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# PETROLEUM AND MINERALS AUTHORITY ACT 1973

(See Note on page 355)

## No. 43 of 1974

An Act to establish a Petroleum and Minerals Authority.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

### PART I—PRELIMINARY

- Short title.       1. This Act may be cited as the *Petroleum and Minerals Authority Act 1973*.<sup>1</sup>
- Commence-  
ment.           2. This Act shall come into operation on a date to be fixed by Proclamation.
- Interpret-  
ation.         3. In this Act, unless the contrary intention appears—  
“approved bank” means a bank approved by the Treasurer;  
“Australian continental land mass” means so much of the morphological unit of which Australia forms part as comprises Australia and the part of that unit surrounding Australia extending to the outer boundary of the continental shelf, within the meaning of the Convention, adjacent to that coast, that is to say—  
    (a) subject to paragraph (b), to the foot of the continental rise or, in any place where there is no continental rise, to the foot of the continental slope; and  
    (b) in any place where the outer boundary of the continental shelf, within the meaning of the Convention, adjacent to the coast of Australia has, whether before or after the commencement of this Act, been determined by agreement between Australia and another country—to that boundary,  
but does not include—  
    (c) Papua New Guinea; or  
    (d) a part of that morphological unit adjacent to Papua New Guinea declared by Proclamation to be excluded from the Australian continental land mass;  
“Authority” means the Petroleum and Minerals Authority established by this Act;

- “Chairman” means the Chairman of the Authority, and includes a person acting as the Chairman of the Authority;
- “construction material” means sand, clay, stone, earth or gravel;
- “Convention” means the Convention entitled “Convention on the Continental Shelf” signed at Geneva on 29 April 1958;
- “Executive Member” means the Executive Member of the Authority, and includes a person acting as the Executive Member of the Authority;
- “member” means a member of the Authority, and includes a person acting as a member of the Authority;
- “mineral” means a naturally occurring substance or mixture of substances (other than petroleum);
- “minerals exploration area” means an area on the Australian continental land mass declared, by a notice under section 43 that is in force, to be a minerals exploration area for the purposes of this Act;
- “part-time member” means a member of the Authority appointed to be a part-time member, and includes a person acting as a part-time member of the Authority;
- “petrochemical” means a substance, whether in a gaseous, liquid or solid state, but not being a petroleum product, manufactured from any of, or from a mixture of any of, the following substances, that is to say, a petroleum product, petroleum or a petroliferous mineral;
- “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 a hydrocarbon or 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;
- “petroleum exploration area” means an area on the Australian continental land mass declared, by a notice under section 43 that is in force, to be a petroleum exploration area for the purposes of this Act;
- “petroleum pool” means a naturally occurring accumulation of petroleum;
- “petroleum product” means—
- (a) any hydrocarbon or mixture of hydrocarbons produced by subjecting petroleum to a process of refining or produced from petroliferous minerals; or
  - (b) any mixture of a hydrocarbon or hydrocarbons so produced with another substance or other substances;

“petroliferous mineral” means any naturally occurring mineral from which any hydrocarbon, whether in a gaseous, liquid or solid state, may be produced;

“pipeline” means a pipe or system of pipes for conveying petroleum or another substance;

“refined substance” means a metal or another substance produced in the course of, or as a result of, subjecting to a process or processes of refining a metal or other substance obtained as a result of the treatment of minerals;

“Secretary” means the Secretary to the Department of Minerals and Energy;

“Territory” means an internal Territory.

Application of Act.

4. The operation of this Act extends to the outer limit of the Australian continental land mass and applies to all persons, including foreigners.

## PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE PETROLEUM AND MINERALS AUTHORITY

Establishment of Authority.

5. There is hereby established an authority by the name of the Petroleum and Minerals Authority.

Functions of Authority in relation to petroleum, &c.

6. Subject to section 9, the functions of the Authority include the following:—

- (a) to explore for petroleum and petroliferous minerals on the Australian continental land mass and elsewhere;
- (b) to recover petroleum and petroliferous minerals from the Australian continental land mass or from any other place;
- (c) to refine petroleum in Australia or elsewhere;
- (d) to manufacture petroleum products and petrochemicals in Australia or elsewhere;
- (e) to buy and sell petroleum, petroliferous minerals, petroleum products and petrochemicals, whether in Australia or elsewhere; and
- (f) to transport petroleum, petroliferous minerals, petroleum products and petrochemicals on the Australian continental land mass and between Australia and other countries.

Functions of Authority in relation to minerals.

7. (1) Subject to section 9, the functions of the Authority include the following:—

- (a) to explore for minerals on the Australian continental land mass and elsewhere;
- (b) to recover minerals from their natural site on the Australian continental land mass or from any other place;

- (c) to treat minerals for the purpose of extracting metals and other substances in Australia or elsewhere;
- (d) to refine metals and other substances obtained as a result of the treatment of minerals in Australia or elsewhere;
- (e) to crush, screen or otherwise treat or prepare for sale coal and construction materials in Australia or elsewhere;
- (f) to buy and sell minerals, refined substances and manufactured materials and substances, whether in Australia or elsewhere; and
- (g) to transport minerals, refined substances and manufactured materials and substances on the Australian continental land mass and between Australia and other countries.

(2) In this section—

“manufactured materials and substances” means materials and substances manufactured from a refined substance;

“minerals” does not include petroliferous minerals.

8. Subject to section 9, the Authority has, in addition to any other functions conferred on it by this Act, the following functions:—

Other functions of Authority.

- (a) to assist, otherwise than by providing a financial grant or subsidy, persons to carry on, and to co-operate with persons in the carrying on, of any undertaking or operation of a kind within the functions of the Authority under section 6 or 7;
- (b) to operate, or make arrangements with a view to the operation of, a scheme designed to ascertain the quantities of petroleum and minerals available for recovery from the Australian continental land mass; and
- (c) to co-operate with authorities, organizations and other persons in formulating proposals designed to ensure that the recovery of petroleum and minerals so available is carried on in the best interests of the Australian people having regard to the long term needs of the Australian people.

9. (1) Subject to sub-section (2), the Authority may perform the functions conferred on it by sections 6, 7 and 8 only—

Restrictions on exercise of functions.

- (a) in a Territory;
- (b) in relation to the natural resources of any part of the submarine areas of the Australian continental land mass;
- (c) for the purpose of, by way of or so as to facilitate trade and commerce with other countries, among the States, between Territories or between a Territory and a State;
- (d) for the purpose of ensuring the availability when a state of war, or danger of war, exists, of adequate reserves and supplies of petroleum, petroleum products, petrochemicals, minerals and

refined substances capable of being used for the purpose of the defence of Australia; or

- (e) in respect of matters incidental to or related to the performance of its functions in accordance with paragraph (a), (b), (c) or (d).

(2) Sections 6, 7 and 8 shall be taken to confer on the Authority only functions that may be performed by the Authority in accordance with sub-section (1).

Duties of Authority.

10. (1) In relation to operations by way of exploration for, or recovery of, petroleum or a mineral, it is the duty of the Authority to make thorough preliminary investigations in accordance with generally accepted principles.

(2) The Authority shall perform its functions, in so far as it is reasonably practicable for it to do so, in such a manner as will ensure that adequate quantities of petroleum or of any mineral of a kind ordinarily imported into Australia from another country are available for use in Australia at any time when the exportation of petroleum or minerals of that kind to Australia is restricted or prohibited by the Government of another country.

(3) It is the duty of the Authority—

(a) to ensure that operations carried on by or on behalf of the Authority in a petroleum exploration area in connexion with the exploration of that area for petroleum or the recovery of petroleum from that area are carried on in a proper and workmanlike manner and in accordance with good oil field practice;

(b) to ensure that all operations carried on by or on behalf of the Authority—

(i) in a minerals exploration area in connexion with the exploration of that area for minerals or the recovery of minerals from that area; or

(ii) in connexion with the construction, maintenance or operation of a pipeline,

are carried on in a proper and workmanlike manner;

(c) to ensure that—

(i) all structures, equipment and other property that the Authority brings, or causes to be brought, into a petroleum exploration area or a minerals exploration area are maintained in good condition and repair; and

(ii) all structures, equipment and other property in a petroleum exploration area or minerals exploration area belonging to the Authority or under its control that are not used or to be used in that area in connexion with operations by way of exploration for, or recovery of, petroleum or minerals are removed from that area;

- (d) to secure the safety, health and welfare of persons engaged in operations of the Authority in a petroleum exploration area or minerals exploration area;
- (e) to carry on operations by way of exploration for, or recovery of, petroleum or minerals on the submarine areas of the Australian continental land mass in a manner that does not interfere with—
  - (i) navigation;
  - (ii) fishing;
  - (iii) the conservation of the resources of the sea and sea-bed; or
  - (iv) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of petroleum or minerals or by way of the construction or operation of a pipeline,

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of the Authority; and

- (f) to consider, in connexion with the exercise of any of its functions, factors connected with the ecology and the environment.

(4) In particular, and without limiting the generality of sub-section (3), the Authority shall, in carrying on operations connected with exploration for, or the recovery of, petroleum in a petroleum exploration area—

- (a) control the flow, and prevent the waste or escape, in that area of petroleum or water;
- (b) prevent the escape in that area of any mixture of water or drilling fluid with petroleum or any other matter;
- (c) prevent damage to petroleum-bearing strata in any area, whether adjacent to that area or not;
- (d) keep separate each petroleum pool discovered in that area; and
- (e) prevent water or any other matter entering a petroleum pool through wells in that area, except when required by, and in accordance with, good oil field practice.

**11.** The Authority has power to do, in Australia or elsewhere, all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of its functions under this Act. General powers of Authority.

**12.** (1) Without limiting the generality of section 11, the Authority has power, for or in connexion with the performance of its functions— Particular powers of Authority.

- (a) to purchase land;
- (b) to take land on lease;
- (c) to take easements over land;
- (d) to sell, or otherwise dispose of, land vested in the Authority but not required for the purposes of the Authority;



- (e) to lease land vested in the Authority the use of which is not for the time being required by the Authority;
- (f) to release any easements over land;
- (g) to purchase or take on hire plant, machinery, equipment or other goods;
- (h) to dispose of plant, machinery, equipment or other goods owned by the Authority but not required by the Authority;
- (i) to provide transport, accommodation, provisions, medical treatment, hospital facilities and amenities for officers and employees of the Authority and their families;
- (j) subject to sub-section (2), to enter into an agreement, on such terms and conditions as the Authority deems fit, with any person or body for or in relation to the performance of work, the provision of services or the doing of any other thing—
  - (i) by the Authority for, on behalf of or in association with the person or body; or
  - (ii) by the person or body for or on behalf of the Authority;
- (k) to form, or participate in the formation of, a company;
- (l) to subscribe for or otherwise acquire, and dispose of, shares in, or debentures or other securities of, a company;
- (m) to enter into an agreement, on such terms and conditions as the Authority deems fit, with any person or body for the use by the Authority of a patent, process or method of performing any work;
- (n) to authorize the use of any patent vested in the Authority;
- (o) to acquire, upon such terms as the Authority deems fit, an interest in—
  - (i) a mining undertaking that is being or is to be carried on on the Australian continental land mass or elsewhere by another person or body; or
  - (ii) any undertaking other than a mining undertaking that is being or is to be carried on in Australia or elsewhere by another person or body and is an undertaking of a kind that the Authority is authorized by this Act to carry on;
- (p) to lend moneys, upon such terms and conditions as the Authority deems fit, to a person or body carrying on or intending to carry on—
  - (i) a mining undertaking on the Australian continental land mass; or
  - (ii) any other undertaking in Australia of a kind that the Authority is authorized by this Act to carry on,  
for use by the body or person in connexion with that mining undertaking or other undertaking;

- (q) to underwrite issues of shares in, or debentures or other securities of, a company carrying on, or intending to carry on, an undertaking of a kind referred to in paragraph (p);
- (r) to enter into a partnership or arrangement for sharing the risks involved in carrying on operations by way of exploration for, or recovery of, petroleum or minerals, and for sharing the petroleum or minerals recovered in the course of carrying on the operations or the profits derived from carrying on the operations;
- (s) to give guarantees; and
- (t) to do anything incidental to any of its powers.

(2) Sub-section (1) does not authorize the Authority to enter into an agreement for the Authority to explore for, or recover, a substance, being petroleum or a mineral, for, on behalf of or in association with another person or body at any place on the Australian continental land mass unless that person or body is authorized to explore for, or recover, as the case requires, the substance at that place.

(3) The Authority is not authorized by paragraph (1) (q) to underwrite issues of shares in, or debentures or other securities of, a company or companies the nominal values of which exceed at any time in the aggregate such sum as the Treasurer determines.

(4) The power of the Authority to give guarantees in accordance with paragraph (1) (s) is subject to such limits as the Treasurer determines as to the total amount of moneys (other than interest) the payment of which may at any time be the subject of such guarantees.

(5) In this section “mining undertaking” means an undertaking in the course of which operations by way of—

- (a) exploration for petroleum or minerals; or
- (b) extraction of petroleum or minerals from its or their natural site, are, or are proposed to be, carried on.

**13. (1) Where—**

- (a) the occupier of land has consented in writing to an authorized person entering upon the land, with such assistance as is necessary, for the purpose of exercising the functions of an authorized person under this section; or
- (b) a warrant granted under section 50 authorizes an authorized person to enter upon land, with such assistance as is necessary, for the purpose of exercising those functions,

the authorized person may, with such assistance as is necessary—

- (c) enter upon the land; and
- (d) exercise on land so entered the functions of an authorized person under this section.

Power to enter land and take levels, &c.

(2) Where an authorized person enters upon land in accordance with sub-section (1), he shall, upon demand by the occupier of the land, produce to the occupier an instrument issued by the Authority certifying that he is an authorized person for the purposes of this section and, if the entry is in pursuance of a warrant, that warrant.

(3) A person shall not, without reasonable excuse, obstruct or hinder a person acting in pursuance of sub-section (1).

Penalty: \$200.

(4) The functions of an authorized person under this section are, for the purpose of ascertaining the suitability of land for the carrying out of the functions of the Authority—

- (a) to inspect the land; and
- (b) on land entered by him, to make surveys, take levels, sink bores, dig pits and examine the soil and do other acts necessary for that purpose.

(5) In this section—

- (a) “authorized person” means a person appointed in writing by the Authority to be an authorized person for the purposes of this section; and
- (b) a reference to land includes a reference to land owned or occupied by a State.

Power to  
enter and  
occupy land.

**14.** (1) Where—

- (a) the occupier of land has consented in writing to the Authority entering upon the land and doing an act specified under sub-section (2); or
- (b) a warrant granted under section 50 authorizes the Authority to enter upon land and do such an act,

the Authority may, for the purposes of this Act—

- (c) enter upon and occupy the land; and
- (d) do that act on and over land so occupied.

(2) The acts referred to in sub-section (1) are—

- (a) to construct, build or place any plant, machinery, equipment or goods;
- (b) to take sand, clay, stone, earth, gravel, timber, wood or other materials or things;
- (c) to make cuttings or excavations;
- (d) to dispose of sand, clay, stone, earth, gravel, timber, wood or other materials or things;
- (e) to erect workshops, sheds and other buildings;
- (f) to make roads; and
- (g) to manufacture and work materials of any kind.

(3) The Authority may demolish, destroy or remove on or from land occupied by it in pursuance of sub-section (1) any plant, machinery, equipment, goods, workshop, shed, building or road constructed, built, placed or erected on the land in pursuance of that sub-section.

(4) The person shall not, without reasonable excuse, obstruct or hinder the exercise of the powers or rights of the Authority under this section.

Penalty: \$200.

(5) Before occupying land in pursuance of a warrant, the Authority shall, upon demand by the occupier of the land, cause the warrant to be produced to the occupier.

(6) In this section, a reference to land includes a reference to land owned or occupied by a State.

**15.** (1) The Authority shall comply with the directions (if any) of the Minister in relation to the performance of a function or the exercise of a power by the Authority under this Act. Authority subject to Minister.

(2) Without limiting the application of sub-section (1), where the Minister is satisfied that it is desirable to do so for the purpose of carrying out the policy of the Government of Australia with respect to aid for overseas countries, the Minister may direct the Authority to carry on outside Australia an undertaking or operation of a kind within the functions of the Authority and may give directions to the Authority with respect to the financial or other arrangements in accordance with which the Authority is to carry on the undertaking or operations.

(3) A direction received by the Authority under sub-section (1) or (2) shall be set out in the report of the Authority under section 53 with respect to its operations during the year in which the direction was received.

### PART III—CONSTITUTION AND MEETINGS OF THE AUTHORITY

**16.** (1) The Authority—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold or dispose of real and personal property; and
- (d) may sue or be sued in its corporate name.

Authority to be a body corporate.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

Membership  
of Authority.

**17.** (1) The Authority shall consist of five members, namely—

- (a) the Chairman;
- (b) the Secretary to the Department of Minerals and Energy;
- (c) the Executive Member; and
- (d) two other members.

(2) The members other than the Secretary shall be appointed by the Governor-General, the Chairman and the Executive Member being appointed as full-time members and the members referred to in paragraph (1) (d) being appointed as part-time members.

(3) A member other than the Secretary shall be appointed for such period, not exceeding 7 years, as the Governor-General specifies in the instrument of appointment, but is eligible for re-appointment.

(4) The Authority shall be deemed to have been constituted upon the appointment of the Executive Member.

(5) Notwithstanding sub-section 23 (3), until the appointment of the part-time members or the expiration of 6 months after the commencement of this Act, whichever first occurs, a meeting of the Authority at which the Secretary and the Executive Member are present shall be deemed to be a valid meeting and the remaining sub-sections of section 23 have effect as if the Secretary were the Chairman.

(6) The performance of the functions or the exercise of the powers of the Authority is not affected by reason of there being a vacancy or vacancies in the membership of the Authority.

Remuner-  
ation and  
allowances.

**18.** (1) The Chairman and the Executive Member shall be paid remuneration at such respective rates, and annual allowances at such respective rates (if any), as the Parliament fixes, but, until 1 January 1975, those rates of remuneration and the rates (if any) of those allowances, shall be as prescribed.

(2) A part-time member shall be paid remuneration at such rate as the Parliament fixes, but, until 1 January 1975 the rate of that remuneration shall be as prescribed.

(3) A part-time member shall be paid such allowances (not including an annual allowance) as are prescribed.

Leave of  
absence.

**19.** The Minister may grant leave of absence to a member other than the Secretary on such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation.

**20.** The Chairman, the Executive Member or a part-time member may resign his office by writing under his hand delivered to the Governor-General.

21. (1) The Governor-General may terminate the appointment of the Chairman, the Executive Member or a part-time member for misbehaviour or physical or mental incapacity. Termination of appointment.

(2) If—

- (a) the Chairman, the Executive Member or a part-time member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) the Chairman or the Executive Member—
  - (i) engages in paid employment outside the duties of his office;
  - (ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or
  - (iii) in any way, otherwise than as a member and in common with the other members, of an incorporated company consisting of not less than twenty-five persons becomes concerned or interested in a contract entered into by or on behalf of the Authority or participates or claims to participate in the profit of any such contract or any benefit or emolument arising from any such contract; or
- (c) a part-time member—
  - (i) is absent, except on leave granted by the Authority, from three consecutive meetings of the Authority; or
  - (ii) fails to comply with his obligations under sub-section (3),

the Governor-General shall terminate the appointment of the member.

(3) A part-time member who is directly or indirectly interested in a contract made or proposed to be made by the Authority, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(4) A disclosure under sub-section (3) shall be recorded in the minutes of the Authority, and the part-time member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to the contract; and
- (b) shall be disregarded for the purposes of constituting a quorum of the Authority for any such deliberation or decision.

Acting  
appoint-  
ments.

**22.** (1) Where the Chairman or the Executive Member is, or is expected to be, absent from duty or from Australia or there is a vacancy in the office of Chairman or Executive Member, the Minister may appoint a person to be acting Chairman or acting Executive Member, as the case requires, during the absence or until the filling of the vacancy.

(2) An acting Chairman or an acting Executive Member appointed in the event of the office of Chairman or Executive Member, as the case may be, becoming vacant shall not continue in office after the expiration of 12 months after the occurrence of the vacancy.

(3) If a part-time member is at any time appointed acting Chairman or acting Executive Member, his office shall, during the period of his appointment, be deemed, for the purposes of this section, to be vacant.

(4) Where a part-time member is, or is expected to be, unable (whether on account of illness or otherwise) to attend meetings of the Authority, or there is a vacancy in the office of a part-time member, the Minister may appoint a person to be an acting member during that inability, or until the filling of the vacancy, and the person so appointed has all the powers and functions of a part-time member.

(5) The Minister may—

- (a) determine the terms and conditions of appointment of a person appointed under this section; and
- (b) at any time terminate such an appointment.

(6) The validity of a decision of the Authority shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

Meetings of  
Authority.

**23.** (1) The Authority shall hold such meetings as are necessary for the performance of its functions.

(2) A meeting of the Authority may be convened at any time—

- (a) by the Chairman; or
- (b) if there is a vacancy in the office of Chairman or the Chairman is absent from duty or from Australia—by the Secretary.

(3) At a meeting of the Authority, three members constitute a quorum.

(4) The Chairman shall preside at all meetings of the Authority at which he is present.

(5) If the Chairman is not present at a meeting of the Authority, the Secretary shall, if present at the meeting, preside at the meeting.

(6) If neither the Chairman nor the Secretary is present at a meeting of the Authority, the members present shall elect one of their number to preside at the meeting.

(7) Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

(8) At a meeting of the Authority, the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**24.** (1) The Authority may, by instrument under the seal of the Authority, delegate to a member or to an officer or employee of the Authority, either generally or otherwise as provided in the instrument of delegation, all or any of its powers or functions under this Act, except this power of delegation. Delegation by Authority.

(2) The power or function so delegated shall be exercised and performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Authority.

(4) A delegation under this section continues in force notwithstanding a change in the membership of the Authority.

#### PART IV—STAFF

**25.** (1) Subject to this section, the Authority may appoint such officers and engage such employees as it thinks necessary for the purposes of this Act. Staff of Authority.

(2) The terms and conditions of employment of persons appointed or engaged under sub-section (1) shall be as determined by the Authority.

(3) In making a determination with respect to the terms and conditions of employment of officers and employees of the Authority who are performing duties that are comparable with the duties performed by officers included in a class of officers of the Australian Public Service, the Authority shall have regard to the terms and conditions of employment of the officers included in that class.

**26.** The *Public Service Arbitration Act* 1920-1972 does not apply in relation to the employment of officers or employees of the Authority. Public Service Arbitration Act not to apply.



Preservation  
of certain  
awards.

**27.** Nothing in this Act prevents the making of an industrial award, order, determination or agreement under any Act (other than the *Public Service Arbitration Act 1920-1972*) in relation to officers or employees of the Authority or affects the operation of any such award, order, determination or agreement in relation to those officers or employees.

Power of  
Authority to  
provide  
benefits for  
officers and  
employees.

**28.** Subject to section 18, the Authority may pay any allowances, and pay or provide any other benefits (whether of a pecuniary nature or otherwise, including benefits by way of financial or other assistance in connexion with housing, transport, insurance or superannuation) for the Executive Member, or for an officer or employee of the Authority, that, in the opinion of the Authority, are necessary or desirable to assist the Executive Member, officer or employee in, or place him in a position that will facilitate, the performance of his duties or reimburse him for any loss or expenditure incurred by him by reason of, or in the course of, the performance of his duties or that in the opinion of the Authority, having regard to the interests of the Authority, are necessary or desirable for any other reason.

Super-  
annuation.

**29.** (1) The Authority is an approved authority for the purposes of the *Superannuation Act 1922-1973*.

(2) For the purposes of that Act, the Chairman and the Executive Member shall each be taken to be a person who is required to give the whole of his time to the duties of his office.

(3) For the purposes of the application of section 145 of the *Superannuation Act 1922-1973*, the Chairman and the Executive Member shall be deemed to be employed by the Authority.

Officers'  
Rights  
Declaration  
Act.

**30.** Where the Chairman, the Executive Member or an officer or employee of the Authority was, immediately before his appointment or engagement, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1969* applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act 1928-1969* applies as if this Act and this section had been specified in the Schedule to that Act.

## PART V—FINANCE

**31.** In the exercise of its functions, the Authority shall pursue a policy directed towards securing, in each financial year, revenues sufficient— Financial policy of Authority.

- (a) to meet the expenditure, and provision for expenditure, of the Authority properly chargeable to revenue of that year, including provision in respect of income tax payable by the Authority in relation to that financial year; and
- (b) to permit the payment to Australia of a reasonable return on the capital of the Authority.

**32.** (1) The Treasurer may make available to the Authority, out of moneys appropriated by the Parliament for the purpose, such amounts as are, in the opinion of the Minister, required by the Authority. Capital of Authority.

(2) The capital of the Authority consists of the amounts made available by the Treasurer to the Authority under sub-section (1) less any amounts of capital repaid by the Authority to Australia.

(3) Interest is not payable to Australia on the capital of the Authority.

(4) The capital of the Authority is repayable to Australia at such times and in such amounts as the Minister, with the concurrence of the Treasurer, determines.

(5) For the purposes of a determination under sub-section (4), the Minister and the Treasurer shall have regard to any advice that the Authority has furnished to the Minister in relation to its financial affairs.

**33.** (1) The Authority may, with the approval of the Treasurer— Borrowing by Authority.

- (a) borrow moneys from an approved bank, the Australian Industrial Development Corporation or another lender for the purpose of the performance of its functions under this Act; and
- (b) give security over any of its assets for the purpose of a borrowing referred to in paragraph (a).

(2) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Authority of such amounts and on such terms as the Treasurer determines.

(3) The Authority shall not borrow otherwise than in accordance with this section.

(4) The Treasurer may, on behalf of Australia, guarantee the payment of amounts borrowed in accordance with sub-section (1) and the payment of interest on amounts so borrowed.

Bank  
accounts.

**34.** (1) The Authority may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Authority shall pay all moneys of the Authority, including moneys borrowed by the Authority, into an account referred to in this section.

Application  
of moneys.

**35.** (1) The moneys of the Authority may be applied by the Authority—

- (a) in payment or discharge of the costs, expenses and other obligations of the Authority; and
- (b) in payment of remuneration and allowances payable to any person under this Act,

but not otherwise.

(2) Moneys of the Authority not immediately required for the purposes of the Authority may be invested—

- (a) on fixed deposit with an approved bank;
- (b) in securities of Australia; or
- (c) in any other manner approved by the Treasurer.

Profits of  
Authority.

**36.** (1) For the purposes of this Act, the profits of the Authority for a financial year are the amount, if any, remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure, and provision for expenditure, properly chargeable against that revenue, including provision in respect of income tax payable by the Authority in relation to that financial year.

(2) The profits of the Authority for a financial year shall be applied in such manner as the Minister, with the concurrence of the Treasurer, determines.

(3) In making a determination under sub-section (2), regard shall be had to any advice which the Authority has furnished to the Minister in relation to the financial affairs of the Authority.

Purchase  
and disposal  
of assets.

**37.** The Authority shall not, without the approval of the Minister—

- (a) acquire any property, right or privilege for a consideration exceeding in amount or value \$500,000 or, if a higher amount is prescribed, that higher amount;
- (b) dispose of any property, right or privilege where the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds \$500,000 or, if a higher amount is prescribed, that higher amount;
- (c) enter into a contract for the construction of a building for the Authority, being a contract under which the Authority is to pay an amount exceeding \$500,000 or, if a higher amount is prescribed, that higher amount; or

- (d) enter into a lease of land for a period exceeding 10 years.

**38.** The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority in accordance with accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that proper control is maintained over the assets of, or in the custody of, the Authority and over the incurring of liabilities by the Authority.

Proper  
accounts to  
be kept.

**39.** (1) The Authority shall keep a separate account of its receipts and disbursements in respect of an undertaking or operations carried on in accordance with a direction given under sub-section 15 (2).

Accounts  
where  
Authority  
assists over-  
seas country.

- (2) Where—

- (a) the Authority carries on outside Australia an undertaking or operations in pursuance of a direction given under sub-section 15 (2); and
- (b) the Authority satisfies the Minister that the undertaking has, or the operations have, while being carried on in accordance with any financial or other arrangements directed by the Minister under that sub-section, been carried on at a loss in any financial year,

the Authority is entitled to be reimbursed by Australia to the extent of that loss.

**40.** (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Authority and records relating to assets of, or in the custody of, the Authority and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

Audit.

(2) The Auditor-General may, in his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General, or an officer authorized by him, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority or to the acquisition, receipt, custody or disposal of assets by the Authority.

(5) The Auditor-General, or an officer authorized by him, may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor-General, or an officer authorized by him, may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

Liability to taxation.

**41.** (1) The Authority is subject to taxation under the laws of Australia.

(2) Subject to sub-section (3), the Authority is not subject to taxation under a law of a State or of a Territory.

(3) The regulations may provide that sub-section (2) does not apply in relation to taxation under a specified law of a State or Territory.

(4) The Authority is not a public authority for the purpose of paragraph 23 (d) of the *Income Tax Assessment Act 1936-1973*.

## PART VI—MISCELLANEOUS

Reports to Minister.

**42.** The Authority shall—

- (a) from time to time inform the Minister concerning the general conduct of its operations; and
- (b) furnish to the Minister such information relating to those operations as the Minister requires.

Petroleum exploration areas and minerals exploration areas.

**43.** (1) The Authority may, by notice published in the *Gazette*, declare an area of the Australian continental land mass to be a petroleum exploration area or a minerals exploration area for the purposes of this Act and may, from time to time, by notice published in the *Gazette*, alter the boundaries of such an area.

(2) Before commencing to explore for, or carry on operations for the recovery of—

- (a) petroleum in a petroleum exploration area; or
- (b) minerals in a minerals exploration area,

the Authority shall notify in the *Gazette* its intention to do so.

(3) The Authority shall not commence to explore for, or carry on operations for the recovery of—

- (a) petroleum on any land in a petroleum exploration area; or
- (b) minerals on any land in a minerals exploration area,

unless the occupier of the land has consented in writing to the Authority entering upon the land, or the Authority has been granted a warrant under section 50 authorizing it to enter upon the land, for the purpose of

commencing so to explore or to carry on those operations, as the case may be.

(4) Sub-section (3) does not apply to or in relation to exploration for, or the carrying on of operations for the recovery of, petroleum or minerals in a submarine area other than a submarine area below waters referred to in section 14 of the *Seas and Submerged Lands Act 1973*.

**44.** (1) The Authority may declare that it intends to explore for, or carry on operations for the recovery of—

- (a) petroleum in a petroleum exploration area; or
- (b) minerals in a minerals exploration area,

for a specified purpose, being a purpose of a kind referred to in paragraph 9 (1) (c) or (d).

(2) A declaration under sub-section (1) in respect of a petroleum exploration area or minerals exploration area may be included in a notice in respect of the area under sub-section 43 (2) or in a separate notice published in the *Gazette*.

(3) The Authority may, by notice published in the *Gazette*, vary or revoke a declaration under sub-section (1).

**45.** (1) Subject to this Act, upon the recovery by the Authority—

- (a) of any petroleum from its natural site in a petroleum exploration area; or
- (b) of any minerals from their natural site in an exploration area,

the petroleum becomes, or the minerals become, the property of the Authority.

(2) Where any petroleum becomes, or minerals become, the property of the Authority by virtue of sub-section (1), the Authority is liable to pay to the person (including a State) who was the owner of the petroleum or minerals immediately before it becomes or they become the property of the Authority such fair and reasonable compensation as is determined by agreement between the Authority and the owner or, in the absence of agreement, by action by the owner against the Authority in the Australian Industrial Court.

(3) In an action against the Authority under sub-section (2) by the owner of any petroleum or minerals recovered from its or their natural site in an area, being a petroleum exploration area or a minerals exploration area, as the case may be—

- (a) the court may award compensation in the form of a royalty to be paid by the Authority to the owner in respect of any petroleum or minerals, as the case may be, belonging to the owner recovered by the Authority in that area; and

Purposes for which Authority may explore or mine for petroleum or minerals.

Property in petroleum and minerals.

- (b) the court shall, in assessing compensation, have regard to all the circumstances of the case, including the work done by, or on behalf of, the Authority in exploring for petroleum or minerals, as the case may be, in that area and in extracting petroleum or minerals, as the case may be, from its or their natural site in that area.

Application of laws to the Authority.

46. Subject to this Act, the Authority is not subject to any requirement, obligation, liability, penalty or disability under a law of Australia, or of a State or Territory, to which Australia is not subject.

Authority to do as little damage as possible.

47. (1) In the exercise of its powers under this Act, the Authority shall cause as little detriment and inconvenience and do as little damage as possible.

(2) Where the owner of land is injuriously affected by the exercise, in relation to that land, of any of the powers conferred on the Authority by Part II of this Act, compensation shall be paid by the Authority.

(3) Where any land is entered or occupied in pursuance of this Act, the Authority is liable to pay compensation to the owner or occupier of the land, or both, as the case requires, and the compensation so payable shall include compensation in respect of—

- (a) damage of a temporary character as well as damage of a permanent character; and
- (b) the taking of sand, clay, stone, earth, gravel, timber, wood, materials or other things by the Authority in pursuance of section 14.

(4) Where sand, clay, stone, earth, gravel, timber, wood, materials or other things are taken from land in pursuance of section 14 and are not the property of the owner or occupier of the land, sub-section (3) applies as if a reference to the owner or occupier of the land, or both, included a reference to the owner of the sand, clay, stone, earth, gravel, timber, wood, materials or other things.

(5) Nothing in this section shall be construed as excluding or limiting any liability of the Authority apart from this section in respect of a matter in relation to which compensation is not payable under this section.

(6) The provisions of section 19 of the *Lands Acquisition Act* 1955-1966 apply in relation to the determination of compensation payable by the Authority under this section in like manner as they apply in relation to the determination of compensation payable under that section, except that the references in that section to the Minister and to the Commonwealth shall be read as references to the Authority.

**48.** (1) For the purpose of the *Lands Acquisition Act* 1955-1966, the acquisition of land for the purposes of the Authority under this Act shall be deemed to be the acquisition of land for a public purpose. Acquisition of land.

(2) In the application of the *Lands Acquisition Act* 1955-1966 in relation to the acquisition of land for the purposes of the Authority under this Act, a reference in that Act to an interest in relation to land shall be read as including a reference to an easement in favour of the Authority without a dominant tenement, being an easement that confers on the Authority rights in, under, on, over, across or through the land for the purposes of the construction, maintenance and operation of a pipeline under this Act or for any purpose incidental to any of those purposes.

(3) An instrument by virtue of which an interest in land is acquired by the Authority, whether by agreement or by compulsory process, shall not be taken to create an easement in favour of the Authority of a kind referred to in sub-section (2) unless it is expressed to create an easement in favour of, or to transfer an easement to, the Authority.

**49.** The Authority shall mark, and keep marked, as provided in the regulations, the route of any pipeline constructed by it. Marking of route of pipeline.

**50.** Where application is made by the Authority or by a person who is an authorized person within the meaning of section 13, as the case requires, to a Justice of the Peace for a warrant under this section, the Justice of the Peace may— Warrants.

- (a) if he is satisfied, by information on oath or affirmation—
- (i) that land comprises or forms part of a petroleum exploration area or minerals exploration area;
  - (ii) that the Authority has notified in the *Gazette* its intention to commence to explore for, or carry on operations for the recovery of, petroleum or minerals, as the case requires, in that area;
  - (iii) that the Authority has resolved to commence to explore for, or carry on operations for the recovery of, petroleum or minerals, as the case requires, on that land; and
  - (iv) that the occupier of the land has refused to consent, or that it is impracticable to obtain the consent of the occupier of the land within a reasonable time, to the Authority entering upon the land for the purpose of commencing to explore for, or carry on operations for the recovery of, petroleum or minerals, as the case requires, on the land,

grant a warrant authorizing the Authority to enter upon the land for the purpose of commencing to explore for, or carry on operations for the recovery of, petroleum or minerals, as the case requires, on that land;



- (b) if he is satisfied, by information on oath or affirmation—
- (i) that the occupier of land has refused to consent, or that it is impracticable to obtain the consent of the occupier of land within a reasonable time, to the Authority entering upon, and occupying, the land and doing on land so occupied an act specified in sub-section 14(2); and
  - (ii) that the doing of that act on the land is reasonably necessary for the purposes of this Act,
- grant a warrant authorizing the Authority to enter upon, and occupy, the land and do that act on land so occupied; or
- (c) if he is satisfied, by information on oath or affirmation—
- (i) that the occupier of land has refused to consent, or that it is impracticable to obtain the consent of the occupier of land within a reasonable time, to the authorized person entering upon the land with such assistance as is necessary for the purpose of exercising the functions of an authorized person under section 13; and
  - (ii) that entry upon the land for that purpose is reasonably required for the purposes of this Act,
- grant a warrant authorizing that authorized person to enter upon the land with such assistance as is necessary for the purpose of exercising the functions of an authorized person under that section.

Works not to be adversely affected.

**51.** (1) Except as prescribed, a person shall not carry out any work whereby any works, or proposed works, of the Authority, or the use, or the proposed use, of the works of the Authority, is or may be adversely affected or interfered with.

(2) An offence against sub-section (1) may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

(3) An offence against sub-section (1) is punishable—

- (a) upon summary conviction—by a fine not exceeding \$200 or imprisonment for a term not exceeding 6 months, or both; or
- (b) upon conviction on indictment—by a fine not exceeding \$2,000 or imprisonment for a term not exceeding 2 years, or both.

(4) Where proceedings for an offence against sub-section (1) are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant, determine the proceedings.

(5) This section does not prejudice any civil remedy available to the Authority.

(6) Nothing in this section shall be deemed to prevent or affect the operation of a provision in a law of a State prohibiting any acts which are also prohibited by this section.

**52.** (1) Subject to this section—

Jurisdiction  
of courts.

(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 offences against this Act or the regulations that are committed outside Australia and the Territory of Ashmore and Cartier Islands.

(2) The jurisdiction invested in or conferred on courts by sub-section (1) is invested or conferred within the limits (other than limits having effect by reference to the place at which offences are committed) of their several jurisdictions.

(3) The trial on indictment of an offence against this Act not committed within a State may be held in any State or Territory.

(4) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, as far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act or the regulations that was committed outside Australia and the Territories.

(5) Except as provided by this Act, the *Judiciary Act* 1903-1969 applies in relation to offences against this Act or the regulations.

**53.** (1) The Authority shall, as soon as practicable after each 30 June, prepare and furnish to the Minister, for presentation to the Parliament, a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves. <sup>Annual report.</sup>

(2) Before furnishing financial statements to the Minister, the Authority shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of affairs of the Authority;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Authority during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall cause the report and financial statements, together with the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(4) The first report and financial statements to be prepared and furnished to the Minister by the Authority under this section shall relate to the period commencing on the date of commencement of this Act and ending on 30 June 1974.

Regulations.

**54.** (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed for carrying out or giving effect to this Act, and, in particular—

- (a) making provision for or in relation to the closing of any pipes forming part of a pipeline of the Authority;
- (b) making provision for and in relation to the depositing with the prescribed authority of a State or Territory, for public information, of plans showing—
  - (i) the route of any pipe or system of pipes that the Authority proposes to construct in that State or Territory; and
  - (ii) the site on which the Authority proposes to install any equipment or construct any structures in that State or Territory in relation to such a pipe or system of pipes; and
- (c) prescribing penalties, not exceeding a fine of \$200 or imprisonment for a period not exceeding 6 months, or both, for offences against the regulations.

(2) Without limiting the generality of sub-section (1), the regulations that may be made under that sub-section include regulations making provision with respect to the manner of carrying on the operations of the Authority and for ensuring the safety of those operations and of persons engaged on those operations.

(3) The regulations may make provision of a kind referred to in subsection (2) by providing for the application to or in relation to the Authority, with or without modifications, of any provisions of, or of any orders or directions under, a law of Australia or of a State or Territory as in force at a particular time or as in force from time to time.

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#### NOTE

1. Act No. 43, 1974; assented to 8 August 1974.

The *Petroleum and Minerals Authority Act 1973* was held by the High Court not to be a valid law of the Commonwealth. See *State of Victoria and Another v. Commonwealth of Australia and Another*, *State of New South Wales and Another v. Commonwealth of Australia and Another*, *State of Western Australia v. Commonwealth of Australia*, and *State of Queensland and Another v. Commonwealth of Australia and Another*; 49 A.L.J.R. 243.