (1) Clause 49 of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967* has effect, after the commencement of this item, as if:
 - (a) each reference in that clause to Schedule 7 to that Act included a reference to that Schedule as in force before the commencement of this item; and
 - (b) each reference in that clause to regulations set out in or prescribed for the purposes of subsection 140H(2) of that Act included a reference to the regulations (within the meaning of Schedule 7 to that Act as in force before the commencement of this item).
- (2) If:
 - (a) any proceedings mentioned in subclause 49(1) of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967*, as in force before the commencement of this item, had been instituted by the Designated Authority or by an investigator; and
 - (b) those proceedings were pending in any court immediately before the commencement of this item;

the Safety Authority is, by force of this item, substituted for the Designated Authority or the investigator as a party to the proceedings.

Table A

200 State/Northern Territory occupational health and safety laws ceasing to apply in the adjacent area

If, as a result of the amendments of section 9 or 11 of the *Petroleum (Submerged Lands) Act 1967* made by this Schedule, a law, or a part of a law, of a State or the Northern Territory ceases to apply to a facility located in the adjacent area of that State or Territory, section 8 of the *Acts Interpretation Act 1901* has effect as if:

- (a) the law or part of the law, to the extent that it previously applied, were an Act or a part of an Act; and
- (b) the cessation were the repeal of that Act or that part of that Act, as the case may be.

201 Transitional regulations

The Governor-General may make regulations in relation to transitional matters arising out of the amendments of the *Petroleum (Submerged Lands) Act 1967* made by this Schedule.