



# Sea Installations Act 1987

No. 102 of 1987

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Acts applying in adjacent areas



# Sea Installations Act 1987

No. 102 of 1987

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## An Act relating to certain installations in the sea

[Assented to 6 November 1987]

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

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Sea Installations Act 1987*.

#### Commencement

2. (1) The provisions of Part I shall be deemed to have come into operation on 15 October 1987.

(2) The remaining provisions of this Act shall come into operation on the day on which this Act receives the Royal Assent.

### **Objects of Act**

3. The objects of this Act are:

- (a) to ensure that sea installations installed in adjacent areas are operated with regard to the safety of the people using them and of the people, ships and aircraft near them;
- (b) to apply appropriate laws in relation to such sea installations; and
- (c) to ensure that such sea installations are operated in a manner that is consistent with the protection of the environment.

### **Interpretation**

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

“adjacent area” means an adjacent area in respect of a State or affected Territory ascertained in accordance with section 5 and, in relation to a State or affected Territory, means the adjacent area in respect of that State or Territory;

“affected Territory” means a Territory other than:

- (a) the Australian Capital Territory; or
- (b) the Jervis Bay Territory;

“aircraft” means a machine or apparatus that can derive support in the atmosphere from the reactions from the air or from buoyancy;

“approved form” means a form approved by the Minister in writing;

“Australian fishing zone” has the same meaning as in the *Fisheries Act 1952*;

“brought into physical contact”, in relation to a sea installation in relation to the seabed, has the meaning given by subsection 6 (5);

“construct”, in relation to a sea installation, includes assemble and fit out;

“continental shelf” has the same meaning as in the Petroleum Act;

“contravention”, in relation to a permit, includes contravention of a condition of the permit;

“environment” includes all aspects of the surroundings of a natural person, whether affecting the person as an individual or in the person’s social groupings;

“environment related activity” means any activity relating to:

- (a) tourism or recreation;
- (b) the carrying on of a business;
- (c) exploring, exploiting or using the living resources of the sea, of the seabed or of the subsoil of the seabed, whether by way of fishing, pearling, oyster farming, fish farming or otherwise;
- (d) marine archaeology; or
- (e) a prescribed purpose;

and includes a scientific activity and a transport activity;

“environment related work”, in relation to a sea installation, means work in relation to installing, constructing, extending or altering the installation and includes:

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- (a) work involved in repairing or maintaining the installation;  
or
- (b) work relating to disassembling the installation or to detaching or removing it from its location;

“excluded dumping vessel” means any vessel that is engaged in a sea voyage or in any activity at sea relating solely to the dumping at sea or to the incineration at sea of waste or other matter which the vessel is authorised to dump or incinerate under the *Environment Protection (Sea Dumping) Act 1981*;

“excluded fishing installation” means:

- (a) a licensed fishing boat that is being used solely for commercial fishing purposes;
- (b) a fish aggregating device that is being used solely for commercial fishing purposes;
- (c) a mariculture platform that is being used solely for the purpose of rearing and harvesting fish, crustaceans or molluscs; or
- (d) fishing equipment;

“excluded pearling vessel” means any vessel that is licensed under the law of a State or Territory to carry out pearling operations and that is being used solely for the purpose of carrying out those operations;

“excluded wreck” means:

- (a) an historic shipwreck, or an historic relic, within the meaning of the *Historic Shipwrecks Act 1976*; or
- (b) any other wreck within the meaning of section 294 of the *Navigation Act 1912* to which the provisions of Part VII of that Act apply or would apply but for the operation of section 295B of that Act;

“exemption certificate” means a certificate given under section 40;

“fish aggregating device” means:

- (a) a man-made structure that, when in, or brought into, physical contact with the seabed or when floating, is used solely for the purpose of attracting populations of fish so as to facilitate the taking of those fish; or
- (b) any electronic or other equipment designed or intended to be ancillary to, or associated with, such a structure while it is being used, or in order to facilitate the use of the structure, for that purpose;

but does not include a net, trap or other equipment for taking, catching or capturing fish;

“fishing equipment” means equipment for taking fish, crustaceans or molluscs or for holding living fish, crustaceans or molluscs for a temporary purpose, being equipment that is:

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- (a) licensed or registered under a law of the Commonwealth or of a State with respect to fisheries; or
- (b) used from or placed into the sea from a licensed fishing boat;

“floating”, in relation to a structure, includes moving through or under waters;

“inspector” means a person appointed under section 60 to be an inspector for the purposes of this Act;

“installation levy” means the levy under the Levy Act;

“installed in an adjacent area”, in relation to a sea installation, has the meaning given by section 6;

“issue”, in relation to a licence, includes grant and give;

“law of the Commonwealth” does not include a law of a State or Territory applying in relation to sea installations by virtue of section 46, 47 or 48;

“Levy Act” means the *Sea Installations Levy Act 1987*;

“licence” includes a permit (other than a permit granted under section 17), an authority and permission;

“licensed fishing boat” means a floating craft of any description in respect of which a licence under a law of the Commonwealth or of a State or Territory with respect to fisheries is in force authorising its use for the taking of fish, crustaceans or molluscs;

“mariculture platform” means a fixed or movable floating installation that is placed in the sea to enclose a population of fish, crustaceans or molluscs so that they are able to be reared and harvested;

“matter” includes act, omission, circumstance and thing;

“modify” includes add to, omit from and substitute;

“natural mineral resources” means the minerals (including petroleum) and other non-living resources of the seabed and its subsoil;

“operating agreement”, in relation to a sea installation, means an agreement between the owner of the installation and another person under which the other person, or the owner and the other person, may determine the activities for which the installation is used;

“operator”, in relation to a sea installation, means a person who is not the owner of the installation and who has entered into an operating agreement with the owner of the installation;

“permit” means a permit to operate a sea installation granted under section 17 and, in relation to a sea installation, means the permit to operate the installation;

“permitted sea installation” means a sea installation in relation to which a permit is in force;

“petroleum” has the same meaning as in the Petroleum Act;

“Petroleum Act” means the *Petroleum (Submerged Lands) Act 1967*;

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“representative” means:

- (a) in relation to the Commonwealth—the Minister or a person nominated by the Minister to represent the Commonwealth for the purposes of this Act;
- (b) in relation to a State—a person nominated by the Premier of the State to represent the State for the purposes of this Act; or
- (c) in relation to the Northern Territory—a person nominated by the Chief Minister of the Territory to represent the Territory for the purposes of this Act;

“resources industry fixed structure” has the meaning given by subsection (2);

“resources industry mobile unit” has the meaning given by subsection (3);

“scientific activity” means an activity relating to scientific research;

“sea installation” means:

- (a) any man-made structure that, when in, or brought into, physical contact with the seabed or when floating, can be used for an environment related activity;
- (b) any partly constructed structure that, when completed, is intended to be, or could be, a structure referred to in paragraph (a); or
- (c) the remains of a structure that has been a structure referred to in paragraph (a) or (b);

but does not include:

- (d) a cargo ship within the meaning of Part IV of the *Navigation Act 1912*;
- (e) an excluded dumping vessel;
- (f) an excluded fishing installation;
- (g) an excluded pearling vessel;
- (h) an excluded wreck;
- (j) a navigational aid placed in the sea or on the seabed in accordance with the law of the Commonwealth, a State or a Territory;
- (k) a resources industry fixed structure;
- (m) a resources industry mobile unit;
- (n) a structure relating to the defence of Australia;
- (p) a submarine cable installation;
- (q) a structure belonging to the naval, military or air forces of a foreign country; or
- (r) a prescribed structure or a structure in a class of prescribed structures;

“ship” means a vessel designed for use in navigation by water;



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“special condition” means a condition under section 24;

“structure” includes a ship, an aircraft and any other vessel;

“submarine cable installation” means:

- (a) a cable that has been laid on the seabed to permit telecommunications between a place in Australia and a place outside Australia; or
- (b) a vessel having the function of installing or servicing such a cable while that vessel is engaged in any activity relating to that function;

“transport activity” means:

- (a) the mooring of ships or aircraft; or
- (b) the landing of aircraft;

“unauthorised installation” means:

- (a) a sea installation kept installed in an adjacent area otherwise than in accordance with a permit or an exemption certificate; or
- (b) an abandoned sea installation the whole or part of which is in an adjacent area;

but does not include an installation to which section 78 applies unless and until an offence under that section has been committed in relation to the installation;

“vary” includes:

- (a) in relation to a permit—vary the special conditions of the permit; and
- (b) in relation to the special conditions of a permit:
  - (i) make the permit subject to a special condition; and
  - (ii) remove a special condition of the permit;

“work”, in relation to a sea installation, includes work in relation to installing or constructing the installation.

(2) A reference in this Act to a resources industry fixed structure is a reference to a structure (including a pipeline) that:

- (a) is not able to move or be moved as an entity from one place to another; and
- (b) is, or is to be, used off-shore wholly or principally in, or in any operations or activities associated with, or incidental to, exploring or exploiting natural mineral resources.

(3) A reference in this Act to a resources industry mobile unit is a reference to:

- (a) a vessel that is, or is to be, used wholly in:
  - (i) exploring or exploiting natural mineral resources by drilling the seabed or its subsoil with equipment on, or forming part of, the vessel or by obtaining substantial quantities of material

from the seabed or its subsoil with equipment of that kind;  
or

- (ii) operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (i); or
- (b) a structure (not being a vessel) that:
  - (i) is able to float or be floated;
  - (ii) is able to move or be moved as an entity from one place to another; and
  - (iii) is, or is to be, used off-shore wholly or principally in:
    - (A) exploring or exploiting natural mineral resources by drilling the seabed or its subsoil with equipment on, or forming part of, the structure or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or
    - (B) operations or activities associated with, or incidental to, activities of the kind referred to in sub-subparagraph (A).

(4) The reference in subparagraph (3) (a) (ii) to a vessel that is, or is to be, used wholly in operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (3) (a) (i) includes a reference to a vessel that is, or is to be, used wholly in manoeuvring a resources industry fixed structure or a resources industry mobile unit, or in operations relating to the attachment, within the meaning of the *Customs Act 1901*, of such a structure or unit to the Australian seabed.

#### **Adjacent areas**

5. (1) For the purposes of this Act, but subject to subsection (2), the adjacent area in respect of a State or the Northern Territory is so much of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that State or Territory as comprises waters of the sea that:

- (a) are outside the outer limits of the territorial sea of Australia; and
- (b) are either:
  - (i) within the Australian fishing zone; or
  - (ii) outside the Australian fishing zone but within the outer limits of the continental shelf.

(2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, subsection (1) continues 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, 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 either:

- (a) within the Australian fishing zone; or

- (b) outside the Australian fishing zone but 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.

(4) The provisions of this Act other than subsection (3) 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 to the adjacent area in respect of a State shall, in relation to Queensland, be read as including references to the Coral Sea area.

(5) For the purposes of this Act, the adjacent area in respect of the Territory of Ashmore and Cartier Islands is so much of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that Territory as comprises waters of the sea that are either:

- (a) within the Australian fishing zone; or
- (b) outside the Australian fishing zone but within the outer limits of the continental shelf.

(6) For the purposes of this Act, the adjacent area in respect of the Australian Antarctic Territory is the area adjacent to that Territory having as its inner limit the base lines by reference to which the territorial limits of that Territory are defined for the purposes of international law and as its outer limit the outer limits of the continental shelf.

(7) For the purposes of this Act, the adjacent area in respect of an external Territory (other than the Australian Antarctic Territory, Coral Sea Islands Territory and the Territory of Ashmore and Cartier Islands) is the area comprising waters of the sea that are either:

- (a) within the Australian fishing zone adjacent to the coast of that Territory; or
- (b) outside the Australian fishing zone adjacent to the coast of that Territory but within the outer limits of the continental shelf adjacent to the coast of that Territory.

(8) For the purposes of subsections (3), (5), (6) and (7), the continental shelf does not include any area of seabed and subsoil that, under an agreement in force between Australia and another country, is not an area over which Australia exercises sovereign rights.

(9) For the purposes of this Act, the space above or below an adjacent area shall be deemed to be in that area.

#### **Installation of sea installations**

6. (1) Subject to subsection (3), for the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area if:

- (a) the installation is in, or is brought into, physical contact with a part of the seabed in the adjacent area; or

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- (b) the installation is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in the adjacent area under paragraph (a).

(2) For the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area at a particular time if the whole or part of the installation:

- (a) is in that adjacent area at that time; and
  - (b) has been in a particular locality:
    - (i) that is circular and has a radius of 20 nautical miles; and
    - (ii) the whole or part of which is in that adjacent area;
- for:
- (iii) a continuous period of at least 30 days that immediately precedes that time; or
  - (iv) one or more periods, during the 60 days that immediately precede that time, that in sum amount to at least 40 days.

(3) Where a sea installation, being a ship or an aircraft:

- (a) is brought into physical contact with a part of the seabed in an adjacent area; or
- (b) is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in an adjacent area;

for less than:

- (c) in the case of a ship, or an aircraft, registered under the law of a foreign country—30 days; or
- (d) in any other case—5 days;

it shall not be taken to be installed in that adjacent area under subsection (1).

(4) A sea installation shall not be taken to be installed in an adjacent area for the purposes of this Act unless it is to be taken to be so installed under subsection (1) or (2).

(5) For the purposes of this Act, a sea installation shall be taken to be brought into physical contact with a part of the seabed if the installation is connected with the part by a cable or other device.

**Attachments to sea installations**

**7. (1) Where:**

- (a) a sea installation is in, or is brought into, physical contact with another sea installation installed in an adjacent area; and
- (b) the contact:
  - (i) is in accordance with a permit; and
  - (ii) is not for the purpose of work on that other installation;

the first-mentioned installation shall be taken to be part of that other installation.

(2) For the purposes of this Act, a structure, other than a sea installation, attached to a sea installation shall be taken to be part of that installation.

**Extension to external Territories**

8. This Act extends to all the external Territories.

**Act to bind Crown**

9. (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.

(2) Nothing in this Act renders the Crown in right of the Commonwealth, of a State or of a Territory liable to be prosecuted for an offence.

**Consultation with States and Territories**

10. The Minister shall not grant, renew, vary or revoke (otherwise than under subsection 35 (1) or (2)) a permit to operate a sea installation, or give an exemption certificate that a sea installation may be installed, in the adjacent area of a State, of the Northern Territory or of Norfolk Island unless the Minister has given a representative of the State or Territory an opportunity to discuss with a representative of the Commonwealth the granting, renewal, variation, revocation or giving, as the case may be.

**Application of Act**

11. This Act applies to all natural persons, whether Australian citizens or not, and whether resident in the Commonwealth or an external Territory or not, and to all bodies corporate, whether incorporated or carrying on business in the Commonwealth or an external Territory or not.

**Saving of other laws**

12. This Act and the regulations shall be read as being in addition to, and not in derogation of or in substitution for, any other law of the Commonwealth or of an external Territory, whether passed or made before or after the commencement of this Act.

**Act to apply subject to international obligations**

13. This Act has effect subject to the obligations of Australia under international law, including obligations under any agreement between Australia and any other country or countries.

**PART II—PROHIBITIONS RELATING TO SEA INSTALLATIONS**

**Installation of sea installations without permit prohibited**

14. (1) Subject to section 44, where a sea installation is installed in an adjacent area otherwise than in accordance with a permit, the owner and the occupier of the installation are each guilty of an offence against this section punishable, upon conviction, by:

(a) in the case of a natural person—a fine not exceeding \$50,000; or

(b) in the case of a body corporate—a fine not exceeding \$250,000.

(2) It is a defence to a charge of an offence of installing a sea installation in an adjacent area if it is established that the installing:

- (a) occurred because of factors beyond the control of the person charged;
- (b) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life; or
- (c) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea or of a sea installation.

#### **Use of sea installations without permit prohibited**

15. Subject to sections 44 and 78, the owner or operator of a sea installation installed in an adjacent area shall not use the installation, or allow the installation to be used, for any environment related activity otherwise than in accordance with a permit.

Penalty:

- (a) in the case of a natural person—\$50,000; or
- (b) in the case of a body corporate—\$250,000.

#### **Certain work on sea installations without permit prohibited**

16. Subject to sections 44 and 78, the owner or operator of a sea installation installed in an adjacent area shall not carry out environment related work, or allow such work to be carried out, on the installation otherwise than in accordance with a permit.

Penalty:

- (a) in the case of a natural person—\$50,000; or
- (b) in the case of a body corporate—\$250,000.

### **PART III—PERMITS TO OPERATE SEA INSTALLATIONS**

#### ***Division 1—Grant of Permits***

##### **Permit to operate sea installation**

17. (1) Subject to this Act, the Minister may grant, or refuse to grant, a permit to operate a sea installation in an adjacent area to a person who has made an application for the permit in accordance with section 18.

- (2) Subject to this Act, a permit to operate a sea installation:
  - (a) authorises the holder of the permit to cause the installation to be installed in the manner, and at the location, specified in the permit and to keep it so installed for a period so specified;
  - (b) authorises the installation to be used for environment related activities specified in the permit; and
  - (c) authorises:
    - (i) the carrying out on the installation of environment related work specified in the permit; and

- (ii) the installation, during, and for the purpose of, work on the installation, of another sea installation (if any) specified in the permit.

(3) Without limiting the generality of subsection (1), a permit may be granted under that subsection in respect of a ship registered under the law of a foreign country.

**Eligibility for permit**

**18. (1)** A permit to operate a sea installation shall only be granted to:

- (a) where there is no operator of the installation—the owner of the installation; or
- (b) where there is an operator of the installation—the owner and the operator as the holders in common of the permit.

(2) The Minister shall not grant a permit to operate a sea installation to a person unless the Minister is satisfied that the person is a fit and proper person to be granted that permit.

(3) Without limiting, by implication, the generality of the matters which the Minister may take into account in determining whether a person is a fit and proper person for the purposes of subsection (2), the Minister shall have regard to:

- (a) any conviction of the person for an offence against this Act or against the regulations committed within the 10 years immediately preceding the making of the application;
- (b) any conviction of the person for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer, being an offence committed within the 10 years immediately preceding the making of the application;
- (c) whether the person is an undischarged bankrupt;
- (d) any misleading statement made in the application by or in relation to the person; and
- (e) where any statement by the person in the application was false—whether the person knew that the statement was false.

**Permit not to be granted in certain circumstances**

**19. (1)** The Minister shall not grant a permit to a person to operate a sea installation in the adjacent area of a State or affected Territory if the Minister considers that the installation or use of the installation would, either because of this Act or otherwise, be contrary to another law of the Commonwealth.

(2) The Minister shall not grant a permit that would authorise a sea installation to be located partly in, and partly outside, the adjacent area of a State or of an affected Territory.

### **Application for permit**

**20. (1)** Subject to this Act, a person may make an application, in writing in the appropriate approved form, to the Minister for the grant of a permit to operate a sea installation.

**(2)** An application for a permit to operate a sea installation shall be accompanied by evidence of the fact that the applicant will be the owner or operator of the installation on its installation.

**(3)** An application for a permit to operate a sea installation shall be accompanied by:

- (a)** copies of construction plans of the installation;
- (b)** copies of any reports obtained by the applicant relating to the location or construction of the installation; and
- (c)** any prescribed documents, or documents in a prescribed class of documents, relating to the installation.

**(4)** Where an application is made and the Minister requires further information for the purpose of dealing with it, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to continue to deal with the application until the statement is given.

**(5)** Where an application is made, the Minister shall consider and dispose of the application within:

- (a)** where a notice is not served under subsection (4) in relation to the application—60 days after the making of the application; or
- (b)** where a statement is given under subsection (4) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (4) in relation to the application and the giving of that statement.

**(6)** Where, in relation to an application, the Minister refuses to grant a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

### **Form of permit**

**21. (1)** Subject to subsection (2), a permit shall be in writing in the approved form.

**(2)** A permit to operate a sea installation shall:

- (a)** specify the matters required to be specified under subsection 17 (2);
- (b)** state whether the installation will be used:
  - (i)** principally for scientific activities; or
  - (ii)** wholly or principally for transport activities or other activities;
- (c)** set out the special conditions to which the permit is subject; and
- (d)** set out such other particulars as are prescribed.



**Operation of permit**

**22. A permit:**

- (a) comes into force on the day on which it is granted; and
- (b) subject to this Act, remains in force for the period specified in it commencing on the day on which it was granted, being:
  - (i) a period of 15 years;
  - (ii) the period specified in the application; or
  - (iii) a period ascertained in accordance with the regulations;

whichever is the shortest.

***Division 2—Conditions of Permits***

**Conditions of all permits**

**23. (1)** It is a condition of a permit to operate a sea installation that any activities in relation to the use of, or work on, the installation will not interfere with:

- (a) navigation, fishing or the conservation of the resources of the sea or seabed; or
- (b) any activity being lawfully carried on by persons other than the holder of the permit;

more than is necessary for the reasonable exercise of the rights, and compliance with the obligations, of the holder or of another person under this Act or under the permit.

**(2)** It is a condition of a permit for a sea installation that, where a person becomes, or ceases to be, the operator of the installation, the holder of the permit shall notify the Minister.

**(3)** It is a condition of a permit for a sea installation that the holder of the permit shall comply with notices served under subsection 37 (2) in relation to the installation.

**Special conditions of particular permits**

**24. (1)** A permit to operate a sea installation is subject to such conditions as the Minister considers appropriate which, without limiting the generality of the foregoing, may be, or include:

- (a) conditions relating to the design, construction and safety standards of the installation;
- (b) conditions relating to procedures designed to enable the Minister to monitor matters relating to the installation;
- (c) conditions relating to insurances in relation to the installation or an installation used in work on the installation; or
- (d) a condition that certain licences or other documents identified in the permit are to be produced to the Minister on the occurrence of a specified event or at a specified time.

(2) The special conditions of a permit shall be determined on the granting of the permit but may be varied pursuant to section 28 or upon a renewal of the permit under section 25.

***Division 3—Renewal of Permits***

**Renewal of permit**

25. (1) Subject to this Act, the Minister may renew, or refuse to renew, a permit where the holder of the permit has made an application for the renewal in accordance with section 26.

(2) A permit may be renewed notwithstanding that it has been renewed before.

(3) The Minister shall not renew a permit if the Minister is satisfied that, if it were not in force, it would not be granted.

**Application for renewal of permit**

26. (1) Subject to this Act, the holder of a permit may make an application, in writing in the appropriate approved form, to the Minister for the renewal of the permit.

(2) An application for the renewal of a permit shall be made within the last third of the period for which the permit was issued or last renewed, as the case requires, but not later than 6 months (unless that period is less than 18 months) before the end of that period.

(3) Where an application is made and the Minister requires further information for the purpose of dealing with the application, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to continue to deal further with the application until the statement is given.

(4) Where an application is made, the Minister shall consider and dispose of the application within:

- (a) where a notice is not served under subsection (3) in relation to the application—60 days after the making of the application; or
- (b) where a statement is given under subsection (3) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (3) in relation to the application and the giving of that statement.

(5) Where, in relation to an application, the Minister refuses to renew a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

(6) Where the Minister renews a permit with a variation of its special conditions, the Minister shall give the applicant notice of the variation setting out the reasons for it.

**Form and operation of renewal of permit**

27. (1) The renewal of a permit shall be effected by the Minister causing particulars of the renewal to be endorsed on the permit.

(2) Where, on the renewal of a permit, its special conditions are varied, the Minister shall cause:

- (a) particulars of the variation to be endorsed on the permit; or
- (b) a written statement of particulars of the variation to be attached to the permit.

(3) The renewal of a permit shall come into force on the day on which, if it were not renewed, it would expire.

(4) Where a permit is renewed, it remains in force for the period specified in it, being:

- (a) a period of 15 years;
- (b) the period specified in the application for renewal; or
- (c) a period ascertained in accordance with the regulations;

whichever is the shortest.

***Division 4—Variation of Permits***

**Variation of permit**

28. (1) Subject to this Act, the Minister may vary a permit where the Minister considers it necessary or desirable to do so.

(2) Subject to this Act, the Minister may vary, or refuse to vary, a permit where the holder of the permit has made an application under section 31 for the variation.

(3) Where a natural person who is the holder of a permit dies, the Minister shall vary the permit by substituting for that holder the holder's legal personal representative.

(4) Subject to section 10, where:

- (a) the owner of a sea installation and the operator of that installation hold in common a permit to operate that installation; and
- (b) the operator of the installation is convicted of an offence against a provision of this Act or of the regulations but the owner of the installation is not convicted of such an offence;

the Minister may vary the permit so as to make the owner of the installation the sole holder of the permit.

(5) Where a person who is a holder of a permit for a sea installation because of being an operator of the installation ceases to be such an operator, the Minister shall vary the permit so that the person ceases to be a holder of it.

(6) Where a person becomes the operator of a sea installation in respect of which a permit is in force, the Minister shall vary the permit so that the owner and the person become holders in common of the permit.

(7) Subject to subsections (3), (4), (5) and (6), the Minister shall not vary a permit so that a person becomes, or ceases to be, a holder of the permit.

**Permit not to be varied in certain circumstances**

29. (1) The Minister shall not vary a permit in such a way that it would authorise the sea installation to which it relates to be installed in the adjacent area of a State, of the Northern Territory or of Norfolk Island unless the Minister has given a representative of the State or Territory an opportunity to discuss the variation with a representative of the Commonwealth.

(2) The Minister shall not vary a permit to operate a sea installation in the adjacent area of a State or Territory if the Minister considers that the variation would result in the installation, operation or use of the installation in accordance with the permit as varied being, either because of this Act or otherwise, contrary to another law of the Commonwealth or a law applying by virtue of section 46, 47 or 48.

(3) The Minister shall not vary a permit so that a sea installation is located partly in, and partly outside, the adjacent area of a State or of an affected Territory.

**Notice of variation of permit**

30. (1) Where the Minister decides to vary a permit under subsection 27 (1), the Minister shall give the holder of the permit notice in writing of particulars of the proposed variation setting out the reasons for it.

- (2) The Minister shall not vary a permit under subsection 28 (1) until:
- (a) the expiration of 20 days after notice of the decision to vary the permit has been given; or
  - (b) where the holder of the permit applies to the Administrative Appeals Tribunal for the review of the decision to vary the permit—that review has been finally disposed of;

whichever occurs last.

**Application to vary permit**

31. (1) The holder of a permit may make an application, in writing in the appropriate approved form, to the Minister for the variation of the permit.

(2) Where an application is made and the Minister requires further information for the purpose of dealing with the application, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and,

if a notice is so served, the Minister is not required to continue to deal with the application until the statement is given.

(3) Where an application is made, the Minister shall consider and dispose of the application within:

- (a) where a notice is not served under subsection (2) in relation to the application—60 days after the making of the application; or
- (b) where a statement is given under subsection (2) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (2) in relation to the application and the giving of that statement.

(4) Where, in relation to an application, the Minister refuses to vary a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

#### **Form and operation of variation of permit**

32. (1) Variation of a permit shall be effected by the Minister causing:

- (a) particulars of the variation to be endorsed on the permit; or
- (b) a written statement of particulars of the variation to be attached to the permit.

(2) The variation of a permit comes into force on the day specified in the variation, not being a day earlier than the day on which the variation is effected in accordance with subsection (1).

(3) Where the Minister is entitled to vary a permit, the holder of the permit shall give it to the Minister for the time necessary for the variation to be effected.

#### ***Division 5—Application of Environment Protection (Impact of Proposals) Act 1974***

##### **Environmental impact statements**

33. (1) Where the Minister requires that a person who has made an application under section 20 for a permit, under section 26 for a renewal of a permit or under section 31 for a variation of a permit lodge, in connection with that application, an environmental impact statement under the *Environment Protection (Impact of Proposals) Act 1974*, within a period specified by the Minister, the Minister is not required to consider the application further unless the person complies with the requirement and:

- (a) if the person refuses or fails to comply with the requirement, the person shall be taken to have withdrawn the application on the date on which the person refuses or fails so to comply; or
- (b) if the person complies with the requirement, the period commencing when the requirement was made and ending when the Minister declares that the matters to which the statement relates have been fully examined and dealt with in accordance with the provisions of

that Act shall be disregarded in the calculation of the period within which the Minister is required to dispose of that application.

(2) Where additional information is required by the Minister in respect of an environmental impact statement under the *Environment Protection (Impact of Proposals) Act 1974* that information shall be sought under that Act and not under this Act.

### ***Division 6—Suspension and Revocation of Permits***

#### **Suspension of permit**

34. (1) Where the Minister considers that the holder of a permit has contravened the permit, the Minister:

- (a) may suspend the permit by notifying the holder of its suspension and giving the holder particulars of the grounds of the suspension; and
- (b) where the permit is suspended, may give the holder directions in writing to take all necessary action to comply with the permit.

(2) Where the Minister has suspended a permit, the Minister shall investigate the matter in respect of which it was suspended.

(3) Where the Minister has investigated the matter in respect of which the permit was suspended and has not found any grounds for revoking it, the Minister shall forthwith remove the suspension.

(4) Notwithstanding subsection (3), a suspension of a permit ceases to have effect:

- (a) where a direction was given in relation to its suspension—on compliance with the direction; or
- (b) where such a direction was not given—at the end of a period of 10 days commencing on the day on which the permit was suspended.

(5) While a permit to operate a sea installation is suspended:

- (a) the installation shall not be used for any environment related activity; and
- (b) where the suspension relates to environment related work on the installation—that work shall not be carried out.

#### **Revocation of permit**

35. (1) Subject to subsection 28 (3), the Minister shall revoke a permit to operate a sea installation if there is a change in the ownership of the installation.

(2) The Minister shall revoke a permit to operate a sea installation if the holder of the permit requests the Minister in writing to revoke the permit.

(3) Subject to section 10, the Minister may revoke a permit if the holder of the permit is convicted of an offence because of the contravention by the holder of this Act or the regulations.

(4) Subject to section 10, the Minister may revoke a permit if the holder of the permit:

- (a) contravenes the permit; or
- (b) fails to pay any amount which is payable under this Act or the Levy Act.

(5) Where the Minister has revoked a permit under subsection (1), (3) or (4), the Minister shall, as soon as practicable, give the holder of the permit notice of the revocation setting out the reasons for it.

(6) Where a permit has been revoked, its holder may be convicted of an offence because of a contravention of the permit notwithstanding the revocation.

### ***Division 7—Miscellaneous***

#### **Publication in *Gazette***

36. (1) Where an application for the grant, renewal or variation of a permit is made:

- (a) the Minister shall cause particulars of the application to be published in the *Gazette* as soon as it is practicable to do so; and
- (b) the applicant shall cause particulars of the application to be published in a newspaper circulating widely in the State or affected Territory in whose adjacent area the installation to which the application relates would be installed after the grant, renewal or variation of the permit, as the case may be;

and the permit shall not be granted, renewed or varied, as the case may be, unless and until paragraphs (a) and (b) have been complied with.

(2) The Minister shall cause particulars of the grant, renewal, variation, expiration without renewal, or revocation, of a permit to be published in the *Gazette* as soon as it is practicable to do so.

#### **Securities etc.**

37. (1) The Minister may, by notice in writing served on an applicant for a permit, require the applicant to give security, in an amount determined by the Minister, by bond, guarantee or cash deposit, or by all or any of those methods:

- (a) to comply with this Act and the regulations;
- (b) not to contravene the permit; and
- (c) to meet any liability to the Commonwealth that the applicant could incur under section 54 or 56 or any other provision of this Act;

and, where the applicant is so required, the applicant is not entitled to be granted the permit unless the applicant gives security in accordance with the requirement.

(2) The Minister may, by notice in writing served on an applicant for, or the holder of, a permit, require the applicant or holder to insure against

any specified liability to the Commonwealth that the holder or applicant could incur under section 54 or 56 or otherwise because of holding the permit.

**Trust Account for money paid as security**

38. (1) An account is hereby established to be known as the Sea Installations Trust Account.

(2) The account is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

(3) Money paid as a security under section 37 by way of a cash deposit shall be paid into the account.

(4) Where the Minister determines, in writing signed by the Minister, that the amount standing to the credit of the account that is the sum of the money paid by a person as a security under section 37 and of interest on that money exceeds the amount required for the purposes of the security, the amount of the excess shall be paid to that person.

**Permits not evidence of compliance with law**

39. The grant of a permit is not evidence, for the purposes of this Act or of any other law of the Commonwealth or of any law of a Territory, of compliance by the holder with this Act or with any other law of the Commonwealth or with any law of a Territory.

**PART IV—EXEMPTION CERTIFICATES**

**Exemption certificate**

40. (1) Subject to this Part, the Minister may, on his or her own motion or on an application made by a person under section 41, give a certificate that a specified sea installation may be installed at a specified location in an adjacent area without a permit.

(2) The Minister shall give a certificate that a sea installation may be installed at a particular location if the Minister is satisfied that the installation, when so installed, will only be used for particular scientific activities or particular activities relating to marine archaeology.

(3) In deciding whether to give a certificate that a sea installation may be installed at a particular location in any case other than a case referred to in subsection (2), the Minister shall have regard to:

- (a) the purpose for which the installation is proposed to be used;
- (b) the activities that the owner and operator of the installation propose to be carried out in relation to the installation;
- (c) the effect that the installation would have on the environment;
- (d) the size of the installation;
- (e) the number of persons likely to be on the installation at any one time;



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- (f) the period during which the installation would be installed at the location; and
- (g) such other matters as the Minister thinks fit.

(4) A certificate is subject to such conditions as the Minister considers appropriate.

**Application for exemption certificate**

**41. (1)** A person may make an application, in writing in the appropriate approved form, to the Minister for an exemption certificate.

(2) An application for an exemption certificate in relation to a sea installation shall set out such particulars as are required by the form.

(3) An application for an exemption certificate in relation to a sea installation shall be accompanied by evidence of the fact that the applicant will be the owner or operator of the installation on its installation.

(4) Where an application is made and the Minister requires further information for the purpose of dealing with it, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to deal with the application until the statement is given.

- (5) The Minister shall deal with an application within 28 days after:
- (a) if no requirement has been made to the applicant under subsection (4)—receiving the application; or
  - (b) if any such requirement has been made to the applicant—receiving a statement or statements in writing containing all the further information required to be given.

(6) Where, in relation to an application, the Minister refuses to give an exemption certificate, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

**Form of exemption certificate**

**42.** An exemption certificate in relation to a sea installation shall:

- (a) identify the installation and its location;
- (b) specify the particular activities for which the installation may be used;
- (c) specify the period, commencing on the day on which the notice is given, for which the certificate is, subject to this Act, to remain in force;
- (d) set out the conditions to which the certificate is subject; and
- (e) set out such other particulars as are prescribed.

**Termination of exemption certificate**

**43. (1)** An exemption certificate in relation to a sea installation ceases to be in force if:

- (a) the period specified under paragraph 42 (c) in the certificate ends;
- (b) the owner or operator of the installation uses it, or allows it to be used, for an activity that is not a part of, or incidental to the carrying out of, the particular activities specified under paragraph 42 (b) in the certificate; or
- (c) the Minister gives to the owner or operator of the installation a notice under subsection (2).

**(2)** Where the Minister has reasonable grounds for believing that a condition to which an exemption certificate is subject has been contravened, the Minister may give to the owner or operator of the sea installation to which the certificate relates a written notice to the effect that the certificate has ceased to be in force.

**Effect of exemption certificates**

**44.** Where an exemption certificate is in force in relation to a sea installation:

- (a) section 14 does not apply in relation to installing the installation at the location specified in the certificate;
- (b) section 15 does not apply in relation to the use of the installation for the activities specified in the certificate; and
- (c) section 16 does not apply in relation to the carrying out of any environment related work specified in the certificate.

**PART V—APPLICATION OF LAWS AND JURISDICTION OF COURTS IN RELATION TO SEA INSTALLATIONS**

**Application of Commonwealth Acts in adjacent areas**

**45. (1)** Subject to subsection (2), the provisions of the Acts specified in the Schedule apply, as provided by this section, in relation to sea installations installed, or being installed, in adjacent areas and so apply as if those areas were part of the Commonwealth.

**(2)** The regulations may revoke the application, or the application in a specified adjacent area, of an Act, or part of an Act, specified in the Schedule.

**(3)** Subject to this Act, the regulations may provide that a specified Act, or a specified part of a specified Act, applies, as provided by this section, in relation to sea installations installed, or being installed, in adjacent areas or specified adjacent areas and so applies as if those areas were part of the Commonwealth.

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(4) Without limiting the operation of subsections (1) and (3), an Act or part of an Act applying in relation to an adjacent area under those subsections, applies:

(a) in relation to:

(i) an act or omission that takes place on or in the vicinity of;  
and

(ii) a matter that exists or arises in relation to;  
a sea installation installed, or being installed, in the adjacent area or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;

(b) in relation to a person who:

(i) is on such a sea installation;

(ii) is in the adjacent area for a reason of the kind referred to in paragraph (a); or

(iii) is on or in the vicinity of a ship, 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) in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).

(5) This section does not limit the operation of any law apart from this section.

**Application of laws in areas adjacent to States**

46. (1) Subject to this Act and the regulations, the laws, whether written or unwritten, in force in a State for the time being (other than laws of the Commonwealth) and any instrument having effect under any of those laws, apply, as provided by, and by force of, this section, in relation to sea installations installed, or being installed, in the adjacent area of the State and so apply as if that area were part of that State and of the Commonwealth.

(2) The laws referred to in subsection (1) do not include laws that are criminal laws within the meaning of the *Crimes at Sea Act 1979*, 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 it applies to part only of the State.

(4) Without limiting the operation of subsection (1), a law or instrument referred to in that subsection relating to a State applies:

(a) in relation to:

(i) an act or omission that takes place on or in the vicinity of;  
and

(ii) a matter that exists or arises in relation to;

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a sea installation installed, or being installed, in the adjacent area of the State or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;

- (b) in relation to a person who:
  - (i) is on such a sea installation;
  - (ii) is in the adjacent area for a reason of the kind referred to in paragraph (a); or
  - (iii) is on or in the vicinity of a ship, 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) in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).

(5) This section does not:

- (a) give to a law of a State an operation, as law of the Commonwealth, that it would not have, as law of the State, if the adjacent area of the State were within so much of the part of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that State as 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 this Act or another law of the Commonwealth;
- (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.

(6) This section does not limit the operation that any law or instrument has apart from this section.

(7) The regulations may provide that such of the provisions of a law or instrument referred to in subsection (1) as are specified in the regulations do not apply by reason of this section or so apply subject to such modifications as are specified in the regulations.

(8) Notwithstanding anything in this section or in section 49, the regulations that may be made for the purposes of subsection (7) 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.

**Application of laws in areas adjacent to Territories**

**47. (1)** Subject to this Act, the laws, whether written or unwritten, in force in an affected 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, and by force of, this section, in relation to all matters relating to sea installations installed, or being installed, in the adjacent area of the Territory and so apply as if that area were part of that Territory and, in the case of the Northern Territory, were part of the Commonwealth.

**(2)** The laws referred to in subsection (1) do not include laws that are criminal laws within the meaning of the *Crimes at Sea Act 1979*, 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 it applies to part only of that Territory.

**(4)** Without limiting the operation of subsection (1), a law or instrument referred to in that subsection relating to a Territory applies:

- (a)** in relation to:
  - (i)** an act or omission that takes place on or in the vicinity of;  
and
  - (ii)** a matter that exists or arises in relation to;  
a sea installation installed, or being installed, in the adjacent area of the Territory or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;
- (b)** in relation to a person who:
  - (i)** is on such a sea installation;
  - (ii)** is in the adjacent area for a reason of the kind referred to in paragraph (a); or
  - (iii)** is on or in the vicinity of a ship, 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)** in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).

**(5)** This section does not:

- (a)** give to a law of a Territory an operation, as law of the Commonwealth, that it would not have, as law of the Territory, if the adjacent area of the Territory were within so much of the part of the area described in Schedule 2 of the *Petroleum Act* under the heading that refers to that Territory as 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 this Act or another law of the Commonwealth;

- (c) apply so as to impose any tax;
- (d) apply so as to appropriate any public money 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.

(6) This section does not limit the operation that any law or instrument has apart from this section.

(7) The regulations may provide that such of the provisions of a law or instrument referred to in subsection (1) as are specified in the regulations do not apply by reason of this section or so apply subject to such modifications as are specified in the regulations.

#### **Installations and goods deemed to have been imported into certain external Territories**

48. Where a sea installation becomes installed in the adjacent area in respect of Norfolk Island, of the Territory of Christmas Island or of the Territory of Cocos (Keeling) Islands, then, for the purpose only of any law in force in that Territory that relates to the importation of goods into that Territory or to the imposition of customs duties on goods that are so imported, the installation and goods on the installation at the time when the installation becomes so installed shall be deemed to have been imported into that Territory at the time when the installation becomes so installed.

#### **Jurisdiction of courts**

49. (1) Except as otherwise prescribed, the several courts of a State are invested with federal jurisdiction in all matters arising under the laws and instruments having effect by virtue of section 46 in the adjacent area of the State.

(2) Jurisdiction is conferred, so far as the Constitution permits, on the several courts having jurisdiction in an affected Territory in all matters arising under the laws and instruments having effect by virtue of section 47 or 48 in the adjacent area of the Territory.

(3) Subject to this section:

- (a) the several courts of the States are vested with federal jurisdiction; and
- (b) jurisdiction is conferred, so far as the Constitution permits, on the several courts of the affected Territories;

with respect to matters arising under this Act or the regulations other than matters referred to in subsection (1) or (2).

(4) Jurisdiction vested in or conferred on courts by this section is vested 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.

**Rules of courts**

**50.** Where a court of a State or of an affected Territory has jurisdiction because of this Act, the power of the court to make rules relating to the practice and procedure of the court may be exercised for the purposes of that jurisdiction.

**PART VI—OFFENCES AND PROCEDURES RELATING TO SEA INSTALLATIONS**

**Direct journeys between sea installations and external places prohibited**

**51. (1)** Subject to subsection (4), where a person makes a direct journey from an external place to a sea installation or from a sea installation to an external place:

- (a) that person;
- (b) the holder of the permit for the installation or, if there is no such holder, the owner of the installation; and
- (c) the owner and person in charge of a ship or aircraft on which the person travelled in the course of that journey;

are each guilty of an offence against this section.

**(2)** Subject to subsection (4), where goods are taken directly from an external place to a sea installation:

- (a) the owner of the goods at the time of their arrival at the installation;
- (b) the holder of the permit for the installation or, if there is no such holder, the owner of the installation; and
- (c) the owner and person in charge of a ship or aircraft on which the goods were transported from the place to the installation;

are each guilty of an offence against this section.

**(3)** Subject to subsection (4), where goods are taken directly from a sea installation to an external place:

- (a) the person who caused the goods to be taken directly from that installation to that place;
- (b) the holder of the permit for the installation or, if there is no such holder, the owner of the installation; and
- (c) the owner and person in charge of a ship or aircraft on which the goods were transported from the installation to the place;

are each guilty of an offence against this section.

**(4)** It is a defence to a charge of an offence against this section if it is established that the journey because of which the offence would have been committed:

- (a) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life;

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- (b) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea, of an aircraft in flight or of a sea installation; or
- (c) was authorised in writing by the Minister and was carried out in accordance with the conditions (if any) specified in that authorisation.

(5) Subsection (4) shall not be taken to limit by implication any defence that would, but for the subsection, be available to a person charged with an offence against this section.

(6) For the purposes of this section, a person shall be taken to have made a direct journey from an external place to a sea installation:

- (a) where the external place is an external place in relation to Australia and the installation is installed in the adjacent area in respect of a State or of the Northern Territory—if, and only if, the last place entered by the person in the course of travelling from the place to the installation is not a place in Australia;
- (b) where the external place is an external place in relation to an uninhabited external Territory and the installation is installed in the adjacent area in respect of that Territory—if, and only if, the last place entered by the person in the course of travelling from the place to the installation is not a place in Australia; or
- (c) where the external place is an external place in relation to an inhabited external Territory and the installation is installed in the adjacent area in respect of that Territory—if, and only if, the last place entered by the person in the course of travelling from the place to the installation is not a place in that Territory.

(7) For the purposes of this section, a person shall be taken to have made a direct journey from a sea installation to an external place:

- (a) where the installation is installed in the adjacent area in respect of a State or of the Northern Territory and that external place is an external place in relation to Australia—if, and only if, the first place entered by the person in the course of travelling from the installation to the place is not a place in Australia;
- (b) where the installation is installed in the adjacent area in respect of an uninhabited external Territory and the external place is an external place in relation to that Territory—if, and only if, the first place entered by the person in the course of travelling from the installation to the place is not a place in Australia; or
- (c) where the installation is installed in the adjacent area in respect of an inhabited external Territory and the external place is an external place in relation to that Territory—if, and only if, the first place entered by the person in the course of travelling from the installation to the place is not a place in that Territory.

(8) For the purposes of this section, goods shall be taken to have been taken directly from an external place to a sea installation:



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- (a) where the external place is an external place in relation to Australia and the installation is installed in the adjacent area in respect of a State or of the Northern Territory—if, and only if, the last place those goods were taken in the course of being carried from the place to the installation was not a place in Australia;
  - (b) where the external place is an external place in relation to an uninhabited external Territory and the installation is installed in the adjacent area in respect of that Territory—if, and only if, the last place those goods were taken in the course of being carried from the place to the installation was not a place in Australia; or
  - (c) where the external place is an external place in relation to an inhabited external Territory and the installation is installed in the adjacent area in respect of that Territory—if, and only if, the last place those goods were taken in the course of being carried from the place to the installation was not a place in that Territory.
- (9) For the purposes of this section, goods shall be taken to have been taken directly from a sea installation to an external place:
- (a) where the installation is installed in the adjacent area in respect of a State or of the Northern Territory and that external place is an external place in relation to Australia—if, and only if, the first place those goods were taken in the course of being carried from the installation to the place is not a place in Australia;
  - (b) where the installation is installed in the adjacent area in respect of an uninhabited external Territory and the external place is an external place in relation to that Territory—if, and only if, the first place those goods were taken in the course of being carried from the installation to the place is not a place in Australia; or
  - (c) where the installation is installed in the adjacent area in respect of an inhabited external Territory and the external place is an external place in relation to that Territory—if, and only if, the first place those goods were taken in the course of being carried from the installation to the place is not a place in that Territory.
- (10) For the purposes of this section:
- (a) a person shall not be taken to travel from or to an external place or a sea installation because only of having been in an aircraft that flies over, or lands at, that place or installation; and
  - (b) goods shall not be taken to have been brought from, or sent to, an external place or a sea installation because only of having been in an aircraft that flies over, or lands at, that place or installation.
- (11) In this section:  
“external place” means:
- (a) in relation to Australia—an external Territory or a foreign country;

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(b) in relation to an uninhabited external Territory—another external Territory or a foreign country; or

(c) in relation to an inhabited external Territory—Australia, another external Territory or a foreign country;

“inhabited external Territory” means Norfolk Island, the Territory of Christmas Island or the Territory of the Cocos (Keeling) Islands;

“uninhabited external Territory” means an external Territory other than an inhabited external Territory.

Penalty for a contravention of subsection (1), (2) or (3):

(a) in the case of a natural person—\$50,000; or

(b) in the case of a body corporate—\$250,000.

**Maintenance of sea installations etc.**

**52. (1)** Subject to subsection (2), a person who holds a permit to operate a sea installation shall maintain in good condition and repair the sea installation and all equipment and other property in an adjacent area used in connection with that installation.

Penalty:

(a) in the case of a natural person—\$50,000; or

(b) in the case of a body corporate—\$250,000.

(2) Subsection (1) does not apply to a person in relation to any equipment or other property that was not brought into an adjacent area by or with the authority of the person.

**Notice of bad condition of sea installation**

**53. (1)** Where a permitted sea installation is, because of damage to it or otherwise, in such condition that it constitutes, or is likely to constitute, a threat to the safety of persons on it or that it is having, or is likely to have, an adverse effect on the environment, the holder of the permit shall notify the Minister that it is in such condition.

Penalty:

(a) in the case of a natural person—\$50,000; or

(b) in the case of a body corporate—\$250,000.

(2) In proceedings for an offence against subsection (1), it is a defence if it is established that the person charged was not aware, and could not reasonably be expected to have been aware, of the condition of the sea installation concerned.

**Repairs to avoid adverse effect on environment**

**54. (1)** Where the Minister considers that a permitted sea installation is, because of damage to it or otherwise, in such condition that it constitutes, or is likely to constitute, a threat to the safety of persons on it or that it is having, or is likely to have, an adverse effect on the environment, the Minister may, by notice in writing served on the holder of the permit for the installation, direct the holder to take, within a period specified in the

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notice and in a manner specified in the notice, action specified in the notice to improve the condition of the installation or otherwise prevent or reduce the threat to the safety of persons or the adverse effect on the environment, as the case may be, and to rectify the damage (if any) caused to the environment as a result of the condition of the installation.

(2) Where:

(a) notice to take action in relation to a sea installation is given under subsection (1); and

(b) the holder of the permit for the installation does not take that action in the manner specified in the notice and:

(i) where the holder of the permit applies to the Administrative Appeals Tribunal for the review of the decision to give the notice or for review of the requirements of the notice—within a period equal to the sum of the period specified in the notice and the period between the application being made and the review being finally disposed of; or

(ii) in any other case—within the period specified in the notice; the Commonwealth may take that action.

(3) Where the Commonwealth incurs expense in taking action under subsection (2) in relation to sea installation, the amount of the expense is a debt due to the Commonwealth by the holder of the permit for the installation and, if it is not met by enforcing security given under subsection 37 (1), may be recovered by action in a court having jurisdiction under section 49.

**Directions for removal of sea installations etc.**

**55. (1)** The Minister may, by notice in writing served on the owner or operator of an unauthorised installation, direct that owner or operator, as the case may be, to do either or both of the following things within a period specified in the notice and in a manner specified in the notice:

(a) to remove or cause to be removed from an adjacent area that installation and all or any property brought into that area by that person or any other person for the purpose of the installation of, the use of, or work on, that installation or to make arrangements that are satisfactory to the Minister with respect to that installation and property;

(b) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in an adjacent area caused by that person or any other person in the installation of, the use of, or work on, that installation.

(2) The Minister may, by notice in writing served on the holder of a permit to operate a sea installation, direct the holder to do either or both of the following things within a period specified in the notice and in a manner specified in the notice:

- (a) to remove or cause to be removed from an adjacent area all or any property brought into that area for the purpose of the installation of, the use of, or work on, that installation, or to make arrangements that are satisfactory to the Minister with respect to that property;
- (b) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in an adjacent area caused in the installation of, the use of, or the carrying out of work on, that installation.

(3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction.

Penalty:

- (a) in the case of a natural person—\$50,000; or
- (b) in the case of a body corporate—\$250,000.

### **Forfeiture**

**56. (1) Where:**

- (a) a direction has been given to a person under section 55 for the removal of a sea installation or property; and
- (b) the person has not complied with the direction;

the Minister may, by notice in writing published in the *Gazette*, declare that the installation or property is forfeited to the Commonwealth, and, where the Minister does so, the declaration has effect accordingly.

(2) Where:

- (a) a person is convicted by a court:
  - (i) of an offence against section 14, 15, 16 or 18; or
  - (ii) of an offence arising out of section 5 or 7 of the *Crimes Act 1914* in relation to an offence referred to in subparagraph (i); or
- (b) an order is made under section 19B of the *Crimes Act 1914* in relation to a person in respect of an offence referred to in subparagraph (a) (i) or (ii);

the court may, in addition to imposing a penalty or making the order, as the case may be, make an order for the forfeiture to the Commonwealth of the sea installation involved in the commission of the offence.

(3) Where the Commonwealth incurs expense in removing or disposing of a sea installation or property forfeited under subsection (1) or (2), the amount of that expense is a debt due to the Commonwealth by the person who did not comply with the direction, the person who was convicted or the person in respect of whom an order under section 19B of the *Crimes Act 1914* was made, as the case may be, and, if it is not met by enforcing security (if any) given under subsection 37 (1), may be recovered by action in a court having jurisdiction under section 49.

### **Safety zones**

**57. (1)** Subject to subsection (2), for the purpose of protecting a sea installation installed, or being installed, in an adjacent area, the Minister may, by notice in writing published in the *Gazette*, prohibit:

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

from entering or remaining in a specified safety zone surrounding the installation without the consent in writing of the Minister.

**(2)** A safety zone specified in a notice may extend to a distance of 500 metres around the sea installation specified in the notice measured from each point of the outer edge of the installation.

**(3)** Where a vessel enters or remains in a safety zone in contravention of the notice, the owner and the person in charge of the vessel are each guilty of an offence against this section and are punishable, upon conviction, by:

- (a) in the case of a natural person—a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years, or both; or
- (b) in the case of a body corporate—a fine not exceeding \$500,000.

**(4)** It is a defence to a charge of an offence of entering or remaining in a safety zone if it is established that the entering or remaining:

- (a) occurred because of factors beyond the control of the person charged;
- (b) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life; or
- (c) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea or of a sea installation.

### **Contravention of conditions**

**58.** The holder of a permit shall not contravene the conditions to which the permit is subject.

Penalty:

- (a) in the case of a natural person—\$50,000; or
- (b) in the case of body corporate—\$250,000.

### **Injunctions**

**59. (1)** Where, on the application of the Minister or of an interested person, a court having jurisdiction under section 49 is satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute:

- (a) a contravention of this Act or of the regulations;
- (b) attempting such a contravention;
- (c) aiding, abetting, counselling or procuring such a contravention;

- (d) inducing, or attempting to induce, whether by threats, promises or otherwise, such a contravention;
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, such a contravention by a person; or
- (f) conspiring with others to contravene this Act or the regulations;

the court may grant an injunction restraining the person from engaging in the conduct and, if in the opinion of the court it is desirable to do so, requiring that the person do any act or thing.

(2) Where an application is made for an injunction under subsection (1), the court may, if the court determines it to be appropriate, grant an injunction by consent of all the parties to the proceedings, whether or not the court is satisfied that a person has engaged, or is proposing to engage, in conduct of a kind mentioned in subsection (1).

(3) Where in the opinion of the court it is desirable to grant an interim injunction pending determination of an application under subsection (1), the court may do so.

(4) Where the Minister makes an application to a court for the grant of an injunction under this section, the court shall not require the applicant or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

(5) The court may rescind or vary an injunction granted under subsection (1) or (3).

(6) The power of the court to grant an injunction restraining a person from engaging in conduct may be exercised:

- (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind;
- (b) whether or not the person has previously engaged in conduct of that kind; and
- (c) whether or not there is a serious and immediate threat of injury to the environment if the person engages in conduct of that kind.

(7) The power of the court to grant an injunction requiring a person to do an act or thing may be exercised:

- (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;
- (b) whether or not the person has previously refused or failed to do that act or thing; and
- (c) whether or not there is a serious and immediate threat of injury to the environment if the person refuses or fails to do that act or thing.

(8) The reference in subsection (1) to an interested person, in relation to conduct referred to in that subsection, shall be read as a reference to:

- (a) a person whose use or enjoyment of an adjacent area or of a part of an adjacent area is, or is likely to be, adversely affected by that conduct; or
  - (b) an organisation or association of persons, whether incorporated or not, the objects or purposes of which include, and activities of which relate to, the protection or conservation of an adjacent area or of a part of an adjacent area that is, or is likely to be, affected by that conduct.
- (9) Paragraph (8) (b) does not apply in relation to conduct undertaken:
- (a) before the organisation or association was formed;
  - (b) before the objects or purposes of the organisation or association included the matter concerned; or
  - (c) before the organisation or association engaged in activities related to the matter concerned.

## **PART VII—ADMINISTRATION**

### **Appointment of inspectors**

**60.** The Minister may, in writing, appoint:

- (a) a specified person; or
- (b) persons in a specified class of persons;

to be an inspector, or inspectors, for the purposes of this Act.

### **Identity cards**

**61. (1)** The Minister may cause to be issued to an inspector, other than a member of a police force, an identity card in a form approved by the Minister.

**(2)** Where a person in possession of an identity card issued to the person ceases to be an inspector, the person shall forthwith return the identity card to the Minister.

Penalty: \$100.

### **Power of entry**

**62. (1)** Subject to subsections (2), (3) and (4), an inspector may board a sea installation, at any reasonable time during the day or night, for the purpose of ascertaining whether there has been or is a contravention of this Act or of the regulations and may:

- (a) enter into and search any part of the installation;
- (b) take on to the installation, and into any part of the installation, such equipment and materials as the inspector requires for the purpose of exercising his or her powers under this section;
- (c) inspect, examine, take measurements of or conduct tests concerning any structure, plant, substance or other thing on the installation;

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- (d) take photographs, or make sketches, of the installation, any part of the installation or any structure, plant, substance or other thing on the installation;
  - (e) record any occurrences on the installation or in any part of the installation;
  - (f) inspect, take extracts from or make copies of any books, records or documents relating to the installation or activities undertaken on the installation; or
  - (g) direct that the installation, or any part of the installation, be left undisturbed for a specified period.
- (2) Subject to subsections (3) and (4), an inspector shall not board a sea installation under subsection (1) unless:
- (a) the installation is a permitted sea installation;
  - (b) the operator of the installation has consented to the inspector boarding the installation;
  - (c) the inspector is authorised, under a warrant issued under subsection (4), to board the installation; or
  - (d) the inspector believes on reasonable grounds that there exists on the installation a state of affairs constituting a risk to human life or that serious damage to the installation or to the environment has occurred or is imminent.
- (3) Subject to subsection (4), an inspector shall not enter any part of a permitted sea installation, being a part that was shown in the plans accompanying the application for the permit to be residential or sleeping quarters (however designated), unless:
- (a) the occupier of the quarters consents to the inspector entering those quarters;
  - (b) the inspector is authorised, under a warrant issued under subsection (4), to enter those quarters; or
  - (c) the inspector believes on reasonable grounds that entry into, and exercise of the powers of an inspector under paragraphs (1) (a) to (g) (inclusive) in respect of, the quarters will reveal a state of affairs constituting a risk to human life or will reveal that serious damage to the installation or to the environment has occurred or is imminent.
- (4) If, on an application made by an inspector, a Magistrate is satisfied by information on oath, that it is reasonably necessary that the inspector should, for the purposes of exercising the powers of the inspector under paragraphs (1) (a) to (g) (inclusive) in relation to a sea installation or to a particular part of a sea installation, have access to an installation, or to that part of the installation, the Magistrate may issue a warrant authorising the inspector (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable:



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- (a) to board the installation or enter that part of the installation, as the case may be; and
- (b) to exercise those powers in relation to the sea installation or to that part of the sea installation.

(5) Immediately upon boarding a sea installation under subsection (1), an inspector shall take all reasonable steps to notify the person in charge of the installation of the purpose for which the inspector has boarded the installation, and shall produce his or her identity card for inspection by the person upon being requested to do so.

- (6) There shall be stated in a warrant issued under subsection (4):
  - (a) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (b) a day, not being later than one month after the date of issue of the warrant, at the end of which the warrant ceases to have effect.

(7) Where it is reasonably necessary for the purpose of inspecting, examining, taking measurements for or conducting tests concerning any structure, plant, substance or thing on a sea installation, an inspector may, in the exercise of his or her powers under paragraph (1) (c):

- (a) take possession of the structure, plant, substance or thing and remove it from the installation; or
- (b) take a sample from the structure, plant, substance or thing and remove the sample from the installation.

(8) Where, because of circumstances of urgency, it is necessary to do so, the inspector may make application by telephone to a Magistrate for the issue of a warrant under subsection (4).

(9) Before making an application under subsection (8), an inspector shall prepare an information that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.

(10) Where a Magistrate issues a warrant under subsection (4) upon an application under subsection (8) by an inspector:

- (a) the Magistrate shall:
  - (i) complete and sign the warrant;
  - (ii) inform the inspector of the terms of the warrant and the date on which and the time at which it was signed; and
  - (iii) record on the warrant the reasons for the issuing of the warrant on an application under subsection (8); and
- (b) the inspector shall complete a form of warrant in terms furnished to the inspector by the Magistrate and write on it the name of the Magistrate and the date on which and the time at which it was signed.

(11) Where an inspector completes a form of warrant in accordance with paragraph (10) (b), the inspector shall, not later than the day next

following the day on which the warrant is to cease to have effect, send to the Magistrate who signed the warrant the form of the warrant completed by the inspector and the information duly sworn in connection with the warrant.

(12) Upon receipt of the documents referred to in subsection (11), the Magistrate shall attach them to the warrant signed by the Magistrate and deal with the documents in the manner in which the Magistrate would have dealt with the information if the application for the warrant had been made under subsection (4).

(13) A form of warrant duly completed in accordance with paragraph (10) (b) shall, if it is in accordance with the terms of the warrant issued by the Magistrate, be deemed to be a warrant issued under subsection (4).

(14) A reference in this section to a contravention of this Act or of the regulations includes a reference to an offence arising out of section 5 or 7 of the *Crimes Act 1914* in relation to such a contravention or to an offence against subsection 89 (1) of that Act in relation to such a contravention.

#### **Power to require information**

63. (1) An inspector may, by notice in writing given or sent by post to a person, require the person to give to the inspector, within such a period as specified in the notice, such information in relation to matters relevant to the operation of this Act as is specified in the notice, including information verified by statutory declaration.

(2) A person shall not, without reasonable excuse, refuse or fail to provide information that is required to be provided under subsection (1).

Penalty:

- (a) in the case of a natural person—\$2,000 or imprisonment for 12 months, or both; or
- (b) in the case of a body corporate—\$10,000.

(3) A person is not excused from providing information that the person is required under subsection (1) to provide on the ground that the information might tend to incriminate the person, but any information so provided, and any information or thing (including any document) obtained as a direct or indirect consequence of the provision of the information, is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence against subsection (2) or against subsection 64 (2) in its application to that information or thing.

#### **False statements**

64. (1) A person who, in relation to an application for, or an application for the renewal or variation of, a permit or an application for an exemption certificate, knowingly or recklessly:

- (a) makes a statement that is false or misleading in a material particular;
- or

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- (b) gives to an inspector or other person doing duty in relation to this Act a document that contains information that is false or misleading in a material particular;

is guilty of an offence punishable, on conviction, by:

- (c) if the first-mentioned person is a natural person—a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both; or
- (d) if the first-mentioned person is a body corporate—a fine not exceeding \$25,000.

(2) A person who, otherwise than in relation to an application for, or an application for the renewal or variation of, a permit, or an application for an exemption certificate knowingly or recklessly:

- (a) makes to an inspector doing duty in relation to this Act a statement that is false or misleading in a material particular; or
- (b) gives to an inspector doing duty in relation to this Act a document that contains information that is false or misleading in a material particular;

is guilty of an offence punishable, on conviction, by:

- (c) in the case of a natural person—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both; or
- (d) in the case of a body corporate—a fine not exceeding \$10,000.

**Indictable offences**

65. (1) An offence against section 14, 15 or 16, subsection 51 (1), (2) or (3), section 52, 53, 55, 57 or 58, subsection 64 (1) or section 78 is an indictable offence.

(2) An offence against this Act that is not an indictable offence is a summary offence.

(3) Notwithstanding that an offence against this Act is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(4) Where, in accordance with subsection (3), a court of summary jurisdiction convicts a person of an offence against this Act, the penalty that the court may impose is:

- (a) if an offence is an offence against section 14, 15 or 16, subsection 51 (1), (2) or (3) or section 52, 53, 55, 58 or 78:
  - (i) in the case of a natural person—a fine not exceeding \$5,000; or
  - (ii) in the case of a body corporate—a fine not exceeding \$25,000;
- (b) if the offence is an offence against section 57:
  - (i) in the case of a natural person—a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years, or both; or

- (ii) in the case of a body corporate—a fine not exceeding \$25,000;  
or
- (c) if the offence is an offence against subsection 64 (1):
  - (i) in the case of a natural person—a fine not exceeding \$1,000  
or imprisonment for a term not exceeding 6 months, or both;  
or
  - (ii) in the case of a body corporate—a fine not exceeding \$5,000.

**Conduct by directors, servants or agents**

**66. (1)** Where it is necessary, for the purposes of this Act, to establish the state of mind of a body corporate in respect of conduct engaged in, or deemed by subsection (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent of the body corporate, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

- (2) Any conduct engaged in on behalf of a body corporate:
  - (a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or
  - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in respect of conduct deemed by subsection (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

- (4) Conduct engaged in on behalf of a person other than a body corporate:
  - (a) by a servant or agent of the person within the scope of his or her actual or apparent authority; or
  - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;

shall be deemed, for the purposes of this Act, to have been engaged in by the first-mentioned person.

(5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

(6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

## **PART VIII—INSTALLATION LEVY COLLECTION**

### **Time for payment of installation levy**

67. (1) Subject to subsection (2), installation levy imposed on a sea installation on a day is due and payable on that day.

(2) Where:

- (a) an application has been made to the Administrative Appeals Tribunal for the review of the last determination under section 70 in relation to a sea installation made on or before a day on which installation levy was imposed in respect of the installation; and
- (b) that application was made, but not disposed of, before the day on which, but for this subsection, that levy would have been due and payable;

that levy is due and payable 4 days after the review is finally disposed of.

### **Penalty for non-payment**

68. Where the liability of the holder of a permit to pay installation levy is not discharged on or before the day when the levy becomes due and payable, there is payable by the holder to the Commonwealth by way of penalty, in addition to the levy, an amount calculated at the rate of 30% per annum upon so much of the levy as from time to time remains unpaid, to be calculated from the day when the levy becomes due and payable.

### **Recovery of levy and penalties**

69. The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) installation levy that is due and payable;
- (b) amounts that are payable under section 68.

### **Valuation of sea installations**

70. (1) Where a sea installation in respect of which a permit is in force is installed in an adjacent area, the Minister may determine, and forthwith to notify the holder of the permit of, the amount that, having regard to sound valuation principles, is the market value of the installation.

(2) Where the Minister considers that there has been a significant increase or decrease in the market value of a sea installation in respect of which a determination has been made under subsection (1) or this subsection and in respect of which a permit is in force, the Minister may determine,

and forthwith to notify the holder of the permit of, the amount that, in accordance with sound valuation principles, is the market value of the installation.

#### **Authorised valuers**

**71. (1)** The Minister may, by writing, appoint appropriate persons as authorised valuers for the purpose of assisting the Minister in determining values under section 70.

**(2)** An authorised valuer may board any sea installation installed, or being installed, in an adjacent area and enter into any part of the installation for the purposes of section 70.

**(3)** Where an authorised valuer boards a sea installation, the authorised valuer shall, upon request by the person apparently in charge of the installation, produce evidence of his or her appointment as an authorised valuer and, if the authorised valuer fails to do so, the authorised valuer is not authorised to remain on board the installation.

### **PART IX—MISCELLANEOUS**

#### **Fees**

**72. (1)** The regulations may prescribe fees, or a method of ascertaining fees, to be paid in respect of applications for permits, applications for the renewal of permits or applications for the variation of permits.

**(2)** A fee prescribed in respect of an application shall be paid when the application is made or at such other time (if any) as is prescribed and, if the fee is not so paid, the application shall be deemed not to be duly made.

**(3)** The Minister may waive the payment of any fee payable in respect of an application and, if the Minister does so, subsection (2) does not apply in relation to that application.

#### **Recompense of expenses incurred by States etc.**

**73. (1)** The Minister may enter into arrangements with a State or the Northern Territory for the payment by the Commonwealth to the State or Territory of money in relation to the administration of this Act.

**(2)** Payments under arrangements referred to in subsection (1) shall be made out of money appropriated by the Parliament for the purpose.

#### **Delegation**

**74. (1)** The Minister may, either generally or otherwise as provided in the instrument of delegation, in writing, delegate to:

- (a)** the holder of an office established by an Act;
- (b)** the holder of an office established by a law of a State or of a Territory;
- (c)** an officer or employee of the Australian Public Service;

- (d) an officer or employee of the Public Service of a State or Territory;  
or
- (e) a person, other than a person referred to in paragraph (c) or (d), who is employed by an authority or body established by a law of the Commonwealth, a State or a Territory;

all or any of the powers of the Minister under this Act, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of the power by the Minister.

#### **Application for review**

**75. (1)** Applications may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision of the Minister under section 17 to grant, or refuse to grant, a permit;
- (b) a decision of the Minister for the purposes of section 24;
- (c) a decision of the Minister under section 25 to renew, or refuse to renew, a permit;
- (d) a decision of the Minister under subsection 28 (1) to vary a permit;
- (e) a decision of the Minister under subsection 28 (2) to vary, or refuse to vary, a permit;
- (f) a decision of the Minister under subsection 28 (3) to vary a permit;
- (g) a decision of the Minister for the purposes of subsection 34 (1);
- (h) a decision of the Minister under subsection 35 (2);
- (j) a decision of the Minister under subsection 35 (3);
- (k) a determination of the Minister of the amount of security for the purposes of subsection 37 (1);
- (m) a decision of the Minister under section 40 to refuse to give an exemption certificate;
- (n) a decision of the Minister for the purposes of subsection 40 (3);
- (p) a decision of the Minister for the purposes of paragraph 51 (4) (c);
- (q) a decision by the Minister for the purposes of section 54;
- (r) a decision of the Minister for the purposes of subsection 55 (1);
- (s) a decision of the Minister for the purposes of subsection 55 (2);
- (t) a decision of the inspector for the purposes of paragraph 62 (1) (g);
- (u) a decision of an inspector for the purposes of subsection 62 (7);
- (w) a determination of the Minister under section 70; or
- (y) a decision of the Minister for the purposes of subsection 78 (4).

(2) In subsection (1), "decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**Statement to accompany notice of decisions**

76. (1) Where the Minister or an inspector makes a decision of a kind referred to in subsection 75 (1) 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:

- (a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made by or on behalf of that person to the Administrative Appeals Tribunal for review of that decision; and
- (b) except where subsection 28 (4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

(2) Any contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

**Regulations**

77. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular:

- (c) prohibiting or regulating activities on sea installations installed or being installed in an adjacent area;
- (d) prescribing matters to ensure the safety of persons on such sea installations;
- (e) prescribing procedures to be observed in emergencies on such sea installations;
- (f) controlling the disposal of wastes on such sea installations;
- (g) prescribing matters relating to ships travelling between such sea installations and other places;
- (h) prohibiting or regulating trade or other activities in the vicinity of such sea installations; and
- (j) prescribing penalties for contravention of the regulations not exceeding:
  - (i) in the case of a natural person—\$5,000; or
  - (ii) in the case of a body corporate—\$25,000.

(2) Where compliance with a specified regulation is made a condition of a permit, nothing in subsection (1) shall be taken to imply that the maximum penalty specified in section 58 for failure to comply with a condition is not applicable to a failure to comply with that regulation.



**Transitional—sea installations installed before commencement of Act**

**78. (1)** Where a sea installation is installed in an adjacent area before the day on which this Act receives the Royal Assent, the owner of the installation may keep the installation in that area, without a permit being granted, or an exemption certificate being given, for the installation, until:

- (a) where an application for a permit or an exemption certificate that would authorise the installation to be kept installed in that area is made within 2 months after the day preceding that day—3 months after the expiration of those 2 months or after the final disposal of that application, whichever occurs last; or
- (b) in any other case—5 months after the day preceding that day.

**(2)** Where the Minister requires that a person referred to in subsection (1) who has made an application under section 20 for a permit, lodge, in connection with that application, an environmental impact statement under the *Environment Protection (Impact of Proposals) Act 1974*, within a period specified by the Minister, the Minister is not required to consider the application further unless the person complies with the requirement and:

- (a) if the person refuses or fails to comply with the requirement, the person shall be taken to have withdrawn the application on the date on which the person refuses or fails so to comply; or
- (b) if the person complies with the requirement, the period commencing when the requirement was made and ending when the Minister declares that the matters to which the statement relates have been fully examined and dealt with in accordance with the provisions of that Act shall be disregarded in the calculation of the period within which the Minister is required to dispose of that application.

**(3)** Where additional information is required by the Minister in respect of an environmental impact statement under the *Environment Protection (Impact of Proposals) Act 1974*, that information shall be sought under that Act and not under this Act.

**(4)** A person who may, under subsection (1), keep an installation installed in an adjacent area for a particular period, shall not, except in accordance with a permit granted, or an exemption certificate given, under this Act, keep the installation installed in that area after the expiration of that period.

**Penalty:**

- (a) if the person is a natural person—\$50,000; or
- (b) if the person is a body corporate—\$250,000.

**(5)** For the purpose only of dealing with an application for permission to install a sea installation referred to in subsection (1) in an adjacent area, the Minister may treat that installation as if it had not already been installed.

**(6)** While a sea installation is being kept installed in an adjacent area under subsection (1), without a permit being granted, or an exemption

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certificate being given, for the installation, the owner or operator of the installation may:

- (a) use the installation, or cause the installation to be used, for an environment related activity permitted by the Minister;
  - (b) carry out, or allow the carrying out of, environment related work on the installation permitted by the Minister; and
  - (c) without limiting paragraph (b), in accordance with conditions determined by the Minister, carry out, or allow the carrying out of, work relating to disassembling the installation or to detaching or removing it from its location.
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**SCHEDULE**

**ACTS APPLYING IN ADJACENT AREAS**

*Air Accidents (Commonwealth Government Liability) Act 1963*  
*Air Navigation Act 1920*  
*Air Navigation (Charges) Act 1952*  
*Broadcasting Act 1942*  
*Civil Aviation (Carriers' Liability) Act 1959*  
*Civil Aviation (Damage by Aircraft) Act 1958*  
*Civil Aviation (Offenders on International Aircraft) Act 1970*  
*Crimes Act 1914*  
*Crimes (Aircraft) Act 1963*  
*Crimes (Biological Weapons) Act 1976*  
*Crimes (Currency) Act 1981*  
*Crimes (Foreign Incursions and Recruitment) Act 1978*  
*Crimes (Hijacking of Aircraft) Act 1972*  
*Crimes (Internationally Protected Persons) Act 1976*  
*Defence (Visiting Forces) Act 1963*  
*Environment Protection (Impact of Proposals) Act 1974*  
*Extradition (Commonwealth Countries) Act 1966*  
*Extradition (Foreign States) Act 1966*  
*Fringe Benefits Tax Assessment Act 1986*  
*Health Insurance Act 1973*  
*Income Tax Assessment Act 1936*  
*Marriage Act 1961*  
*National Health Act 1953*  
*Postal Services Act 1975*  
*Proceeds of Crime Act 1987*  
*Public Order (Protection of Persons and Property) Act 1971*  
*Racial Discrimination Act 1975*  
*Radiocommunications Act 1983*  
*Sex Discrimination Act 1984*  
*Spirits Act 1906*  
*Telecommunications Act 1975*  
*Therapeutic Goods Act 1966*  
*Tradesmen's Rights Regulation Act 1946*

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[*Minister's second reading speech made in—*  
*House of Representatives on 7 October 1987*  
*Senate on 26 October 1987*]