



Offshore Petroleum Act 2006

No. 14, 2006

An Act about offshore petroleum, and for other purposes

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Offshore Petroleum Act 2006

No. 14, 2006

An Act about offshore petroleum, and for other purposes

[Assented to 29 March 2006]

The Parliament of Australia enacts:

Chapter 1—Introduction

Part 1.1—Legislative formalities and background

1 Short title

This Act may be cited as the *Offshore Petroleum Act 2006*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	29 March 2006
2. Sections 3 to 5	A single day to be fixed by Proclamation.	1 July 2008 (<i>see</i> F2008L02273)
3. Parts 1.2, 1.3 and 1.4	At the same time as the provision(s) covered by table item 2.	1 July 2008
4. Chapters 2 to 6	At the same time as the provision(s) covered by table item 2.	1 July 2008
5. Schedules 1, 2, 3, 4 and 5	At the same time as the provision(s) covered by table item 2.	1 July 2008
6. Schedule 6, clauses 1 to 38	At the same time as the provision(s) covered by table item 2.	1 July 2008
7. Schedule 6, clause 39	The day on which this Act receives the Royal Assent.	29 March 2006
8. Schedule 6, clauses 40 to 42	At the same time as the provision(s) covered by table item 2.	1 July 2008

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act sets up a system for regulating the following activities in offshore areas:
 - (a) exploration for petroleum;
 - (b) recovery of petroleum;
 - (c) construction and operation of petroleum-related infrastructure facilities;
 - (d) construction and operation of petroleum pipelines.
- An offshore area:
 - (a) starts 3 nautical miles from the baseline from which the breadth of the territorial sea is measured; and
 - (b) extends seaward to the outer limits of the continental shelf.
- This Act provides for the grant of the following titles:
 - (a) an exploration permit (see Part 2.2);
 - (b) a retention lease (see Part 2.3);
 - (c) a production licence (see Part 2.4);
 - (d) an infrastructure licence (see Part 2.5);
 - (e) a pipeline licence (see Part 2.6);
 - (f) a special prospecting authority (see Part 2.7);
 - (g) an access authority (see Part 2.8).

Section 4

- Generally, the administration of this Act in relation to an offshore area of a State or the Northern Territory is divided between:
 - (a) the Joint Authority for the State or Territory (the Joint Authority is constituted by the responsible State/Territory Minister and the responsible Commonwealth Minister); and
 - (b) the Designated Authority of the State or Territory (the Designated Authority is the responsible State/Territory Minister).
- The National Offshore Petroleum Safety Authority is responsible for the administration of occupational health and safety provisions.

Note: Generally, the *baseline* is the line of lowest astronomical tide along the coast, but it also encompasses straight lines across bays (bay closing lines), rivers (river closing lines) and between islands, as well as along heavily indented areas of coastline (straight baselines) under certain circumstances.

4 Commonwealth-State agreement (the Offshore Constitutional Settlement)

- (1) This section explains the agreement known as the Offshore Constitutional Settlement, to the extent to which that agreement relates to exploring for, and exploiting, petroleum.
- (2) The Commonwealth, the States and the Northern Territory have agreed that:
 - (a) Commonwealth offshore petroleum legislation should be limited to the area that is outside the coastal waters of the States and the Northern Territory; and
 - (b) for this purpose, the outer limits of State and Northern Territory coastal waters should start 3 nautical miles from the baseline of the territorial sea; and
 - (c) the States and the Northern Territory should share, in the manner provided by this Act, in the administration of the Commonwealth offshore petroleum legislation; and

- (d) State and Northern Territory offshore petroleum legislation should apply to State and Northern Territory coastal waters; and
 - (e) the Commonwealth, the States and the Northern Territory should try to maintain, as far as practicable, common principles, rules and practices in regulating and controlling the exploration for, and exploitation of, offshore petroleum beyond the baseline of Australia's territorial sea.
- (3) The table summarises other Acts that provide background to the Offshore Constitutional Settlement:

Chapter 1 Introduction

Part 1.1 Legislative formalities and background

Section 4

Other Acts		
Item	Act	Summary of Act
1	<i>Seas and Submerged Lands Act 1973</i>	<p>This Act:</p> <ul style="list-style-type: none">(a) declared and enacted that the sovereignty in respect of the territorial sea and the associated airspace, seabed and subsoil is vested in and exercisable by the Crown in right of the Commonwealth; and(b) gave the Governor-General power to declare, by Proclamation, the limits of the territorial sea; and(c) declared and enacted that the sovereignty in respect of waters of the sea that are on the landward side of the baseline of the territorial sea (but not within the limits of a State) and in respect of the associated airspace, seabed and subsoil is vested in and exercisable by the Crown in right of the Commonwealth; and(d) declared and enacted that the sovereign rights of Australia as a coastal state in respect of the continental shelf of Australia (for the purpose of exploring it and exploiting its natural resources) are vested in and exercisable by the Crown in right of the Commonwealth; and(e) gave the Governor-General power to declare, by Proclamation, the limits of the continental shelf of Australia.
2	<i>Coastal Waters (State Powers) Act 1980</i>	<p>This Act was enacted following a request from the Parliaments of all the States under paragraph 51(xxxviii) of the Constitution of the Commonwealth and provided that the legislative powers exercisable under the Constitution of each State extended to the making of certain laws that would operate offshore.</p>

Other Acts		
Item	Act	Summary of Act
3	<i>Coastal Waters (Northern Territory Powers) Act 1980</i>	This Act makes similar provision to the <i>Coastal Waters (State Powers) Act 1980</i> in relation to the Northern Territory.
4	<i>Coastal Waters (State Title) Act 1980</i>	This Act vested in each State certain property rights in the seabed beneath the coastal waters of the State.
5	<i>Coastal Waters (Northern Territory Title) Act 1980</i>	This Act makes similar provision to the <i>Coastal Waters (State Title) Act 1980</i> in relation to the Northern Territory.
6	<i>Offshore Minerals Act 1994</i>	This Act makes provision, based on the Offshore Constitutional Settlement, for the licensing regime that applies to the exploration for, and recovery of, minerals (other than petroleum) in offshore areas.

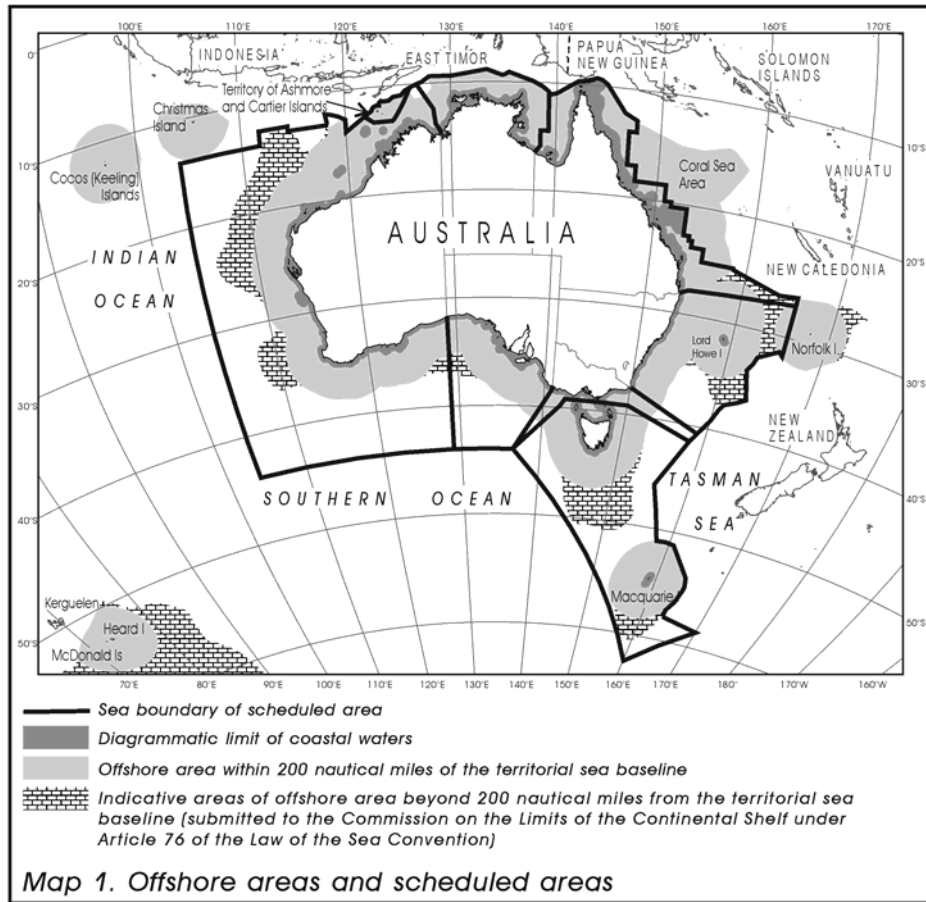
5 Simplified maps

- (1) This section sets out simplified maps illustrating areas off the coast of Australia that are relevant to this Act.
- (2) In the interests of simplification:
 - (a) coastlines and boundaries have been smoothed; and
 - (b) the maps do not show certain waters within the limits of a State or Territory; and
 - (c) the line marking the outer limits of the coastal waters of a State or Territory appears to be further out to sea than it actually is.

Map 1

- (3) Map 1 illustrates the offshore areas and the scheduled areas:

Section 5

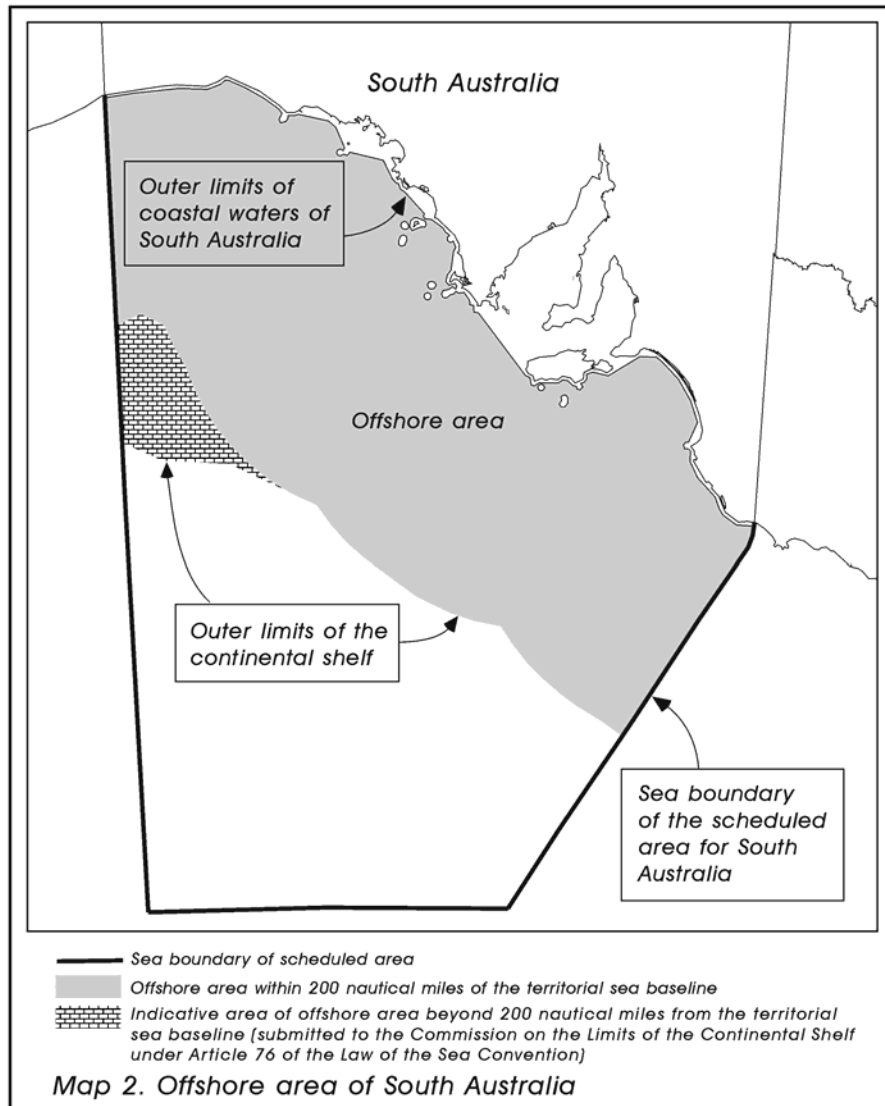


- Note 1: As at the day on which the Bill that became this Act was introduced into the House of Representatives, certain maritime areas adjacent to Australia remained subject to delimitation with other countries. The full extent of Australia's claimed exclusive economic zone and continental shelf jurisdiction has not been shown in this map. The claimed jurisdiction extends beyond the areas shown in this map.
- Note 2: Generally, the territorial sea baseline is the line of lowest astronomical tide along the coast, but it also encompasses straight lines across bays (bay closing lines), rivers (river closing lines) and between islands, as well as along heavily indented areas of coastline (straight baselines) under certain circumstances.
- Note 3: The location of the Joint Petroleum Development Area established under the Timor Sea Treaty is indicated on this map as the unshaded space abutting the offshore areas of Western Australia and the

Northern Territory. The Joint Petroleum Development Area is not included in any offshore area as defined by this Act.

Map 2

- (4) Map 2 zooms in and illustrates the offshore area of South Australia:



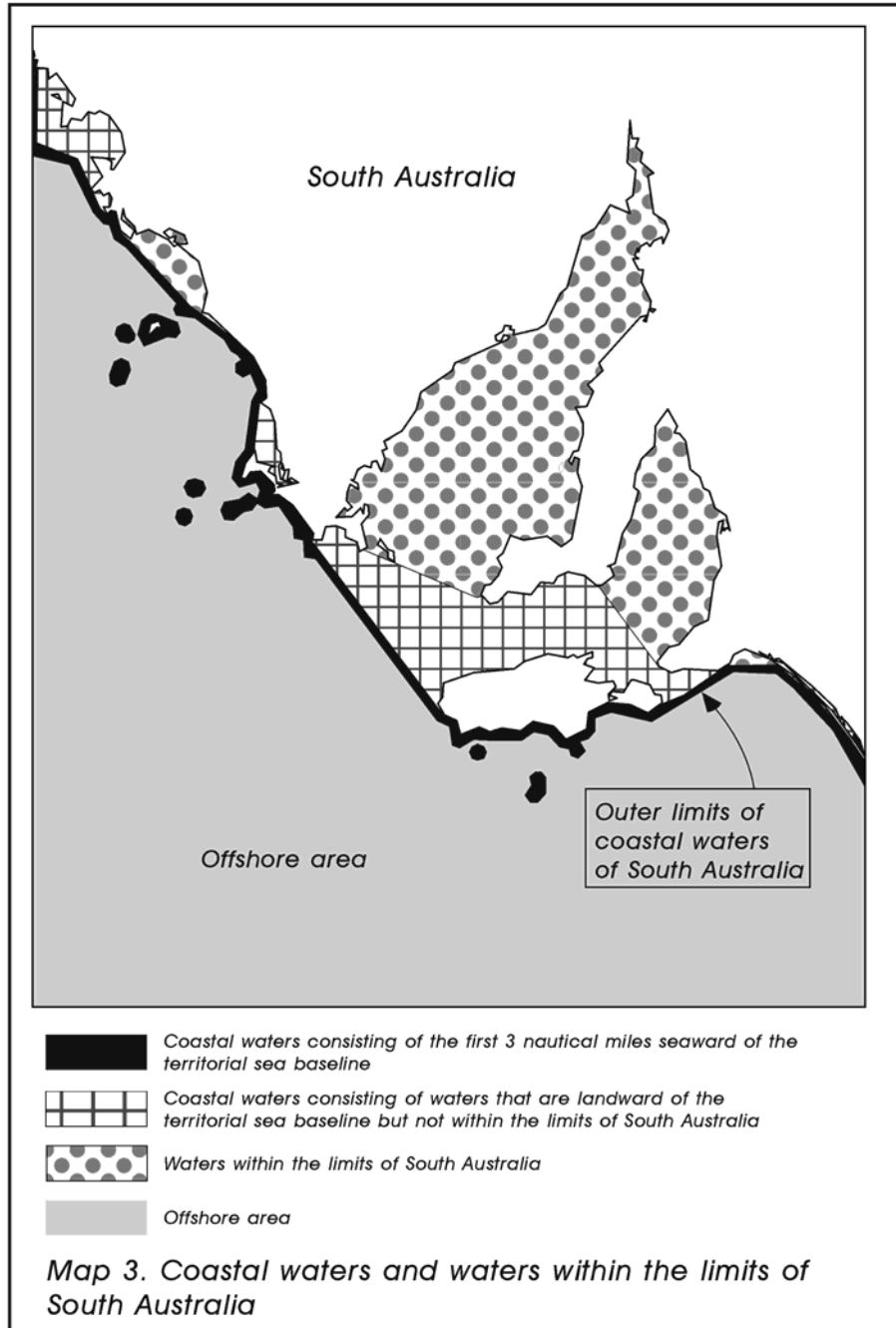
Chapter 1 Introduction

Part 1.1 Legislative formalities and background

Section 5

Map 3

- (5) Map 3 zooms in and illustrates coastal waters and waters within the limits of South Australia:



Chapter 1 Introduction

Part 1.1 Legislative formalities and background

Section 5

Note: The bays shown as being within the limits of South Australia are for illustrative purposes only.

Part 1.2—Interpretation

Division 1—General

6 Definitions

In this Act, unless the contrary intention appears:

access authority means an access authority granted under:

- (a) Part 2.8 of this Act; or
- (b) section 112 of the repealed *Petroleum (Submerged Lands) Act 1967*.

Annual Fees Act means the *Offshore Petroleum (Annual Fees) Act 2006*.

applied provisions has the meaning given by subsection 59(2).

approved means approved in writing by the Designated Authority.

authority area:

- (a) when used in relation to a special prospecting authority—means the area constituted by the block or blocks that are the subject of the special prospecting authority; or
- (b) when used in relation to an access authority—means the area to which the access authority relates.

block means a block constituted as provided by section 16 or 245.

cash-bid exploration permit means:

- (a) an exploration permit granted under:
 - (i) Division 3 of Part 2.2 of this Act; or
 - (ii) section 22B of the repealed *Petroleum (Submerged Lands) Act 1967*; or
- (b) an exploration permit granted under:
 - (i) Division 5 of Part 2.2 of this Act; or
 - (ii) section 32 of the repealed *Petroleum (Submerged Lands) Act 1967*;

by way of the renewal of a permit referred to in paragraph (a).

charge, when used in relation to the assets of a body corporate, has the same meaning as in section 263 of the *Corporations Act 2001*.

coastal waters, in relation to a State or the Northern Territory, means so much of the scheduled area for the State or Territory as consists of:

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

construct includes place.

continental shelf means the continental shelf (within the meaning of the *Seas and Submerged Lands Act 1973*) adjacent to the coast of:

- (a) Australia (including the coast of any island forming part of a State or Territory); or
- (b) a Territory.

datum means a reference frame for defining geographic coordinates.

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

debenture has the same meaning as in section 263 of the *Corporations Act 2001*.

Designated Authority has the meaning given by section 50 and, when used in the expression **the Designated Authority**, means the Designated Authority of the State or Territory concerned.

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

expiry date, in relation to an exploration permit, retention lease or production licence, has the meaning given by section 9.

exploration permit means:

- (a) a work-bid exploration permit; or
- (b) a cash-bid exploration permit; or
- (c) a special exploration permit.

exploration permit area means the permit area of an exploration permit.

exploration permittee means the registered holder of an exploration permit.

explore, in relation to petroleum, has a meaning affected by section 15.

Federal Court means the Federal Court of Australia.

fixed-term production licence means a production licence covered by item 2 or 3 of the table in subsection 139(1).

geographic coordinate includes:

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

good oilfield practice means all those things that are generally accepted as good and safe in:

- (a) the carrying on of exploration for petroleum; or
- (b) petroleum recovery operations.

good processing and transport practice means all those things that are generally accepted as good and safe in:

- (a) the processing, conveyance, transport and storage of petroleum; and
- (b) the preparation of petroleum for transport.

graticular section has the meaning given by section 16.

infrastructure facility has the meaning given by section 13.

infrastructure licence means an infrastructure licence granted under:

- (a) Part 2.5 of this Act; or
- (b) Division 3A of Part III of the repealed *Petroleum (Submerged Lands) Act 1967*.

infrastructure licence area means the licence area of an infrastructure licence.

infrastructure licensee means the registered holder of an infrastructure licence.

Joint Authority has the meaning given by section 38 and, when used in the expression *the Joint Authority*, means the Joint Authority of the State or Territory concerned.

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

lease area, when used in relation to a retention lease, means the area constituted by the block or blocks that are the subject of the lease.

lessee, when used in relation to a retention lease, means the registered holder of the lease.

licence area:

- (a) when used in relation to an infrastructure licence—means the place in relation to which the infrastructure licence is in force; or
- (b) when used in relation to a production licence—means the area constituted by the block or blocks that are the subject of the production licence.

Note: The place in relation to which an infrastructure licence is in force must be a place in an offshore area—see subsection 170(2) and section 171.

licensee:

- (a) when used in relation to a production licence—means the registered holder of the production licence; or
- (b) when used in relation to an infrastructure licence—means the registered holder of the infrastructure licence; or

(c) when used in relation to a pipeline licence—means the registered holder of the pipeline licence.

life-of-field production licence means a production licence covered by item 1 or 4 of the table in subsection 139(1).

listed OHS laws has the meaning given by section 348.

location means a block or blocks in relation to which a declaration under section 109 is in force.

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

Note: Paragraph 4 of Article 77 is as follows:

The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

New Zealand boundary treaty means the Treaty between Australia and New Zealand establishing certain exclusive economic zone boundaries and continental shelf boundaries that was signed at Adelaide on 25 July 2004.

Northern Territory title means an authority, however described, under a law of the Northern Territory, to explore for, or to recover, petroleum.

offshore area means an offshore area of a State or Territory within the meaning of section 7 and, when used in the expression ***the offshore area***, means the offshore area of the State or Territory concerned.

Note: The offshore area corresponds to the term ***adjacent area*** under the repealed *Petroleum (Submerged Lands) Act 1967*.

original exploration permit means an exploration permit granted otherwise than by way of renewal.

original production licence means a production licence granted otherwise than by way of renewal.

partly cancelled means:

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

partly revoked, in relation to an exploration permit or retention lease, means revoked as to one or more, but not all, of the blocks the subject of the permit or lease.

partly surrendered, in relation to an exploration permit or production licence, means surrendered as to one or more, but not all, of the blocks the subject of the permit or licence.

partly terminated, in relation to a pipeline licence, means terminated as to a part of the pipeline the subject of the licence.

permit area, when used in relation to an exploration permit, means the area constituted by the block or blocks that are the subject of the exploration permit.

permittee, when used in relation to an exploration permit, means the registered holder of the exploration permit.

petroleum means:

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

and:

- (d) includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir; and
- (e) for the purposes of the pipeline provisions, also includes any petroleum as defined by paragraph (a), (b), (c) or (d), where:

- (i) one or more things have been added; or
 - (ii) one or more things have been wholly or partly removed; or both; and
- (f) for the purposes of the pipeline provisions, also includes any mixture that:
- (i) has been recovered from a well; and
 - (ii) includes petroleum as defined by paragraph (a), (b), (c) or (d);
- whether or not:
- (iii) one or more things have been added; or
 - (iv) one or more things have been wholly or partly removed; or both.

petroleum pool means a naturally occurring discrete accumulation of petroleum.

pipeline means:

- (a) a pipe, or system of pipes, in an offshore area for conveying petroleum (whether or not the petroleum is recovered from an offshore area), other than a secondary line; or
- (b) a part of a pipe covered by paragraph (a); or
- (c) a part of a system of pipes covered by paragraph (a).

pipeline licence means a pipeline licence granted under:

- (a) Part 2.6 of this Act; or
- (b) Division 4 of Part III of the repealed *Petroleum (Submerged Lands) Act 1967*.

pipeline licensee means the registered holder of a pipeline licence.

pipeline provisions means the following:

- (a) Part 2.6;
- (b) the definition of ***pipeline*** in this section;
- (c) the definition of ***pumping station*** in this section;
- (d) the definition of ***tank station*** in this section;
- (e) the definition of ***valve station*** in this section;
- (f) item 3 of the table in subsection 301(1).

production licence means a production licence granted under:

- (a) Part 2.4 of this Act; or
- (b) Division 3 of Part III of the repealed *Petroleum (Submerged Lands) Act 1967*; or
- (c) section 148 of the repealed *Petroleum (Submerged Lands) Act 1967*.

production licence area means the licence area of a production licence.

production licensee means the registered holder of a production licence.

project inspector means a person appointed as a project inspector under section 318.

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

Register means:

- (a) a Register kept under section 253; and
- (b) when used in relation to the Designated Authority for an offshore area—means the Register kept under section 253 by that Designated Authority.

registered holder, in relation to a title, means the person whose name is shown in the Register as the holder of the title. For this purpose, a **title** is an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special prospecting authority or access authority.

Registration Fees Act means the *Offshore Petroleum (Registration Fees) Act 2006*.

regulated operation means an activity to which Chapter 2 applies.

renewal, in relation to an exploration permit, retention lease or production licence, has the meaning given by section 10.

responsible Commonwealth Minister means:

- (a) the Minister who is responsible for the administration of this Act; or

- (b) another Minister acting for and on behalf of the Minister referred to in paragraph (a).

responsible Northern Territory Minister means:

- (a) the Minister of the Northern Territory who is authorised under a law of the Northern Territory to perform the functions of a Designated Authority under this Act; or
(b) another Minister of the Northern Territory acting for and on behalf of the Minister referred to in paragraph (a).

responsible State Minister, in relation to a State, means:

- (a) the Minister of the State who is authorised under a law of the State to perform the functions of a Designated Authority under this Act; or
(b) another Minister of the State acting for and on behalf of the Minister referred to in paragraph (a).

retention lease means a retention lease granted under:

- (a) Part 2.3 of this Act; or
(b) Division 2A of Part III of the repealed *Petroleum (Submerged Lands) Act 1967*.

retention lease area means the lease area of a retention lease.

retention lessee means the registered holder of a retention lease.

Royalty Act means the *Offshore Petroleum (Royalty) Act 2006*.

Safety Authority means the National Offshore Petroleum Safety Authority continued in existence by section 355.

scheduled area, in relation to a State or Territory, has the meaning given by Schedule 1.

scientific investigation consent means a scientific investigation consent granted under:

- (a) Part 2.9 of this Act; or
(b) section 123 of the repealed *Petroleum (Submerged Lands) Act 1967*.

secondary line means a pipe, or system of pipes, for:

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

special exploration permit means:

- (a) an exploration permit granted under:
 - (i) Division 4 of Part 2.2 of this Act; or
 - (ii) section 27 of the repealed *Petroleum (Submerged Lands) Act 1967*; or
- (b) an exploration permit granted under:
 - (i) Division 5 of Part 2.2 of this Act; or
 - (ii) section 32 of the repealed *Petroleum (Submerged Lands) Act 1967*;by way of the renewal of a permit referred to in paragraph (a).

special prospecting authority means a special prospecting authority granted under:

- (a) Part 2.7 of this Act; or
- (b) section 111 of the repealed *Petroleum (Submerged Lands) Act 1967*.

State title means an authority, however described, under a law of a State, to explore for, or to recover, petroleum.

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

term, in relation to an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special

prospecting authority or access authority, has the meaning given by section 9.

terminal station has the meaning given by section 14.

territorial sea has the same meaning as in the *Seas and Submerged Lands Act 1973*.

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

title:

- (a) when used in the definition of **registered holder**—has the meaning given by the second sentence of that definition; or
- (b) when used in Subdivision A of Division 2 of Part 1.2—has the meaning given by section 21; or
- (c) when used in Division 3 of Part 1.2—has the meaning given by section 32; or
- (d) when used in section 55—has the meaning given by subsection 55(4); or
- (e) when used in section 245—has the meaning given by subsection 245(6); or
- (f) when used in Chapter 3—has the meaning given by section 251; or
- (g) when used in section 305—has the meaning given by subsection 305(1); or
- (h) when used in section 441—has the meaning given by subsection 441(7).

title area:

- (a) when used in Division 3 of Part 1.2—has the meaning given by section 33; or
- (b) when used in section 303—has the meaning given by subsection 303(1); or
- (c) when used in section 311—has the meaning given by subsection 311(5).

titleholder:

- (a) when used in Division 3 of Part 1.2—has the meaning given by section 33; or

- (b) when used in section 303—has the meaning given by subsection 303(1).

vacated area has the meaning given by section 12.

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

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

water line means a pipe, or system of pipes, for conveying water in connection with:

- (a) petroleum exploration operations; or
- (b) petroleum recovery operations.

well means a hole in the seabed or subsoil made by drilling, boring or any other means in connection with:

- (a) exploration for petroleum; or
- (b) petroleum recovery operations;

but does not include a seismic shot hole.

wholly cancelled, in relation to an exploration permit, production licence or pipeline licence, means cancelled as to all the blocks, or as to the whole of the pipeline, the subject of the permit or licence.

wholly revoked, in relation to an exploration permit or retention lease, means revoked as to all the blocks the subject of the permit or lease.

wholly terminated, in relation to a pipeline licence, means terminated as to the whole of the pipeline the subject of the licence.

work-bid exploration permit means:

- (a) an exploration permit granted under:
 - (i) Division 2 of Part 2.2 of this Act; or
 - (ii) section 22 of the repealed *Petroleum (Submerged Lands) Act 1967*; or
- (b) an exploration permit granted under:
 - (i) Division 5 of Part 2.2 of this Act; or

(ii) section 32 of the repealed *Petroleum (Submerged Lands) Act 1967*;
 by way of the renewal of a permit referred to in paragraph (a).

7 Offshore areas

(1) For the purposes of this Act, the table has effect:

Offshore areas		
Item	The offshore area of...	is...
1	(a) New South Wales; or (b) Victoria; or (c) South Australia; or (d) Tasmania	so much of the scheduled area for that State as comprises waters of the sea that are: (a) beyond the outer limits of the coastal waters of that State; and (b) within the outer limits of the continental shelf.
2	Queensland	both of the following areas: (a) so much of the scheduled area for Queensland as comprises waters of the sea that are: (i) beyond the outer limits of the coastal waters of Queensland; and (ii) within the outer limits of the continental shelf; (b) the Coral Sea area (as defined by subsection (2)).
3	Western Australia	so much of the scheduled area for Western Australia as comprises waters of the sea that are: (a) beyond the outer limits of the coastal waters of Western Australia; and (b) within the outer limits of the continental shelf; and (c) not within the Joint Petroleum Development Area.

Section 7

Offshore areas

Item	The offshore area of...	is...
4	the Northern Territory	so much of the scheduled area for the Northern Territory as comprises waters of the sea that are: (a) beyond the outer limits of the coastal waters of the Northern Territory; and (b) within the outer limits of the continental shelf; and (c) not within the Joint Petroleum Development Area.
5	the Territory of Ashmore and Cartier Islands	so much of the scheduled area for that Territory as consists of land and water that is: (a) within the outer limits of the continental shelf; and (b) not within the Joint Petroleum Development Area.
6	Norfolk Island	the area whose boundaries are: (a) the coastline at mean low water of Norfolk Island; and (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coast of Norfolk Island.
7	the Territory of Heard Island and McDonald Islands	the area whose boundaries are: (a) the coastlines at mean low water of the islands comprising that Territory; and (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coasts of those islands.

Offshore areas

Item	The offshore area of...	is...
8	the Territory of Christmas Island	the area whose boundaries are: (a) the coastline at mean low water of Christmas Island; and (b) the outer limit of the superjacent waters of the continental shelf adjacent to the coast of Christmas Island.
9	the Territory of Cocos (Keeling) Islands	both of the following areas: (a) the area whose boundaries are the coastline at mean low water of the north atoll of that Territory (otherwise called North Keeling Island), and the outer limit of the superjacent waters of the continental shelf adjacent to the coast of that Island; (b) the area whose boundaries are the coastlines at mean low water of the remaining islands of that Territory, and the outer limit of the superjacent waters of the continental shelf adjacent to the coasts of those islands.

Note: The offshore area corresponds to the adjacent area under the repealed *Petroleum (Submerged Lands) Act 1967*.

- (2) For the purposes of this section, the ***Coral Sea area*** is so much of the area to the east of the area described in paragraph (a) of item 2 of the table in subsection (1) as comprises waters of the sea that are within the outer limits of the continental shelf, other than any part of that area that is:
- (a) to the south of the parallel of Latitude 25° South; or
 - (b) on the landward side of the coastline of any island at mean low water.

Note: For datum, see section 22.

Territory of Ashmore and Cartier Islands—land taken to be beneath the sea etc.

- (3) This Act has effect in relation to so much of the offshore area of the Territory of Ashmore and Cartier Islands as consists of land as if that land were:
- (a) beneath the sea; and
 - (b) part of the seabed and subsoil of that offshore area.

Areas of the continental shelf over which Australia does not exercise sovereign rights

- (4) For the purposes of:
- (a) an item in the table in subsection (1); and
 - (b) subsection (2);
- the continental shelf does not include any area of seabed and subsoil that, as a result of an agreement in force between Australia and a foreign country, is not an area over which Australia exercises sovereign rights.

8 Spaces above and below offshore areas

For the purposes of this Act:

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

9 Term of titles

For the purposes of this Act, the table has effect:

Term of title etc.		
Item	A reference in this Act to...	is a reference to...
1	the term of: (a) an exploration permit; or (b) a retention lease; or (c) a production licence; or (d) an infrastructure licence; or (e) a pipeline licence; or (f) a special prospecting authority; or (g) an access authority;	the period during which the permit, lease, licence or authority remains in force.
2	a year of the term of: (a) an exploration permit; or (b) a retention lease; or (c) a production licence; or (d) an infrastructure licence; or (e) a pipeline licence;	a period of one year beginning on: (a) the day on which the permit, lease or licence comes into force; or (b) any anniversary of that day.
3	the expiry date of: (a) an exploration permit; or (b) a retention lease; or (c) a production licence;	the day on which the permit, lease or licence ceases to be in force.

10 Renewal of titles

For the purposes of this Act, the table has effect:

Section 11

Renewal of titles

	Column 1	Column 2
Item	A reference in this Act to...	is a reference to...
1	the renewal, or the grant of a renewal, of an exploration permit	the grant of an exploration permit over some or all of the blocks specified in the permit mentioned in column 1, to begin on: (a) the day after the expiry date of the permit mentioned in column 1; or (b) the day after the expiry date of the exploration permit granted on a previous renewal of the permit mentioned in column 1.
2	the renewal, or the grant of a renewal, of a retention lease	the grant of a retention lease over all of the blocks in relation to which the lease mentioned in column 1 was in force, to begin on: (a) the day after the expiry date of the lease mentioned in column 1; or (b) the day after the expiry date of the retention lease granted on a previous renewal of the lease mentioned in column 1.
3	the renewal, or the grant of a renewal, of a production licence	the grant of a production licence over the block or blocks specified in the licence mentioned in column 1, to begin on: (a) the day after the expiry date of the licence mentioned in column 1; or (b) the day after the expiry date of the production licence granted on a previous renewal of the licence mentioned in column 1.

11 Variation of titles

If an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special prospecting authority or access authority is varied, a reference in this Act to the

permit, lease, licence or authority is a reference to the permit, lease, licence or authority as varied.

12 Vacated area

For the purposes of this Act, the table has effect:

Vacated area		
Item	In the case of...	the <i>vacated area</i> is...
1	an exploration permit, retention lease or production licence that has expired	the area constituted by the blocks over which the permit, lease or licence was in force but has not been renewed.
2	an exploration permit, retention lease or production licence that has been wholly revoked or partly revoked	the area constituted by the blocks as to which the permit, lease or licence was so revoked.
3	an exploration permit or production licence that has been wholly cancelled or partly cancelled	the area constituted by the blocks as to which the permit or licence was so cancelled.
4	a retention lease that has been cancelled	the lease area.
5	a production licence that has been terminated	the licence area.
6	an infrastructure licence that has been cancelled or terminated	the licence area.
7	a pipeline licence that has been wholly or partly terminated	the part of the offshore area in which the pipeline or the part of the pipeline was constructed.
8	a pipeline licence that has been wholly cancelled or partly cancelled	the part of the offshore area in which the pipeline or the part of the pipeline was constructed.
9	a special prospecting authority that: (a) has been surrendered or cancelled; or (b) has expired	the authority area.

Section 13

Vacated area		
Item	In the case of...	the <i>vacated area</i> is...
10	an access authority that: (a) has been revoked or surrendered; or (b) has expired	the authority area.

13 Infrastructure facilities

Definition

- (1) For the purposes of this Act, an ***infrastructure facility*** is a facility, structure or installation for engaging in any of the activities to which subsection (2) applies, so long as:
- (a) the facility, structure or installation rests on the seabed; or
 - (b) the facility, structure or installation is fixed or connected to the seabed (whether or not the facility is floating); or
 - (c) the facility, structure or installation is attached or tethered to a facility, structure or installation referred to in paragraph (a) or (b).

Activities

- (2) This subsection applies to the following activities:
- (a) remote control of facilities, structures or installations used to recover petroleum in a production licence area;
 - (b) processing petroleum recovered in any place, including:
 - (i) converting petroleum into another form by physical or chemical means, or both (for example, converting it into liquefied natural gas or methanol); and
 - (ii) partial processing of petroleum (for example, by removing water);
 - (c) storing petroleum before it is transported to another place;
 - (d) preparing petroleum for transport to another place (for example, pumping or compressing);
 - (e) activities related to any of the above;

but, except as mentioned in paragraph (a), this subsection does not apply to exploring for, or recovering, petroleum.

14 Terminal station

- (1) The Designated Authority may, by notice published in the *Gazette*, declare any of the following to be a terminal station for the purposes of this Act:
 - (a) a specified pumping station in an offshore area;
 - (b) a specified tank station in an offshore area;
 - (c) a specified valve station in an offshore area.
- (2) A declaration under subsection (1) has effect accordingly.

15 Extended meaning of *explore*

For the purposes of this Act, if:

- (a) a person:
 - (i) carries out a seismic survey, or any other kind of survey, in an offshore area; or
 - (ii) takes samples of the seabed or subsoil of an offshore area; and
- (b) the person does so with the intention that the person or another could use the survey data, or information derived from the samples, as the case may be, for the purpose of discovering petroleum;

the person is taken to *explore* for petroleum.

16 Graticulation of Earth's surface and constitution of blocks

Graticular sections

- (1) For the purposes of this Act, the surface of the Earth is taken to be divided:
 - (a) by the meridian of Greenwich and by meridians that are at an angular distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and

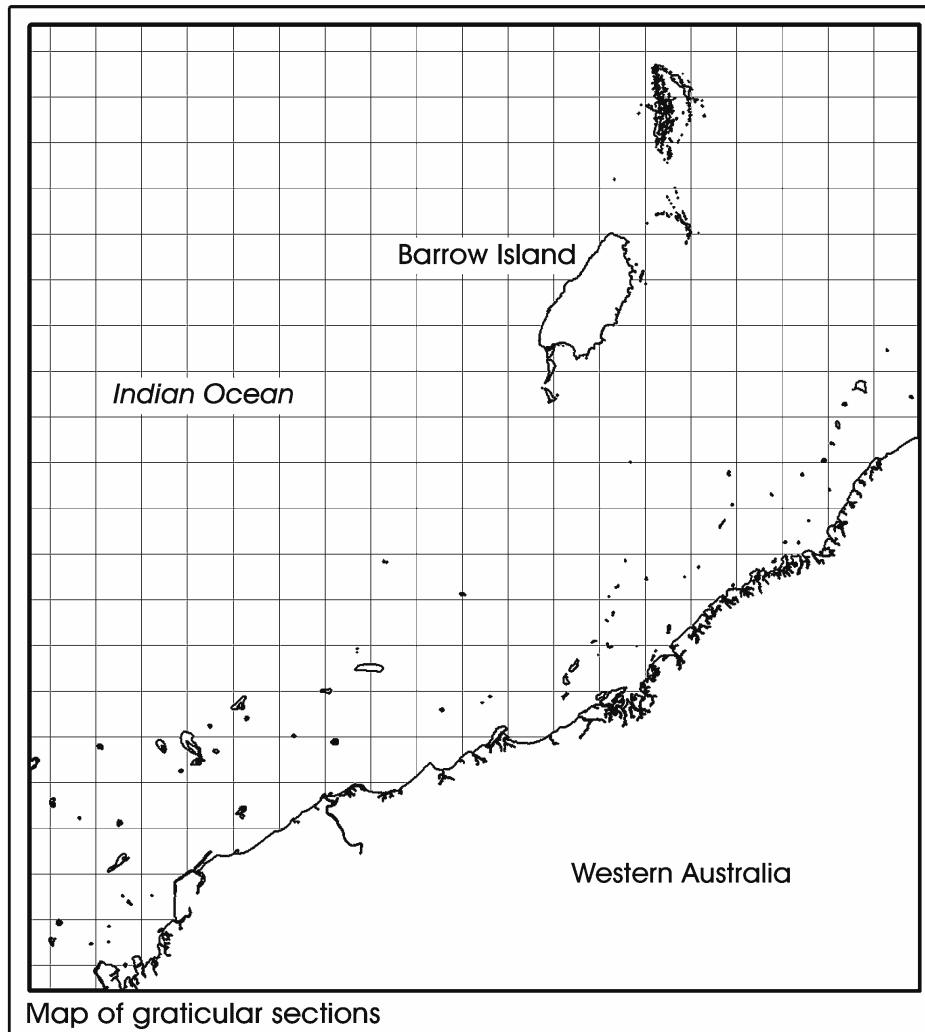
- (b) by the equator and by parallels of latitude that are at an angular distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude;

into sections called *graticular sections*, each of which is bounded:

- (c) by portions of 2 of those meridians that are at an angular distance from each other of 5 minutes of longitude; and
- (d) by portions of 2 of those parallels of latitude that are at an angular distance from each other of 5 minutes of latitude.

Simplified map

- (2) This subsection sets out a simplified map illustrating graticular sections off the coast of Western Australia in the vicinity of Barrow Island:



Blocks

- (3) For the purposes of this Act:
- (a) a graticular section that is wholly within an offshore area constitutes a **block**; and
 - (b) if a part only of a graticular section is, or parts only of a graticular section are, within an offshore area, the area of that part, or of those parts, constitutes a **block**.

Chapter 1 Introduction

Part 1.2 Interpretation

Division 1 General

Section 17

Note: See also section 245 (certain portions of blocks to be blocks).

Block that is constituted by a graticular section

- (4) A reference in this Act to a ***block that is constituted by a graticular section*** includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section.

Graticular section that constitutes a block

- (5) A reference in this Act to a ***graticular section that constitutes a block*** includes a reference to:
- (a) a graticular section only part of which constitutes a block; or
 - (b) a graticular section only parts of which constitute a block.

Note: For datum, see section 22.

17 External Territories

This Act extends to the following external Territories:

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

18 Application of Act

This Act applies to:

- (a) all individuals, whether or not Australian citizens, and whether or not resident in the Commonwealth or a Territory; and
- (b) all corporations, whether or not incorporated or carrying on business in the Commonwealth or a Territory.

19 Certain pipelines provisions to apply subject to international obligations

- (1) This section applies to the provisions of this Act to the extent to which they relate to a pipeline for the conveyance of petroleum recovered from a place beyond the outer limits of any offshore area.
- (2) The provisions have effect subject to Australia's obligations under international law, including obligations under any agreement between Australia and any foreign country or countries.

Division 2—Datum provisions

Subdivision A—Datum for ascertaining the position of points etc.

20 Objects

The objects of this Subdivision are:

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

21 Definitions

In this Subdivision:

Australian Geodetic Datum means the Australian Geodetic Datum as defined in *Gazette* No. 84 of 6 October 1966 (AGD66 geodetic data set).

instrument under this Act does not include the regulations.

this Act includes the regulations.

title means an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special prospecting authority or access authority.

22 Australian Geodetic Datum

- (1) For the purposes of this Act, the position on the surface of the Earth of:
 - (a) a graticular section or block; or
 - (b) the parallel of latitude described in subsection 7(2); or
 - (c) an area described in Schedule 1; or

(d) the area described in Schedule 2;
is to be determined by reference to the Australian Geodetic Datum.

Note 1: Subsection 7(2) describes the Coral Sea area.

Note 2: Schedule 1 describes the scheduled areas for the States and Territories. See also sections 30 and 31 (points and lines specified in the New Zealand boundary treaty).

Note 3: Schedule 2 describes the area that includes the area to be avoided.

Note 4: *Australian Geodetic Datum* is defined in section 21.

- (2) Subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

23 Current datum, previous datum and changeover time

- (1) The regulations may declare that, for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area:
- (a) a specified datum is the *current datum*; and
 - (b) that datum replaces the previous datum.

- (2) The *previous datum* is:

- (a) if a datum is the first datum declared to be the current datum under subsection (1)—the Australian Geodetic Datum; or
- (b) in any other case—the datum that was the current datum immediately before the changeover time.

Note: Under clause 4 of Schedule 6 to this Act, a declaration under subsection 150N(1) of the repealed *Petroleum (Submerged Lands) Act 1967* has effect as if it were a declaration under subsection (1) of this section.

- (3) The *changeover time* is the time when the declaration takes effect.

24 Use of current datum

For the purposes of this Act, after the changeover time, for a title or instrument set out in the table, the position on the surface of the Earth of a point, line or area set out in the table is to be described by reference to the current datum, and the relevant title or instrument may be annotated accordingly:

Section 25

Points, lines and areas		
Item	Title or instrument	Point, line or area
1	an exploration permit	the permit area of an exploration permit granted after the changeover time
2	a retention lease	the lease area of a retention lease granted after the changeover time
3	a production licence	the licence area of a production licence granted after the changeover time
4	an infrastructure licence	the licence area of an infrastructure licence granted after the changeover time
5	a special prospecting authority	the authority area of a special prospecting authority granted after the changeover time
6	an access authority	the authority area of an access authority granted after the changeover time
7	a pipeline licence	the route of a pipeline authorised by a pipeline licence granted after the changeover time
8	any other instrument under this Act	a point, line or area set out in any other instrument under this Act made after the changeover time

Note: A grant of an exploration permit, a retention lease or a production licence may be a grant by way of renewal—see section 10.

25 Use of previous datum

- (1) For the purposes of this Act, after the changeover time, for a title or instrument set out in the table, the position on the surface of the Earth of a point, line or area set out in the table is to be described by reference to the previous datum:

Points, lines and areas		
Item	Title or instrument	Point, line or area
1	an exploration permit	the permit area of an exploration permit that was in force immediately before the changeover time
2	a retention lease	the lease area of a retention lease that was in force immediately before the changeover time
3	a production licence	the licence area of a production licence that was in force immediately before the changeover time
4	an infrastructure licence	the licence area of an infrastructure licence that was in force immediately before the changeover time
5	a special prospecting authority	the authority area of a special prospecting authority that was in force immediately before the changeover time
6	an access authority	the authority area of an access authority that was in force immediately before the changeover time
7	a pipeline licence	the route of a pipeline authorised by a pipeline licence that was in force immediately before the changeover time
8	any other instrument under this Act	a point, line or area set out in any other instrument under this Act that was in force immediately before the changeover time

(2) Subsection (1) has effect subject to section 26 (which deals with variation of titles and instruments).

26 Variation of titles and instruments

The table has effect:

Section 27

Variation of titles and instruments		
Item	The regulations may authorise the Designated Authority to issue an instrument varying...	for the sole purpose of...
1	an exploration permit that was in force immediately before the changeover time	relabelling the permit area using geographic coordinates based on the current datum.
2	a retention lease that was in force immediately before the changeover time	relabelling the lease area using geographic coordinates based on the current datum.
3	a production licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
4	an infrastructure licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
5	a special prospecting authority or an access authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
6	a pipeline licence that was in force immediately before the changeover time	relabelling the route of the pipeline using geographic coordinates based on the current datum.
7	any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time	relabelling the point, line or area using geographic coordinates based on the current datum.
8	a title or other instrument under this Act	inserting an annotation about the applicable datum.

Note: For publication in the *Gazette* of notice of the variation, see section 418.

27 Variation of applications for titles

The regulations may authorise the Designated Authority to issue an instrument varying an application for a title for the sole purpose of

relabelling a point, line or area by reference to geographic coordinates based on the current datum.

28 No change to actual position of point, line or area

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

29 Transitional regulations

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

30 International Seabed Agreements

This Subdivision has effect subject to section 31.

Note: Section 31 deals with International Seabed Agreements.

Subdivision B—Certain points etc. specified in an International Seabed Agreement to be ascertained by other means

31 Certain points etc. specified in an International Seabed Agreement to be ascertained by other means

- (1) This section applies if, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the Earth of:
 - (a) a point or line specified in an International Seabed Agreement; or
 - (b) a point on, or part of, such a line.
- (2) That position must be determined in accordance with:
 - (a) that Agreement; or
 - (b) if that Agreement is varied—in accordance with that Agreement as varied for the time being.
- (3) In this section:

International Seabed Agreement means:

- (a) the Agreement between Australia and Indonesia establishing certain seabed boundaries signed at Canberra on 18 May 1971; or
- (b) the Agreement between Australia and Indonesia establishing certain seabed boundaries in the area of the Timor and Arafura Seas supplementary to the Agreement referred to in paragraph (a) and signed at Jakarta on 9 October 1972; or
- (c) the Agreement between Australia and Indonesia concerning certain boundaries between Papua New Guinea and Indonesia signed at Jakarta on 12 February 1973; or
- (d) the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the 2 countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978; or
- (e) the New Zealand boundary treaty.

Division 3—Apportionment of petroleum recovered from adjoining title areas

32 Title

In this Division:

title means:

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence.

33 Titleholder and title area

For the purposes of this Division, the table has effect:

Titleholder and title area			
Item	In the case of...	the titleholder is...	and the title area is...
1	an exploration permit	the permittee	the permit area.
2	a retention lease	the lessee	the lease area.
3	a production licence	the licensee	the licence area.

34 Petroleum recovered through inclined well

For the purposes of this Act, if:

- (a) a wellhead is situated in the title area of a title (the *first title*);
and
 - (b) the well from that wellhead is inclined so as to enter a petroleum pool at a place within an adjoining title area of a title (the *second title*) of the same titleholder; and
 - (c) the pool does not extend to the title area of the first title;
- any petroleum recovered through that well is taken to have been recovered in the adjoining title area under the second title.

35 Petroleum pool straddling 2 title areas etc.

- (1) For the purposes of this Act, if:
- (a) a petroleum pool is partly in the title area of a title and partly in an adjoining title area of a title of the same titleholder (whether in the same offshore area or not); and
 - (b) petroleum is recovered from that pool through a well or wells in one or both of the title areas;
- then:
- (c) there is taken to have been recovered in each of the title areas, under the title in relation to the title area, such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool; and
 - (d) the respective proportions are to be determined by agreement between:
 - (i) the titleholder; and
 - (ii) the Joint Authority;or, in the absence of agreement, by the Federal Court or a relevant Supreme Court on the application of the titleholder or the Joint Authority.

Supreme Court

- (2) A reference in this section to a *relevant Supreme Court* is a reference to the Supreme Court of the State, or one of the States, in the offshore area of which the petroleum pool is wholly or partly situated.

Northern Territory

- (3) This section applies to the Northern Territory as if that Territory were a State.

36 Petroleum pool straddling Commonwealth title area and State title area etc.

- (1) For the purposes of this Act, if:
-

- (a) a petroleum pool is partly in the title area of a title and partly in an area (the *State title area*) in which the titleholder has authority under the law of a State to explore for, or recover, petroleum; and
 - (b) petroleum is recovered from that pool through a well or wells in the title area of the title, the State title area, or both;
- then:
- (c) there is taken to have been recovered in the title area of the title such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool; and
 - (d) that proportion is to be determined by agreement between:
 - (i) the titleholder of the title; and
 - (ii) the Joint Authority; and
 - (iii) the responsible State Minister;or, in the absence of agreement, by the Federal Court or a relevant Supreme Court on the application of:
 - (iv) the titleholder of the title; or
 - (v) the Joint Authority; or
 - (vi) the responsible State Minister.

Supreme Court

- (2) A reference in this section to a *relevant Supreme Court* is a reference to the Supreme Court of the State, or one of the States, in the offshore area of which the petroleum pool is wholly or partly situated.

Northern Territory

- (3) This section applies to the Northern Territory as if:
 - (a) that Territory were a State; and
 - (b) the responsible Northern Territory Minister were the responsible State Minister of that State.

37 Unit development

For the purposes of this Act, if:

Chapter 1 Introduction

Part 1.2 Interpretation

Division 3 Apportionment of petroleum recovered from adjoining title areas

Section 37

- (a) a petroleum pool is:
 - (i) partly in a production licence area; and
 - (ii) partly in another area (whether in the offshore area or not) in relation to which another person has authority (whether under this Act or under the law of a State or the Northern Territory) to explore for or recover petroleum; and
- (b) a unit development agreement in accordance with section 163 is in force between the licensee and that other person; and
- (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both;

there is taken to have been recovered in that licence area such proportion of all petroleum so recovered as is specified in, or determined in accordance with, the agreement.

Part 1.3—Joint Authorities and Designated Authorities

Division 1—Joint Authorities

38 Joint Authorities

- (1) For the purposes of this Act, there is a Joint Authority for each offshore area.

State

- (2) The Joint Authority for an offshore area of a State is constituted by:
- (a) the responsible State Minister; and
 - (b) the responsible Commonwealth Minister;
- and is to be known as the Commonwealth-[name of State] Offshore Petroleum Joint Authority.

Northern Territory

- (3) The Joint Authority for the offshore area of the Northern Territory is constituted by:
- (a) the responsible Northern Territory Minister; and
 - (b) the responsible Commonwealth Minister;
- and is to be known as the Commonwealth-Northern Territory Offshore Petroleum Joint Authority.

External Territories

- (4) The responsible Commonwealth Minister is the Joint Authority for the offshore area of each of the following external Territories:
- (a) Norfolk Island;
 - (b) the Territory of Christmas Island;
 - (c) the Territory of Cocos (Keeling) Islands;
 - (d) the Territory of Ashmore and Cartier Islands;
 - (e) the Territory of Heard Island and McDonald Islands;

and is to be known as the [name of Territory] Offshore Petroleum Joint Authority.

Note: For example, the Joint Authority for the offshore area of the Territory of Ashmore and Cartier Islands is to be known as the Territory of Ashmore and Cartier Islands Offshore Petroleum Joint Authority.

39 Functions and powers of Joint Authorities

A Joint Authority for a State or Territory has, in relation to the offshore area for that State or Territory, the functions and powers that this Act confers on a Joint Authority.

40 Procedure of Joint Authority

- (1) A Joint Authority for a State or the Northern Territory may conduct its business:
 - (a) at meetings of the Joint Authority; or
 - (b) by written or other communication between the members of the Joint Authority.
- (2) A written communication under paragraph (1)(b) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

41 Decision-making

- (1) This section applies to decisions to be made by a Joint Authority for a State or the Northern Territory on matters that are within the Joint Authority's functions or powers.
- (2) If:
 - (a) the responsible Commonwealth Minister; and
 - (b) the responsible State Minister or the responsible Northern Territory Minister, as the case may be;disagree about a decision, the responsible Commonwealth Minister may decide the matter, and the responsible Commonwealth Minister's decision has effect as the Joint Authority's decision.
- (3) If:
 - (a) the responsible Commonwealth Minister gives:

- (i) in the case of a State—the responsible State Minister; or
 - (ii) in the case of the Northern Territory—the responsible Northern Territory Minister;
- written notice of a decision that the responsible Commonwealth Minister thinks should be made on a matter; and
- (b) 30 days pass after the notice is given, and:
 - (i) in the case of a State—the responsible State Minister has not told the responsible Commonwealth Minister what decision the responsible State Minister thinks should be made; or
 - (ii) in the case of the Northern Territory—the responsible Northern Territory Minister has not told the responsible Commonwealth Minister what decision the responsible Northern Territory Minister thinks should be made;
- the responsible Commonwealth Minister may decide the matter, and the responsible Commonwealth Minister's decision has effect as the Joint Authority's decision.

42 Opinion or state of mind of Joint Authority

For the purposes of this Act, the opinion or state of mind of the Joint Authority for a State or the Northern Territory is:

- (a) if:
 - (i) the responsible Commonwealth Minister; and
 - (ii) the responsible State Minister or the responsible Northern Territory Minister, as the case may be;agree on the matter concerned—the opinion or state of mind of the 2 Ministers; or
- (b) if the 2 Ministers disagree—the opinion or state of mind of the responsible Commonwealth Minister.

43 Records of decisions of Joint Authority

- (1) The Designated Authority must cause to be kept written records of the decisions of the Joint Authority for a State or the Northern Territory.

- (2) A record kept under subsection (1) is prima facie evidence that the decision was duly made as recorded if the record is signed by a person who was a member of the Joint Authority at the time when the decision was made.
- (3) A record kept under subsection (1) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

44 Signing of documents

- (1) If a document is signed by the Designated Authority on behalf of the Joint Authority for a State or the Northern Territory, the document is taken to have been duly executed by the Joint Authority.
- (2) The document is taken to be in accordance with a decision of the Joint Authority unless the contrary is proved.

45 Communications with Joint Authority

All communications to or by the Joint Authority for a State or the Northern Territory are to be made through the Designated Authority.

46 Judicial notice of signature of member of a Joint Authority

Joint Authority for a State or the Northern Territory

- (1) All courts must take judicial notice of:
 - (a) the signature of a person who is, or has been:
 - (i) a member of the Joint Authority for a State or the Northern Territory; or
 - (ii) a delegate of the Joint Authority for a State or the Northern Territory; and
 - (b) the fact that the person is, or was at a particular time:
 - (i) a member of the Joint Authority for that State or the Northern Territory, as the case may be; or
 - (ii) a delegate of the Joint Authority for that State or the Northern Territory, as the case may be.

Joint Authority for an external Territory

- (2) All courts must take judicial notice of:
 - (a) the signature of a person who is, or has been:
 - (i) the Joint Authority for the offshore area of an external Territory; or
 - (ii) a delegate of the Joint Authority for the offshore area of an external Territory; and
 - (b) the fact that the person is, or was at a particular time:
 - (i) the Joint Authority for that offshore area; or
 - (ii) a delegate of the Joint Authority for that offshore area.

Definition

- (3) In this section:
 - court** includes a person authorised to receive evidence:
 - (a) by a law of the Commonwealth, a State or a Territory; or
 - (b) by consent of parties.

47 Issue of documents, and service of notices, on behalf of Joint Authority

- (1) If this Act requires or allows a Joint Authority for a State or the Northern Territory to:
 - (a) execute or issue an instrument; or
 - (b) give a notice; or
 - (c) communicate a matter;the Designated Authority is to do so on behalf of the Joint Authority in accordance with a decision of the Joint Authority.
- (2) For the purposes of any proceedings:
 - (a) an instrument that purports to be executed or issued by the Designated Authority on behalf of the Joint Authority is taken to have been executed or issued in accordance with a decision of the Joint Authority; and
 - (b) a notice that purports to be given by the Designated Authority on behalf of the Joint Authority is taken to have

been given in accordance with a decision of the Joint Authority; and

- (c) a communication that purports to be made by the Designated Authority on behalf of the Joint Authority is taken to have been made in accordance with a decision of the Joint Authority;

unless the contrary is proved.

48 Delegation by a Joint Authority for a State or the Northern Territory

- (1) A Joint Authority for a State or the Northern Territory may, by written instrument, delegate any or all of the functions or powers of the Joint Authority under this Act to 2 persons together.
- (2) A delegation under this section:
 - (a) must specify one person as representing the responsible Commonwealth Minister; and
 - (b) must specify the other person as representing the responsible State Minister or responsible Northern Territory Minister of the Joint Authority; and
 - (c) must be signed by both members of the Joint Authority.

Note: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

- (3) If the Joint Authority delegates a function or power under this section, the delegation continues in force despite:
 - (a) a vacancy in the office of responsible Commonwealth Minister; or
 - (b) a change in the identity of the holder of the office of responsible Commonwealth Minister; or
 - (c) a vacancy in the office of responsible State Minister or responsible Northern Territory Minister, as the case may be; or
 - (d) a change in the identity of the holder of the office of responsible State Minister or responsible Northern Territory Minister, as the case may be.

- (4) Despite subsection (3), a delegation under this section may be revoked by the Joint Authority in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (5) If a delegation is made under this section, sections 41 and 42 do not apply to the delegates.
- (6) If the delegates are unable to agree on a matter requiring decision, they must refer the matter to the Joint Authority.
- (7) In the application to the delegates of a provision of this Act containing a reference to the opinion or state of mind of the Joint Authority, the reference is to be read as a reference to the opinion or state of mind of the 2 delegates of the Joint Authority unless they disagree.
- (8) A Joint Authority may delegate a function or power to an APS employee only if the APS employee is an SES employee or acting SES employee.

Note: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.
- (9) A referral under subsection (6) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

49 Delegation by Joint Authority for an external Territory

- (1) The Joint Authority for the offshore area of any of the following external Territories:
 - (a) Norfolk Island;
 - (b) the Territory of Christmas Island;
 - (c) the Territory of Cocos (Keeling) Islands;
 - (d) the Territory of Ashmore and Cartier Islands;
 - (e) the Territory of Heard Island and McDonald Islands;

may, by written instrument, delegate to a person any or all of the functions or powers of the Joint Authority under this Act or the regulations.

Note: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

Chapter 1 Introduction

Part 1.3 Joint Authorities and Designated Authorities

Division 1 Joint Authorities

Section 49

- (2) If the Joint Authority delegates a function or power under this section, the delegation continues in force despite:
 - (a) a vacancy in the office of Joint Authority; or
 - (b) a change in the identity of the holder of the office of Joint Authority.
- (3) Despite subsection (2), a delegation under this section may be revoked by the Joint Authority in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (4) A copy of each instrument making, varying or revoking a delegation under this section must be published in the *Gazette*.
- (5) A Joint Authority may delegate a function or power to an APS employee only if the APS employee is an SES employee or acting SES employee.

Note: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

Division 2—Designated Authorities

50 Designated Authorities

- (1) For the purposes of this Act, there is a Designated Authority for each offshore area.

State

- (2) The Designated Authority for the offshore area of a State is the responsible State Minister.

Northern Territory

- (3) The Designated Authority for the offshore area of the Northern Territory is the responsible Northern Territory Minister.

External Territories

- (4) The responsible Commonwealth Minister is the Designated Authority for the offshore area of each of the following external Territories:
- (a) Norfolk Island;
 - (b) the Territory of Christmas Island;
 - (c) the Territory of Cocos (Keeling) Islands;
 - (d) the Territory of Ashmore and Cartier Islands;
 - (e) the Territory of Heard Island and McDonald Islands.

51 Functions and powers of Designated Authorities

State

- (1) A Designated Authority for a State has, in relation to the offshore area for that State, the functions and powers that this Act confers on a Designated Authority.

Northern Territory

- (2) The Designated Authority for the Northern Territory has, in relation to the offshore area for the Northern Territory, the functions and powers that this Act confers on a Designated Authority.

External Territories

- (3) The Designated Authority for any of the following external Territories has, in relation to the offshore area for that Territory, the functions and powers that this Act confers on a Designated Authority:
- (a) Norfolk Island;
 - (b) the Territory of Christmas Island;
 - (c) the Territory of Cocos (Keeling) Islands;
 - (d) the Territory of Ashmore and Cartier Islands;
 - (e) the Territory of Heard Island and McDonald Islands.

52 Delegation by Designated Authority

- (1) A Designated Authority may, by written instrument, delegate to a person any or all of the functions or powers of the Designated Authority under this Act or the regulations.

Note: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

- (2) If a Designated Authority delegates a function or power under this section, the delegation continues in force despite:
- (a) a vacancy in the office of Designated Authority; or
 - (b) a change in the identity of the holder of the office of Designated Authority.
- (3) Despite subsection (2), a delegation under this section may be revoked by a Designated Authority in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (4) A copy of each instrument making, varying or revoking a delegation under this section must be published in the *Gazette*.

- (5) A Designated Authority may delegate a function or power to an APS employee only if the APS employee is an SES employee or acting SES employee.

Note: The expressions *APS employee*, *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

53 Judicial notice of signature of Designated Authority

- (1) All courts must take judicial notice of:
- (a) the signature of a person who is, or has been:
 - (i) the Designated Authority for an offshore area; or
 - (ii) a delegate of the Designated Authority for an offshore area; and
 - (b) the fact that the person is, or was at a particular time:
 - (i) the Designated Authority for that offshore area; or
 - (ii) a delegate of the Designated Authority for that offshore area.
- (2) In this section:
- court*** includes a person authorised to receive evidence:
- (a) by a law of the Commonwealth, a State or a Territory; or
 - (b) by consent of parties.

Division 3—Finance

54 Payments by the Commonwealth to Western Australia—Royalty Act payments

Payments to Western Australia

- (1) If, during a particular month, the Commonwealth receives:
- (a) an amount of royalty payable under the Royalty Act by the registered holder of:
 - (i) an exploration permit; or
 - (ii) a retention lease; or
 - (iii) a production licence;in relation to petroleum recovered under the permit, lease or licence in the offshore area of Western Australia; or
 - (b) an amount payable under Part 4.6 because of late payment of any such royalty;

then, before the end of the next month, the Commonwealth must pay to Western Australia an amount worked out using the formula:

$$\text{Amount received by the Commonwealth} \times \frac{(\text{Royalty rate} - 4)}{\text{Royalty rate}}$$

where:

royalty rate means the percentage rate at which royalty is payable by the holder under the Royalty Act in relation to that petroleum (disregarding any determination under section 9 of the Royalty Act in relation to a well).

Reduction of payments to Western Australia—refunds of royalty

- (2) If:
- (a) the Commonwealth is liable to pay an amount under subsection (1) because the Commonwealth received, during a particular month, an amount mentioned in that subsection; and

- (b) during that month, the Commonwealth paid a refund under paragraph 16(3)(b) of the Royalty Act to the registered holder of:
- (i) an exploration permit; or
 - (ii) a retention lease; or
 - (iii) a production licence;
- in respect of an amount of royalty payable under the Royalty Act;

the total of the amounts payable by the Commonwealth as mentioned in paragraph (a) is to be reduced by an amount worked out using the formula:

Amount paid under subsection (1)
in respect of the amount of royalty – Adjusted amount

where:

adjusted amount means the amount that would have been paid under subsection (1) in respect of the amount of royalty if it were assumed that the provisional royalty (within the meaning of section 16 of the Royalty Act) had been equal to the determined royalty (within the meaning of that section).

55 Payments by the Commonwealth to the States and the Northern Territory

Scope

- (1) This section applies if, during a particular month, the Commonwealth receives an amount (the ***received amount***):
- (a) that is payable under:
 - (i) this Act (other than an amount paid for the grant of a cash-bid exploration permit, a special exploration permit or a section 153 production licence); or
 - (ii) the Annual Fees Act; or
 - (iii) the Registration Fees Act;in connection with a title or other document that relates to:
 - (iv) a block; or
 - (v) an infrastructure facility; or

- (vi) a pipeline;
in the offshore area of a State or the Northern Territory; or
- (b) that is an amount (other than a royalty) payable to the Designated Authority, on behalf of the Commonwealth, under, or under regulations made for the purposes of:
 - (i) Chapter 2; or
 - (ii) Chapter 3; or
 - (iii) Chapter 5; or
 - (iv) Schedule 5;in relation to the offshore area of a State or the Northern Territory; or
- (c) that is payable to the Commonwealth under subsection 308(3) or 314(4) or (5) in relation to costs or expenses incurred by the Designated Authority of a State or the Northern Territory.

Payments

- (2) Before the end of the next month, the Commonwealth must pay to the State or to the Northern Territory, as the case may be, an amount equal to:
 - (a) if the received amount includes a component that is attributable to goods and services tax—so much of the received amount as does not consist of that component; or
 - (b) in any other case—the received amount.

Safety Authority

- (3) This section does not apply to an amount payable to the Safety Authority on behalf of the Commonwealth.

Definition

- (4) In this section:
title means an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special prospecting authority or access authority.

56 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of this Division.

Part 1.4—Application of State and Territory laws in offshore areas

57 Simplified outline

The following is a simplified outline of this Part:

- The general body of laws in force in a State or Territory applies, as laws of the Commonwealth, to petroleum exploration, exploitation and conveyance activities in the offshore area of that State or Territory.
- However, prescribed State or Northern Territory occupational health and safety laws do not apply, as laws of the Commonwealth, in relation to a facility located in the offshore area of that State or the Northern Territory.

58 Meaning of *laws*

For the purposes of this Part, *laws* include:

- (a) written laws; and
- (b) unwritten laws (for example, the common law); and
- (c) instruments having effect under laws.

59 Application of State and Territory laws in offshore areas

- (1) The laws in force in a State or Territory (other than laws of the Commonwealth) apply, as provided by this section, as laws of the Commonwealth in the offshore area of that State or Territory as if that area were:
 - (a) part of that State or Territory; and
 - (b) part of the Commonwealth.

Note: See also sections 60 to 68.

- (2) For the purposes of this Act, the provisions of laws applied under subsection (1) are to be known as the *applied provisions*.
- (3) Subsection (1) has effect subject to:
- (a) this Act; and
 - (b) the regulations.
- (4) The laws referred to in subsection (1) apply in relation to acts, omissions, matters, circumstances and things touching, concerning, arising out of or connected with:
- (a) exploring the seabed or subsoil of the offshore area for petroleum, and exploiting the petroleum which occurs as a natural resource of that seabed or subsoil; or
 - (b) the conveyance of petroleum (wherever recovered) across the offshore area.
- (5) The laws referred to in subsection (1) apply:
- (a) to and in relation to:
 - (i) an act or omission that takes place in, on, above, below or in the vicinity of; and
 - (ii) a matter, circumstance or thing that exists or arises in relation to or in connection with:
a vessel, aircraft, structure or installation, or equipment or other property, that is in the offshore area for any reason touching, concerning, arising out of or connected with:
 - (iii) exploring the seabed or subsoil of the offshore area for petroleum, or exploiting the petroleum which occurs as a natural resource of that seabed or subsoil; or
 - (iv) the conveyance of petroleum (wherever recovered) across the offshore area; and
 - (b) to and in relation to a person who:
 - (i) is in the offshore area for a reason of the kind referred to in paragraph (a); or
 - (ii) is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the offshore area for a reason of the kind referred to in paragraph (a); and
 - (c) to and in relation to a person in relation to:
-

Section 60

- (i) the carrying on by the person of any operation; or
 - (ii) the doing by the person of any work;
- in the offshore area for a reason of the kind referred to in paragraph (a).
- (6) Subsection (5) does not limit subsection (4).
 - (7) For the purposes of this section, a law is taken to be a law in force in a State or Territory even though that law applies to part only of that State or Territory.

60 Disapplication and modification of laws

- (1) The regulations may provide that a law:
 - (a) does not apply by reason of section 59 in an offshore area; or
 - (b) applies by reason of section 59 in an offshore area with such modifications as are specified in the regulations.
- (2) For the purposes of subsection (1), *modifications* includes additions, omissions and substitutions.
- (3) Regulations made for the purposes of subsection (1) may make provision for, and in relation to:
 - (a) investing a court of a State with federal jurisdiction; or
 - (b) conferring jurisdiction on a court of a Territory.

61 Limit on application of laws

Section 59 does not give to the provisions of a law of a State or the Northern Territory an operation, as a law of the Commonwealth, that they would not have, as a law of the State or the Northern Territory, if it were assumed that the offshore area were within the part of the scheduled area for the State or the Northern Territory that is on the landward side of the offshore area.

62 Inconsistent law not applied

Section 59 does not apply a law in so far as the law would be inconsistent with a law of the Commonwealth (including this Act).

63 Criminal laws not applied

- (1) Section 59 does not apply laws that are substantive criminal laws, or laws of criminal investigation, procedure and evidence, within the meaning of Schedule 1 to the *Crimes at Sea Act 2000*.
- (2) This Act does not detract from the operation of the *Crimes at Sea Act 2000*.

64 Tax laws not applied

Section 59 does not operate so as to impose a tax.

65 Appropriation law not applied

Section 59 does not operate so as to appropriate any public money of a Territory.

66 Applied laws not to confer Commonwealth judicial power

Section 59 does not operate so as to confer the judicial power of the Commonwealth on a court, tribunal, authority or officer of a State or Territory.

67 Applied laws not to contravene constitutional restrictions on conferral of powers on courts

Section 59 does not operate so as to confer on a court of a State or Territory a power that cannot, under the Constitution, be conferred by the Parliament on such a court.

68 State or Northern Territory occupational health and safety laws do not apply in relation to facilities

State or Northern Territory OHS laws are not applied by section 59

- (1) Section 59 of this Act, and section 6 of the *Ashmore and Cartier Islands Acceptance Act 1933*, do not apply a law in relation to:

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- (a) a facility located in the offshore area of a State, the Northern Territory or the Territory of Ashmore and Cartier Islands; or
 - (b) a person at such a facility; or
 - (c) a person near such a facility, to the extent to which the person is affected by:
 - (i) such a facility; or
 - (ii) activities that take place at such a facility; or
 - (d) activities that take place at such a facility;
- if the law is:
- (e) a law of that State or the Northern Territory; and
 - (f) prescribed in the regulations.
- (2) A law prescribed under subsection (1) must be:
- (a) a law relating to occupational health and safety; or
 - (b) a law relating to occupational health and safety and to other matters.

State or Northern Territory OHS laws do not apply of their own force

- (3) A law that is:
- (a) a law of a State or the Northern Territory; and
 - (b) prescribed under subsection (1);
- does not apply, by force of the law of that State or the Northern Territory, in relation to:
- (c) a facility located in the offshore area of that State or the Northern Territory; or
 - (d) a person at such a facility; or
 - (e) a person near such a facility, to the extent to which the person is affected by:
 - (i) such a facility; or
 - (ii) activities that take place at such a facility; or
 - (f) activities that take place at such a facility.

*Substantive criminal provisions of State or Northern Territory
OHS laws are not applied by Crimes at Sea Act 2000*

- (4) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, a law of a State or the Northern Territory that is:
- (a) referred to in those subclauses; and
 - (b) prescribed in the regulations;
- does not apply in relation to:
- (c) a facility located in the offshore area of that State, the Northern Territory or the Territory of Ashmore and Cartier Islands; or
 - (d) a person at such a facility; or
 - (e) a person near such a facility, to the extent to which the person is affected by:
 - (i) such a facility; or
 - (ii) activities that take place at such a facility; or
 - (f) activities that take place at such a facility;
- whether or not that application is:
- (g) by force of the law of that State or the Northern Territory; or
 - (h) by force of section 6 of the *Ashmore and Cartier Islands Acceptance Act 1933*; or
 - (i) by force of subclause 2(2) of that Schedule.
- (5) A law prescribed under subsection (4) must be:
- (a) a law relating to occupational health and safety; or
 - (b) a law relating to occupational health and safety and to other matters.

*Substantive criminal provisions of State or Northern Territory
listed OHS laws are not applied by Crimes at Sea Act 2000*

- (6) Despite subclauses 2(1) and (2) of Schedule 1 to the *Crimes at Sea Act 2000*, provisions of a State or Territory PSLA, or of regulations under a State or Territory PSLA, that substantially correspond to the listed OHS laws do not apply in relation to:
- (a) a facility located in the offshore area of that State, the Northern Territory or the Territory of Ashmore and Cartier Islands; or

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- (b) a person at such a facility; or
 - (c) a person near such a facility, to the extent to which the person is affected by:
 - (i) such a facility; or
 - (ii) activities that take place at such a facility; or
 - (d) activities that take place at such a facility;
- whether or not that application is:
- (e) by force of the law of that State or the Northern Territory; or
 - (f) by force of section 6 of the *Ashmore and Cartier Islands Acceptance Act 1933*; or
 - (g) by force of subclause 2(2) of that Schedule.

Definitions

- (7) In this section:

facility has the same meaning as in Schedule 3.

law includes a part of a law.

State PSLA has the same meaning as in Part 4.8.

Territory PSLA has the same meaning as in Part 4.8.

Note: See also section 350, which deals with the application of Commonwealth maritime legislation in the offshore area of a State or Territory.

69 Gas pipelines access legislation

- (1) This section applies to an offshore area of a State or the Northern Territory if the gas pipelines access legislation of the State or the Northern Territory, as the case may be, is not in force (with or without modifications) in the part of the scheduled area for the State or the Northern Territory, as the case may be, that is on the landward side of that offshore area.
- (2) Despite any law that is in force as a law of the Commonwealth in the offshore area of the State or Territory because of section 59, the *Gas Pipelines Access (Commonwealth) Act 1998* applies as a law of the Commonwealth in that offshore area.

- (3) This section has effect subject to section 192.

Note: Section 192 is about common carriers.

- (4) In this section:

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

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

70 No limits on ordinary operation of law

This Part does not limit the operation that a law has apart from this Part.

71 Jurisdiction of State courts

- (1) The courts of a State are invested with federal jurisdiction in all matters arising under the laws applied under section 59 in the offshore area of the State.
- (2) Jurisdiction is invested under subsection (1) within the limits (other than the limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

72 Jurisdiction of Territory courts

- (1) Jurisdiction is conferred on the courts that have jurisdiction in a Territory in all matters arising out of the laws applied under section 59 in the offshore area of the Territory.
- (2) Jurisdiction is conferred under subsection (1) within the limits (other than the limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

73 Validation of certain acts

If:

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- (a) a person or a court does an act in the purported exercise of a power, or the purported performance of a function, under a law of a State or Territory; and
- (b) the act could have been done by the person or court in the exercise of a power, or the performance of a function, under the applied provisions;

the act is taken to have been done in the exercise of the power, or performance of the function, under the applied provisions.

Note: *Applied provisions* is defined by section 6.

74 Certain provisions not affected by this Part

The following provisions have effect despite anything in this Part:

- (a) Division 2 of Part 1.2;
- (b) Chapters 2 to 6;
- (c) Schedule 5.

Chapter 2—Regulation of activities relating to petroleum

Part 2.1—Introduction

75 Simplified outline

The following is a simplified outline of this Chapter:

- This Chapter provides for the grant of the following titles:
 - (a) an exploration permit (see Part 2.2);
 - (b) a retention lease (see Part 2.3);
 - (c) a production licence (see Part 2.4);
 - (d) an infrastructure licence (see Part 2.5);
 - (e) a pipeline licence (see Part 2.6);
 - (f) a special prospecting authority (see Part 2.7);
 - (g) an access authority (see Part 2.8).
- An exploration permit authorises the permittee to explore for petroleum in the permit area.
- If a petroleum pool is identified in an exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.
- After the declaration of a location, the permittee may apply for a retention lease or a production licence.
- A retention lease is granted if the recovery of petroleum is not currently commercially viable, but is likely to become

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commercially viable within 15 years. The lessee may apply for a production licence.

- A production licence authorises the licensee to carry out petroleum recovery operations in the licence area.
- An infrastructure licence authorises the licensee to construct and operate an infrastructure facility in the licence area.
- A pipeline licence authorises the licensee to construct and operate a pipeline.
- A special prospecting authority authorises the holder to carry on petroleum exploration operations in the authority area (but not to make a well).
- An access authority authorises the holder to carry on certain petroleum exploration operations, and certain operations relating to the recovery of petroleum, in the authority area (but not to make a well).
- Part 2.9 provides for the grant of scientific investigation consents. A scientific investigation consent authorises the holder to carry on petroleum exploration operations in the course of a scientific investigation.

Part 2.2—Exploration permits

Division 1—General provisions

76 Simplified outline

The following is a simplified outline of this Part:

- It is an offence to explore for petroleum in an offshore area except:
 - (a) under an exploration permit; or
 - (b) as otherwise authorised or required by or under this Act.
- This Part provides for the grant of exploration permits over blocks in an offshore area.
- An exploration permit authorises the permittee to explore for petroleum in the permit area.
- There are 3 types of exploration permits:
 - (a) an exploration permit granted on the basis of work program bidding (a *work-bid exploration permit*);
 - (b) an exploration permit granted on the basis of cash bidding (a *cash-bid exploration permit*);
 - (c) an exploration permit granted over a surrendered block or certain other blocks (a *special exploration permit*).
- If a petroleum pool is identified in an exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

77 Prohibition of unauthorised exploration for petroleum in offshore area

- (1) A person commits an offence if:
- (a) the person explores for petroleum; and
 - (b) the exploration occurs in an offshore area.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply to conduct that is:
- (a) authorised by an exploration permit; or
 - (b) otherwise authorised or required by or under this Act.

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

78 Rights conferred by exploration permit

- (1) An exploration permit authorises the permittee, in accordance with the conditions (if any) to which the permit is subject:
- (a) to explore for petroleum in the permit area; and
 - (b) to recover petroleum on an appraisal basis in the permit area; and
 - (c) to carry on such operations, and execute such works, in the permit area as are necessary for those purposes.
- (2) The rights conferred on the permittee by subsection (1) are subject to this Act and the regulations.

79 Conditions of exploration permits

- (1) The Joint Authority may grant an exploration permit subject to whatever conditions the Joint Authority thinks appropriate.

Note: A grant of a permit may be a grant by way of renewal—see section 10.

- (2) The conditions (if any) must be specified in the permit.

Permit to which Royalty Act applies

- (3) An exploration permit to which the Royalty Act applies is subject to a condition that the permittee will comply with the provisions of the Royalty Act.

Note: The Royalty Act applies to a small number of North West Shelf titles.

- (4) Despite subsection (2), the condition mentioned in subsection (3) does not need to be specified in the permit.

Work-bid exploration permits and special exploration permits

- (5) Any or all of the following conditions may be specified in a work-bid exploration permit or a special exploration permit:
- (a) conditions requiring the permittee to carry out work in, or in relation to, the permit area (including conditions requiring the permittee to carry out the work during a period of 12 months or longer, or during periods each of which is 12 months or longer);
 - (b) conditions relating to the amounts that the permittee must spend in carrying out such work;
 - (c) conditions requiring the permittee to comply with directions that:
 - (i) relate to the matters covered by paragraphs (a) and (b); and
 - (ii) are given in accordance with the permit.

- (6) Subsection (5) does not limit subsection (1).

Cash-bid exploration permits

- (7) Despite subsection (1), a cash-bid exploration permit must not be granted subject to conditions requiring the permittee to:
- (a) carry out work in, or in relation to, the permit area; or
 - (b) spend particular amounts on the carrying out of work in, or in relation to, the permit area.

Note: A grant of a permit may be a grant by way of renewal—see section 10.

80 Duration of exploration permit

- (1) The duration of an exploration permit is worked out using the table:

Duration of exploration permits		
Item	This kind of permit...	remains in force...
1	an original exploration permit	for the period of 6 years beginning on: (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.
2	an exploration permit granted by way of renewal	for the period of 5 years beginning on: (a) the day on which the permit is granted; or (b) if a later day is specified in the permit as the day on which the permit is to come into force—that later day.

- (2) Subsection (1) has effect subject to this Chapter.

- Note 1: For a special rule about the extension of the duration of an exploration permit if the permittee applies for a retention lease or production licence, see section 81.
- Note 2: For a special rule about the extension of the duration of exploration permits pending decisions on renewal applications, see subsection 97(5).
- Note 3: For a special rule about the extension of the duration of cash-bid exploration permits, see section 92.
- Note 4: For special rules about the extension of the duration of an exploration permit following a suspension or exemption decision, see sections 228 and 230.
- Note 5: For the revocation of an exploration permit, see section 160 and clause 8 of Schedule 4.

Note 6: For special rules about when an exploration permit ceases to be in force following the grant of a retention lease or production licence, see sections 121 and 148.

Note 7: For the surrender of an exploration permit, see Part 2.12.

Note 8: For the cancellation of an exploration permit, see Part 2.13.

81 Extension of exploration permit if permittee applies for retention lease or production licence

(1) If:

(a) an exploration permit over a block or blocks cannot be renewed or further renewed; and

(b) before the time when the permit would, apart from this subsection, expire, the permittee applies to the Designated Authority for the grant by the Joint Authority of a retention lease or production licence over the block or one or more of the blocks; and

(c) the block or blocks covered by the application are included in a location;

the table has effect:

Extension of permit		
Item	In this case...	the permit continues in force over the block or blocks covered by the application until...
1	the Joint Authority gives the permittee an offer document relating to a retention lease or production licence over the block or one or more of the blocks	the lease or licence is granted, the permittee withdraws the application or the application lapses.
2	the application is for a retention lease and the Joint Authority decides not to grant the lease to the permittee	the end of the period of one year after the day on which the notice of refusal was given to the permittee.

Chapter 2 Regulation of activities relating to petroleum

Part 2.2 Exploration permits

Division 1 General provisions

Section 81

Extension of permit

Item	In this case...	the permit continues in force over the block or blocks covered by the application until...
3	the application is for a production licence and the Joint Authority decides not to grant the licence to the permittee	notice of the decision is given to the permittee.

(2) Subsection (1) has effect subject to this Chapter but despite section 80.

Note: See the notes at the end of section 80.

Division 2—Obtaining a work-bid exploration permit

82 Application for work-bid exploration permit—advertising of blocks

Invitation to apply for an exploration permit

- (1) The Joint Authority may, by notice published in the *Gazette*:
 - (a) invite applications for the grant by the Joint Authority of an exploration permit over the block, or any or all of the blocks, specified in the notice; and
 - (b) specify a period within which applications may be made.
- (2) If the Joint Authority has published a notice under subsection 88(1) inviting applications for the grant of an exploration permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the subsection 88(1) notice.

Note: Subsection 88(1) deals with cash-bid exploration permits.

Application for exploration permit

- (3) An application under this section must be accompanied by details of:
 - (a) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and
 - (b) the technical qualifications of the applicant and of the applicant's employees; and
 - (c) the technical advice available to the applicant; and
 - (d) the financial resources available to the applicant.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

Section 83

Maximum number of blocks

- (4) The number of blocks specified in an application under this section must not be more than 400.

Minimum number of blocks

- (5) If 16 or more blocks are available, the number of blocks specified in an application under this section must not be less than 16.
- (6) If less than 16 blocks are available, the number of blocks specified in an application under this section must be the number available.
- (7) Subsections (5) and (6) do not apply to applications if the Joint Authority, for reasons that the Joint Authority thinks sufficient, includes in the subsection (1) notice a direction that subsections (5) and (6) do not apply to those applications.

Attributes of blocks

- (8) The blocks specified in an application under this section must be blocks that are constituted by graticular sections that:
- (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (9) Subsection (8) does not apply to applications if the Joint Authority, for reasons that the Joint Authority thinks sufficient, includes in the subsection (1) notice a direction that subsection (8) does not apply to those applications.

83 Grant of work-bid exploration permit—offer document

Scope

- (1) This section applies if an application for the grant of an exploration permit has been made under section 82.

Offer document

- (2) The Joint Authority may:

- (a) give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant an exploration permit over the block or blocks specified in the offer document; or
- (b) by written notice given to the applicant, refuse to grant an exploration permit to the applicant.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

84 Ranking of multiple applicants for work-bid exploration permit

Scope

- (1) This section applies if:
 - (a) the Joint Authority publishes a notice under subsection 82(1) inviting applications for the grant of an exploration permit; and
 - (b) at the end of the period specified in the notice, 2 or more applications have been made under section 82 for the grant of an exploration permit over the same block or blocks.

Most deserving applicant may be given offer document

- (2) The Joint Authority may give an offer document under section 83 to whichever applicant, in the Joint Authority's opinion, is most deserving of the grant of the exploration permit.
- (3) In determining which of the applicants is most deserving of the grant of the exploration permit, the Joint Authority must have regard to criteria made publicly available by the Joint Authority.

Ranking of applicants

- (4) For the purposes of this section, the Joint Authority may rank the applicants in the order in which, in the Joint Authority's opinion, they are deserving of the grant of the exploration permit, with the most deserving applicant being ranked highest.

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- (5) The Joint Authority may exclude from the ranking any applicant who, in the Joint Authority's opinion, is not deserving of the grant of the exploration permit.

Applicants who are equally deserving of the grant of the exploration permit

- (6) If the Joint Authority:
- (a) has considered the information accompanying the applications; and
 - (b) is of the opinion that 2 or more of the applicants are equally deserving of the grant of the exploration permit;
- the Joint Authority may, by written notice given to each of those applicants, invite them to give the Joint Authority details (the ***work/expenditure details***) of their proposals for additional work and expenditure in relation to the block or blocks concerned.
- (7) A notice under subsection (6) must:
- (a) specify the kinds of work/expenditure details that the Joint Authority considers to be relevant in determining which of the applicants is most deserving of the grant of the exploration permit; and
 - (b) specify the period within which the work/expenditure details must be given to the Joint Authority.
- (8) If an applicant gives work/expenditure details to the Joint Authority, and those details are:
- (a) of a kind specified in the notice; and
 - (b) given within the period specified in the notice;
- the Joint Authority must have regard to the details in determining which of the applicants is most deserving of the grant of the exploration permit.

Criteria

- (9) An instrument setting out criteria under subsection (3) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Note: See also section 87, which deals with the effect of the withdrawal or lapse of an application.

85 Grant of work-bid exploration permit

If:

- (a) an applicant has been given an offer document under section 83; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant an exploration permit over the block or blocks specified in the offer document.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

86 Withdrawal of application

Scope

- (1) This section applies if the Joint Authority publishes a notice under subsection 82(1) inviting applications for the grant of an exploration permit.

Withdrawal by single applicant

- (2) If a person has made an application, the person may, by written notice given to the Joint Authority, withdraw the application at any time before an exploration permit is granted as a result of the application.

Withdrawal by all joint applicants

- (3) If 2 or more persons have made a joint application, all of those persons may, by written notice given to the Joint Authority, withdraw the application at any time before an exploration permit is granted as a result of the application.

Withdrawal by one or more, but not all, joint applicants

- (4) If:
 - (a) a joint application was made under section 82 for the grant of an exploration permit; and

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- (b) all of the joint applicants, by written notice given to the Joint Authority, tell the Joint Authority that one or more, but not all, of them, as specified in the notice, withdraw from the application;

then:

- (c) the application continues in force as if it had been made by the remaining applicant or applicants; and
- (d) if the Joint Authority had given the joint applicants an offer document in relation to the application—the Joint Authority is taken not to have given the offer document to the joint applicants.

87 Effect of withdrawal or lapse of application

Scope

- (1) This section applies if:
 - (a) 2 or more applications have been made under section 82 for the grant of an exploration permit over the same block or blocks; and
 - (b) one or more, but not all, of the applications are withdrawn or have lapsed.

Application is taken not to have been made

- (2) A withdrawn or lapsed application is taken not to have been made.

Offer document is taken not to have been given

- (3) If the Joint Authority gave an offer document in relation to a withdrawn or lapsed application, the Joint Authority is taken not to have given an offer document in relation to the withdrawn or lapsed application.

Request to grant exploration permit

- (4) If the applicant, or one of the applicants, whose application had been withdrawn had requested the Joint Authority under section 224 to grant an exploration permit to the applicant concerned, the request is taken not to have been made.

Refusal to grant exploration permit

- (5) If the following conditions are satisfied in relation to a remaining applicant:
- (a) the Joint Authority had refused to grant an exploration permit to the remaining applicant;
 - (b) the Joint Authority did not exclude the remaining applicant from the ranking under subsection 84(5);
- the refusal is taken not to have occurred.

Division 3—Obtaining a cash-bid exploration permit

88 Application for cash-bid exploration permit

Invitation to apply for an exploration permit

- (1) The Joint Authority may, by notice published in the *Gazette*:
 - (a) invite applications by way of cash bidding for the grant by the Joint Authority of an exploration permit over the block or blocks specified in the notice; and
 - (b) specify a period within which applications may be made.
- (2) If the Joint Authority has published a notice under subsection 82(1) inviting applications for the grant of an exploration permit over a block, the block must not be specified in a notice under subsection (1) of this section at any time during the period specified in the subsection 82(1) notice.

Note: Subsection 82(1) deals with work-bid exploration permits.

- (3) A notice under subsection (1) must:
 - (a) state whether the permit is able to be renewed; and
 - (b) contain a summary of the conditions to which the permit will be subject; and
 - (c) specify the matters that the Joint Authority will take into account in deciding whether to reject an application.
- (4) If a notice under subsection (1) specifies more than one block, those blocks must be constituted by graticular sections that:
 - (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.

Application for exploration permit

- (5) If a notice under subsection (1) specifies more than one block, an application under this section must be for an exploration permit over all of the specified blocks.

- (6) An application under this section must:
- (a) be accompanied by details of:
 - (i) the technical qualifications of the applicant and of the applicant's employees; and
 - (ii) the technical advice available to the applicant; and
 - (iii) the financial resources available to the applicant; and
 - (b) specify the amount that the applicant would be prepared to pay for the grant of the permit.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

89 Grant of cash-bid exploration permit—only one application

Scope

- (1) This section applies if:
- (a) the Joint Authority publishes a notice under subsection 88(1) inviting applications for the grant of an exploration permit over a block or blocks; and
 - (b) at the end of the period specified in the notice, only one application has been made under section 88 in relation to the block or blocks.

Offer document

- (2) The Joint Authority may:
- (a) give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant an exploration permit over that block or those blocks; or
 - (b) by written notice given to the applicant, reject the application.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

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Division 3 Obtaining a cash-bid exploration permit

Section 90

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

90 Grant of cash-bid exploration permit—2 or more applications

Scope

- (1) This section applies if:
- (a) the Joint Authority publishes a notice under subsection 88(1) inviting applications for the grant of an exploration permit over a block or blocks; and
 - (b) at the end of the period specified in the notice, 2 or more applications have been made under section 88 in relation to the block or blocks.

Rejection of applications

- (2) The Joint Authority may reject any or all of the applications.

Unrejected applications

- (3) If the Joint Authority does not reject all of the applications, the table has effect:

Unrejected applications		
Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 88(6)(b) are equal	one of those applicants.

Unrejected applications

Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 88(6)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under paragraph 88(6)(b) are: (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

(4) An offer document given to an applicant must tell the applicant that the Joint Authority is prepared to grant the applicant an exploration permit over the block or blocks.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If an applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

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- (5) If:
- (a) an applicant is given an offer document under this section; and
 - (b) the application lapses as provided by section 224 or 225; and
 - (c) there are one or more remaining unrejected applications;
- subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

Unsuccessful applications

- (6) If the Joint Authority does not give an offer document to an applicant, the Joint Authority must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

91 Grant of cash-bid exploration permit

- (1) If:
- (a) an applicant has been given an offer document under section 89 or 90; and
 - (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section; and
 - (c) the applicant has paid the specified amount within the period applicable under section 225;

the Joint Authority must grant the applicant an exploration permit over the block or blocks specified in the offer document.

Note 1: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Note 2: If the applicant has not paid the specified amount within the period applicable under section 225, the application lapses at the end of that period—see subsection 225(1).

- (2) For the purposes of this section, the *specified amount* is the amount specified in the offer document as the amount that the applicant must pay for the grant of the exploration permit.

92 Extension of cash-bid exploration permit

Scope

- (1) This section applies if:
- (a) a cash-bid exploration permit expires; and
 - (b) the permit cannot be renewed.

Note: See section 98 (non-renewable permits) and section 99 (limit on renewal of permits).

Extension of permit—requirement to nominate blocks as location

- (2) If, before the expiry of the permit:
- (a) the Designated Authority had required the permittee to nominate, under section 108, a block or blocks in relation to which the permit was in force; and
 - (b) the permittee had not complied with the requirement;
- the permit continues in force over that block or those blocks until the end of the period the permittee has to comply with the requirement.

Extension of permit—nomination of blocks as location, declaration of location

- (3) If, before the expiry of the permit:
- (a) a block or blocks in relation to which the permit was in force had been nominated under section 107; or
 - (b) both:
 - (i) a declaration under section 109 had been made in relation to a block or blocks in relation to which the permit was in force; and
 - (ii) the permittee had not requested that the declaration be revoked;
- the permit continues in force over that block or those blocks until whichever of the following events happens first:
- (c) a declaration under section 109 in relation to the block or blocks is revoked;
 - (d) a retention lease or a production licence is granted in relation to the block or blocks;

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- (e) the application period referred to in section 117 in relation to the block or blocks ends without the permittee making an application under that section for a retention lease in relation to the block or blocks;
 - (f) if the Royalty Act does not apply to the permit—the application period referred to in section 143 in relation to the block or blocks ends without the permittee making an application under section 142 for a production licence over the block or blocks;
 - (g) if the Royalty Act applies to the permit—the application period referred to in clause 3 of Schedule 4 in relation to the block or blocks ends without the permittee making an application under clause 2 of Schedule 4 for a production licence over the block or blocks.
- (4) This section has effect subject to this Chapter but despite section 80.

Note: See the notes at the end of section 80.

Division 4—Obtaining a special exploration permit over a surrendered block or certain other blocks

93 Application for a special exploration permit over a surrendered block or certain other blocks

Invitation to apply for an exploration permit

- (1) If:
- (a) a retention lease is surrendered, cancelled or revoked to the extent to which it relates to a block or blocks; or
 - (b) a production licence is surrendered or cancelled to the extent to which it relates to a block or blocks; or
 - (c) a production licence that relates to a block or blocks is terminated; or
 - (d) both:
 - (i) an exploration permit is surrendered, cancelled or revoked to the extent to which it relates to a block or blocks; and
 - (ii) at the time of the surrender, cancellation or revocation, the block or blocks were, or were included in, a location;
- the Joint Authority may, at any later time, by notice published in the *Gazette*:
- (e) invite applications for the grant by the Joint Authority of an exploration permit over that block or such of those blocks as are specified in the notice; and
 - (f) specify a period within which applications may be made.
- (2) A notice under subsection (1) must state that an applicant must specify an amount that the applicant would be prepared to pay for the grant of the permit.

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Part 2.2 Exploration permits

Division 4 Obtaining a special exploration permit over a surrendered block or certain other blocks

Section 93

Application for exploration permit

- (3) If a notice under subsection (1) specifies more than one block, an application under this section must be for an exploration permit over all of the specified blocks.
- (4) An application under this section must:
 - (a) be accompanied by details of:
 - (i) the applicant's proposals for work and expenditure in relation to the block or blocks specified in the application; and
 - (ii) the technical qualifications of the applicant and of the applicant's employees; and
 - (iii) the technical advice available to the applicant; and
 - (iv) the financial resources available to the applicant; and
 - (b) specify the amount that the applicant would be prepared to pay for the grant of the permit.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

- (5) An application under this section must be accompanied by a deposit of 10% of the amount that the applicant has specified under paragraph (4)(b).

Refund of deposit

- (6) If the permit is not granted, the deposit must be refunded to the applicant.
- (7) Subsection (6) does not apply if:
 - (a) the applicant has been given an offer document under section 94 or 95 in relation to the application; and
 - (b) the applicant does not, under section 224, request the grant of the permit.

94 Grant of special exploration permit—only one application

Scope

- (1) This section applies if:
 - (a) the Joint Authority publishes a notice under subsection 93(1) inviting applications for the grant of an exploration permit over a block or blocks; and
 - (b) at the end of the period specified in the notice, only one application has been made under section 93 in relation to the block or blocks.

Offer document

- (2) The Joint Authority may:
 - (a) give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant an exploration permit over that block or those blocks; or
 - (b) by written notice given to the applicant, reject the application.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

95 Grant of special exploration permit—2 or more applications

Scope

- (1) This section applies if:
 - (a) the Joint Authority publishes a notice under subsection 93(1) inviting applications for the grant of an exploration permit over a block or blocks; and
 - (b) at the end of the period specified in the notice, 2 or more applications have been made under section 93 in relation to the block or blocks.

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Part 2.2 Exploration permits

Division 4 Obtaining a special exploration permit over a surrendered block or certain other blocks

Section 95

Rejection of applications

- (2) The Joint Authority may reject any or all of the applications.

Unrejected applications

- (3) If the Joint Authority does not reject all of the applications, the table has effect:

Unrejected applications		
Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
1	only one application remains unrejected	the applicant.
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 93(4)(b) are equal	one of those applicants.
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 93(4)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.

Unrejected applications

Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under paragraph 93(4)(b) are: (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

- (4) An offer document given to an applicant must tell the applicant that the Joint Authority is prepared to grant the applicant an exploration permit over the block or blocks.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If an applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

- (5) If:
- (a) an applicant is given an offer document under this section; and
 - (b) the application lapses as provided by section 224 or 225; and
 - (c) there are one or more remaining unrejected applications;
- subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

Unsuccessful applications

- (6) If the Joint Authority does not give an offer document to an applicant, the Joint Authority must, by written notice given to the

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Division 4 Obtaining a special exploration permit over a surrendered block or certain other blocks

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applicant, inform the applicant that the application was unsuccessful.

96 Grant of special exploration permit

(1) If:

- (a) an applicant has been given an offer document under section 94 or 95; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section; and
- (c) the applicant has paid the specified balance within the period applicable under section 225;

the Joint Authority must grant the applicant an exploration permit over the block or blocks specified in the offer document.

Note 1: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Note 2: If the applicant has not paid the specified balance within the period applicable under section 225, the application lapses at the end of that period—see subsection 225(2).

(2) For the purposes of this section, the *specified balance* is the balance specified in the offer document as the balance of the amount that the applicant must pay for the grant of the exploration permit.

Division 5—Renewal of exploration permits

97 Application for renewal of exploration permit

- (1) An exploration permittee may apply to the Designated Authority for the renewal by the Joint Authority of the permit in relation to such of the blocks the subject of the permit as are specified in the application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

- (2) Subsection (1) has effect subject to the following provisions:
- (a) section 98 (non-renewable cash-bid exploration permits);
 - (b) section 99 (limit on renewal of cash-bid exploration permits);
 - (c) section 100 (limits on renewal of work-bid exploration permits and special exploration permits);
 - (d) section 101 (standard halving rules);
 - (e) section 102 (modified halving rules).
- (3) An application to renew an exploration permit must be made at least 90 days before the expiry date of the permit.
- (4) Despite subsection (3), the Designated Authority may accept an application to renew an exploration permit if the application is made:
- (a) later than 90 days before the expiry date of the permit; and
 - (b) before the expiry date of the permit.

Extension of duration of exploration permit pending decision on application

- (5) If:
- (a) an exploration permittee makes an application to renew the permit; and
 - (b) the permit would, apart from this subsection, expire:
 - (i) before the Joint Authority grants, or refuses to grant, the renewal of the permit; or

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(ii) before the application lapses as provided by section 224;
the permit continues in force:

(c) until the Joint Authority grants, or refuses to grant, the
renewal of the permit; or

(d) until the application so lapses;
whichever happens first.

(6) Subsection (5) has effect subject to this Chapter but despite
section 80.

Note: See the notes at the end of section 80.

98 Non-renewable cash-bid exploration permits

An exploration permittee must not apply to renew a cash-bid
exploration permit if the notice under subsection 88(1) relating to
the grant of the permit stated that the permit was not able to be
renewed.

99 Limit on renewal of cash-bid exploration permits

An exploration permittee must not apply to renew a cash-bid
exploration permit if the Joint Authority has previously granted a
renewal of the permit.

**100 Limits on renewal of work-bid exploration permits and special
exploration permits**

Scope

(1) This section applies to an application for renewal of a work-bid
exploration permit or a special exploration permit.

Limits

(2) The table has effect:

Limits on renewal

Item	In this case...	Do the standard halving rules in section 10 1 apply?	Do the modified halving rules in section 10 2 apply?	Can the permit be renewed more than twice?
1	an application for renewal of a work-bid exploration permit, where the original exploration permit was granted: (a) on or after 1 January 2003; and (b) as a result of an application made in response to an invitation in a notice that was published under subsection 82(1) on or after 1 January 2003	Yes	No	No
2	an application for renewal of a special exploration permit, where the original exploration permit was granted on or after 1 January 2003	Yes	No	No
3	the first application after 6 March 2000 to renew an exploration permit, where the original exploration permit was granted before 7 March 2000	No	Yes	Yes, so long as the modified halving rules do not prevent the renewal
4	any other application for renewal of an exploration permit	Yes	No	Yes, so long as the standard halving rules do not prevent the renewal

Note: Under clause 23 of Schedule 6 to this Act, the reference in item 1 of the table to subsection 82(1) of this Act includes a reference to subsection 20(1) of the *Petroleum (Submerged Lands) Act 1967*.

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101 Standard halving rules

- (1) This section sets out the standard halving rules.

Scope

- (2) This section applies to:
- (a) an application for renewal of a cash-bid exploration permit that is capable of being renewed; and
 - (b) an application for renewal that is covered by item 1, 2 or 4 of the table in subsection 100(2).

Basic rule

- (3) The maximum number of blocks in relation to which an application for a renewal of a permit may be made is worked out using the table:

Maximum number of blocks		
Item	In this case...	the maximum number of blocks is...
1	the number of non-location blocks in relation to which the permit is in force is a number (the <i>divisible number</i>) that is divisible by 2 without remainder	one-half of the divisible number.
2	the number of non-location blocks in relation to which the permit is in force is a number that is one less or one more than a number (the <i>divisible number</i>) that is divisible by 4 without remainder	one-half of the divisible number.

- (4) Subsection (3) has effect subject to subsections (5), (6), (7), (8) and (9).

Additional rules

- (5) An application to renew a permit may include, in addition to the blocks worked out under subsection (3):
- (a) a block that is, or is included in, a location and in relation to which the permit is in force; or
-

- (b) 2 or more blocks covered by paragraph (a).
- (6) An application cannot be made to renew a permit in relation to only one block.
- (7) If a permit is in force in relation to 5 or 6 blocks, an application may be made to renew the permit in relation to 4 of those blocks.
- (8) If a permit is in force in relation to 2, 3 or 4 blocks, an application may be made to renew the permit in relation to all those blocks.
- (9) If a permit is renewed as a result of an application referred to in subsection (8), an application may not be made for the further renewal of the permit.

Definition

- (10) In this section:

non-location block means a block that is neither a location nor included in a location.

102 Modified halving rules

- (1) This section sets out the modified halving rules.

Scope

- (2) This section applies to an application for renewal that is covered by item 3 of the table in subsection 100(2).

Modification of standard halving rules

- (3) The modified halving rules are the rules set out in subsections 101(3), (4), (5), (7), (8), (9) and (10), modified as follows:
 - (a) if the maximum number of blocks in relation to which an application for renewal of a permit may be made in accordance with those rules is less than 16, the Joint Authority may, by written notice given to the permittee:
 - (i) tell the permittee that the number of blocks in relation to which the application may be made is such number, not more than 16, as is specified in the notice; and

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- (ii) give such directions as the Joint Authority thinks fit about the blocks in relation to which the application may be made;
- (b) if a permit is in force in relation to only one block, an application may be made for renewal of the permit in relation to that block.

103 Renewal of exploration permit—offer document

Scope

- (1) This section applies if an application to renew an exploration permit has been made under section 97.

Offer document—compliance with conditions etc.

- (2) If each of the following has been complied with:
 - (a) the conditions to which the exploration permit is, or has from time to time been, subject;
 - (b) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1;
 - (c) the regulations;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the permit.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Offer document—non-compliance with conditions etc.

- (3) If:
 - (a) any of:
 - (i) the conditions to which the exploration permit is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations;have not been complied with; and

(b) the Joint Authority is satisfied that there are sufficient grounds to warrant the granting of the renewal of the permit; the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the permit.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

104 Refusal to renew exploration permit

Scope

- (1) This section applies if an application to renew an exploration permit has been made under section 97.

Refusal on grounds of non-compliance with conditions

- (2) If:
- (a) any of:
 - (i) the conditions to which the exploration permit is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations; have not been complied with; and
 - (b) the Joint Authority is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the permit; the Joint Authority must, by written notice given to the applicant, refuse to renew the permit.

Note: Consultation procedures apply—see section 226.

105 Renewal of exploration permit

If:

- (a) an applicant has been given an offer document under section 103; and

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- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must renew the exploration permit.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Division 6—Locations

106 Simplified outline

The following is a simplified outline of this Division:

- If a petroleum pool is identified in an exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.
- Generally, the blocks must be nominated for declaration by the permittee.
- The Designated Authority may require the permittee to nominate the blocks.
- The declaration may be revoked or varied in certain circumstances.

107 Nomination of blocks as a location

Single petroleum pool

- (1) If:
- (a) a petroleum pool is identified in an exploration permit area;
and
 - (b) the permittee or another person has, whether in or outside the permit area, recovered petroleum from the pool;
- the permittee may nominate, for declaration as a location:
- (c) if the pool extends to only one block in the permit area—that block; or
 - (d) if the pool extends to 2 or more blocks in the permit area—those blocks.

2 or more petroleum pools

- (2) If:

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- (a) 2 or more petroleum pools are identified in an exploration permit area; and
- (b) the permittee or another person has, whether in or outside the permit area, recovered petroleum from each of those pools; the permittee may, instead of making a nomination under subsection (1) in relation to each pool, nominate for declaration as a single location:
 - (c) all of the blocks to which the pools extend; or
 - (d) all of the blocks to which any 2 or more of the pools extend.
- (3) To be effective, a nomination under subsection (2) that relates to 2 or more pools must be such that, in the case of each of the pools, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.
- (4) For the purposes of subsection (3), a block immediately adjoins another block if the graticular section that constitutes or includes that block and the graticular section that constitutes or includes that other block:
 - (a) have a side in common; or
 - (b) are joined together at one point only.

Form of nomination

- (5) A nomination under this section must be:
 - (a) in writing; and
 - (b) given to the Designated Authority.

108 Requirement to nominate blocks as a location

Requirement to nominate

- (1) If:
 - (a) the Designated Authority is of the opinion that an exploration permittee is entitled to nominate a block or blocks under subsection 107(1) or (2); and

- (b) the permittee has not done so;
the Designated Authority may, by written notice given to the permittee, require the permittee to nominate the block or blocks within:
 - (c) 90 days after the day on which the notice was given; or
 - (d) such longer period, not more than 180 days after the day on which the notice was given, as the Designated Authority allows.
- (2) The Designated Authority may allow a longer period under paragraph (1)(d) only on written application made by the permittee within the period of 90 days mentioned in paragraph (1)(c).

Consequences of non-compliance

- (3) If the permittee does not comply with the requirement, the Designated Authority may, by written notice given to the permittee, nominate the block or blocks for declaration as a location.

109 Declaration of location

Nomination by permittee

- (1) If:
 - (a) an exploration permittee has made a nomination under section 107; and
 - (b) the Designated Authority is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination;the Designated Authority must, by writing, declare the nominated block or blocks to be a location.
- (2) A copy of a declaration under subsection (1) must be published in the *Gazette*.
- (3) The Designated Authority may form an opinion for the purposes of this section if the Designated Authority considers that there are reasonable grounds for doing so having regard to any information

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the Designated Authority has, whether given by the permittee or otherwise.

Nomination by Designated Authority

- (4) If the Designated Authority has made a nomination under section 108, the Designated Authority must, by notice published in the *Gazette*, declare the nominated block or blocks to be a location.

110 Revocation of declaration

Revocation at the request of an exploration permittee

- (1) If:
- (a) an exploration permit is in force over a block that constitutes, or the blocks that constitute, a location; and
 - (b) the permittee requests the Designated Authority to revoke the declaration of the location;
- the Designated Authority may, by writing, revoke the declaration of the location.
- (2) A copy of a revocation under subsection (1) is to be published in the *Gazette*.

Revocation where block is no longer the subject of an exploration permit or a retention lease

- (3) If:
- (a) a block or blocks constituting or forming part of a location was or were the subject of an exploration permit or a retention lease; and
 - (b) that block is, or those blocks are, no longer the subject of the permit or lease;
- the Designated Authority must, by notice published in the *Gazette*:
- (c) in a case where that block constitutes, or those blocks constitute, that location—revoke the declaration of that location; or
 - (d) in a case where that block forms, or those blocks form, part of that location—revoke the declaration of that location to

the extent to which the declaration relates to that block or those blocks.

- (4) Subsection (3) does not apply in relation to a block if:
- (a) a person has applied for the grant of a production licence over the block, and the Joint Authority has not made a decision in relation to the application; or
 - (b) a production licence is in force in relation to the block.
- (5) Subsection (3) does not apply in relation to a block if:
- (a) a person has applied for the grant of a retention lease over the block, and the Joint Authority has not made a decision in relation to the application; or
 - (b) a retention lease is in force in relation to the block.

Revocation if retention lease is granted

- (6) If a retention lease is granted in relation to a block or blocks forming part of a location, the Designated Authority must, by notice published in the *Gazette*, revoke the declaration of the location to the extent to which the declaration relates to the block that is, or the blocks that are, not within the retention lease area.

Revocation if retention lease refused

- (7) If:
- (a) the Joint Authority refuses to grant a retention lease in relation to a block or blocks constituting or forming part of a location; and
 - (b) the reason, or one of the reasons, for the refusal is that the Joint Authority is not satisfied as to the matter referred to in subparagraph 118(b)(ii) (which deals with commercial viability);

the Designated Authority must, by notice published in the *Gazette*, revoke the declaration of that location.

Note: If an exploration permit is in force over a block that constitutes a location, the permittee's application for a retention lease over the block is rejected as mentioned in subsection (7), and the permittee wants to apply for a production licence, then the permittee must re-nominate the block for declaration as a location before the permittee applies for the production licence.

Revocation if production licence granted

- (8) If:
- (a) an application for the grant of a production licence has been made under:
 - (i) section 142 or 144; or
 - (ii) clause 2 or 4 of Schedule 4; and
 - (b) the application specifies 2 or more blocks; and
 - (c) a production licence is granted in respect of:
 - (i) only one of the blocks; or
 - (ii) some, but not all, of the blocks; and
 - (d) the remaining block or blocks form part of a location;
- the Designated Authority must, by notice published in the *Gazette*, revoke the declaration of the location to the extent to which the declaration relates to the remaining block or blocks.

Note 1: Section 142 and clause 2 of Schedule 4 deal with applications by permittees.

Note 2: Section 144 and clause 4 of Schedule 4 deal with applications by lessees.

111 Variation of declaration

- (1) If an exploration permit is in force over a block that constitutes, or blocks that constitute, a location, the Designated Authority may, by writing, vary the declaration of the location:
 - (a) by adding to the location a block:
 - (i) that is in the permit area; and
 - (ii) to which, in the opinion of the Designated Authority, a petroleum pool within the location extends; or
 - (b) by deleting from the location a block to which, in the opinion of the Designated Authority, no petroleum pool within the location extends.
- (2) A copy of a variation under subsection (1) is to be published in the *Gazette*.
- (3) The Designated Authority may vary a declaration only if:
 - (a) the permittee requests the variation; or

- (b) all of the following conditions are satisfied:
 - (i) the Designated Authority gives the permittee written notice of the proposed variation, identifying the block to be added to, or deleted from, the location;
 - (ii) the notice invites the permittee to give the Designated Authority a submission about the proposed variation;
 - (iii) the notice specifies a time limit for making the submission;
 - (iv) the Designated Authority has considered any submission made in accordance with the notice.
- (4) The time limit must be at least 30 days after the notice is given.
- (5) The Designated Authority may form an opinion for the purposes of this section if the Designated Authority considers that there are reasonable grounds for doing so having regard to any information the Designated Authority has, whether given by the permittee or otherwise.

Part 2.3—Retention leases

Division 1—General provisions

112 Simplified outline

The following is a simplified outline of this Part:

- This Part provides for the grant of retention leases over blocks in an offshore area.
- A retention lease authorises the lessee to explore for petroleum in the lease area.
- A retention lease over a block may be granted to:
 - (a) the holder of an exploration permit over the block; or
 - (b) the holder of a life-of-field production licence over the block.
- The criteria for granting a retention lease over a block are:
 - (a) the block contains petroleum; and
 - (b) the recovery of petroleum is not currently commercially viable, but is likely to become commercially viable within 15 years.

113 Rights conferred by retention lease

- (1) A retention lease authorises the lessee, in accordance with the conditions (if any) to which the lease is subject:
 - (a) to explore for petroleum in the lease area; and
 - (b) to recover petroleum on an appraisal basis in the lease area; and

- (c) to carry on such operations, and execute such works, in the lease area as are necessary for those purposes.
- (2) The rights conferred on the lessee by subsection (1) are subject to this Act and the regulations.

114 Conditions of retention leases

- (1) The Joint Authority may grant a retention lease subject to whatever conditions the Joint Authority thinks appropriate.
- (2) The conditions (if any) must be specified in the lease.

Lease to which Royalty Act applies

- (3) A retention lease to which the Royalty Act applies is subject to a condition that the lessee will comply with the provisions of the Royalty Act.

Note: The Royalty Act applies to a small number of North West Shelf titles.

- (4) Despite subsection (2), the condition mentioned in subsection (3) does not need to be specified in the lease.

Re-evaluation of commercial viability

- (5) A retention lease is subject to a condition that if the Designated Authority gives the lessee a written notice requesting the lessee to:
 - (a) re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells); and
 - (b) inform the Designated Authority in writing of the results of the re-evaluation;the lessee must comply with the request within:
 - (c) the period of 90 days after the notice is given; or
 - (d) such longer period as the Designated Authority allows.
- (6) The Designated Authority may allow a longer period under paragraph (5)(d) only on written application made by the lessee within the period of 90 days mentioned in paragraph (5)(c).

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- (7) If a retention lessee has complied with a subsection (5) request during the term of the lease, the Designated Authority must not give the lessee a further subsection (5) request during that term.
- (8) Despite subsection (2), the condition mentioned in subsection (5) does not need to be specified in the lease.

Work to be carried out by lessee

- (9) Any or all of the following conditions may be specified in a retention lease:
 - (a) conditions requiring the lessee to carry out work in, or in relation to, the lease area;
 - (b) conditions about the amounts that the lessee must spend in carrying out such work;
 - (c) conditions requiring the lessee to comply with directions that:
 - (i) relate to the matters covered by paragraphs (a) and (b);
 - (ii) are given in accordance with the lease.
- (10) Subsection (9) does not limit subsection (1).

115 Duration of retention lease

- (1) A retention lease remains in force for the period of 5 years beginning on:
 - (a) the day on which the lease is granted; or
 - (b) if a later day is specified in the lease as the day on which the lease is to come into force—that later day.

- (2) Subsection (1) has effect subject to this Chapter.

Note 1: For a special rule about the extension of the duration of a retention lease if the lessee applies for a production licence, see section 116.

Note 2: For a special rule about the extension of the duration of retention leases pending decisions on renewal applications, see subsection 129(5).

Note 3: For special rules about the duration of a retention lease once a decision has been made refusing to renew the lease, see subsections 131(6) and (7).

- Note 4: For a special rule about the extension of the duration of a retention lease following a suspension or exemption decision, see sections 228 and 230.
- Note 5: For the revocation of a retention lease, see section 160 and clause 8 of Schedule 4.
- Note 6: For a special rule about when a retention lease ceases to be in force following the grant of a production licence, see section 148.
- Note 7: For the surrender of a retention lease, see Part 2.12.
- Note 8: For the cancellation of a retention lease, see Part 2.13.

116 Extension of retention lease if lessee applies for production licence

- (1) If:
- (a) a retention lease is in force over a block or blocks; and
 - (b) before the time when the lease would, apart from this subsection, expire, the lessee applies to the Designated Authority for the grant by the Joint Authority of a production licence over the block or one or more of the blocks;
- the table has effect:

Extension of lease		
Item	In this case...	the lease continues in force over the block or blocks covered by the application until...
1	the Joint Authority gives the lessee an offer document relating to a production licence over the block or one or more of the blocks	the licence is granted, the lessee withdraws the application or the application lapses.
2	the Joint Authority decides not to grant a production licence to the lessee	notice of the decision is given to the lessee.

- (2) Subsection (1) has effect subject to this Chapter but despite section 115.

Note: See the notes at the end of section 115.

Division 2—Obtaining a retention lease

Subdivision A—Application for retention lease by the holder of an exploration permit

117 Application for retention lease by the holder of an exploration permit

- (1) If an exploration permit is in force over a block that constitutes, or the blocks that constitute, a location, the permittee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a retention lease over that block or over one or more of those blocks.

Note: For *application period*, see subsection (3).

- (2) An application under this section must be accompanied by details of:
 - (a) the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks specified in the application; and
 - (b) the current commercial viability of the recovery of petroleum from that area; and
 - (c) the possible future commercial viability of the recovery of petroleum from that area.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

Application period

- (3) The *application period* for an application under this section is:
 - (a) the period of 2 years after the day (the *declaration day*) on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or

- (b) such longer period, not more than 4 years after the declaration day, as the Designated Authority allows.
- (4) The Designated Authority may allow a longer period under paragraph (3)(b) only on written application made by the lessee within the period of 2 years mentioned in paragraph (3)(a).

118 Grant of retention lease—offer document

If:

- (a) an application for a retention lease has been made under section 117; and
- (b) the Joint Authority is satisfied that:
 - (i) the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and
 - (ii) the recovery of petroleum from that area is not, at the time of the application, commercially viable but is likely to become commercially viable within 15 years after that time;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant a retention lease over the block or blocks as to which the Joint Authority is satisfied as mentioned in paragraph (b).

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

119 Refusal to grant retention lease

- (1) This section applies if an application for a retention lease has been made under section 117.
- (2) If the Joint Authority is not satisfied as to the matters referred to in paragraph 118(b) in relation to the block, or all the blocks, specified in the application, the Joint Authority must, by written

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notice given to the applicant, refuse to grant a retention lease to the applicant.

(3) If:

- (a) the application specifies 2 or more blocks; and
- (b) the Joint Authority is not satisfied as to the matters referred to in paragraph 118(b) in relation to:
 - (i) only one of the blocks; or
 - (ii) some, but not all, of the blocks;

the Joint Authority must, by written notice given to the applicant, refuse to grant a retention lease to the applicant in relation to the block or blocks as to which the Joint Authority is not satisfied as mentioned in paragraph 118(b).

120 Grant of retention lease

If:

- (a) an applicant has been given an offer document under section 118; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant a retention lease over the block or blocks specified in the offer document.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

121 Exploration permit ceases to be in force when retention lease comes into force

When a retention lease under section 120 comes into force in relation to one or more blocks, an exploration permit ceases to be in force to the extent to which it relates to those blocks.

122 Exploration permit transferred—transferee to be treated as applicant

Scope

- (1) This section applies if a transfer of an exploration permit is registered under section 262:
 - (a) after an application has been made under section 117 for the grant of a retention lease over a block or blocks in relation to which the exploration permit is in force; and
 - (b) before any action has been taken by the Joint Authority under section 118 or 119 in relation to the application.

Transferee to be treated as applicant

- (2) After the transfer, sections 117 to 120 and Part 2.10 have effect in relation to the application as if any reference in those sections to the applicant were a reference to the transferee.

Subdivision B—Application for retention lease by the holder of a life-of-field production licence

123 Application for retention lease by the holder of a life-of-field production licence

- (1) If:
 - (a) a life-of-field production licence is in force over a block or blocks; and
 - (b) the following conditions are satisfied in relation to an area (the *unused area*) that consists of the block or any or all of the blocks:
 - (i) petroleum has been found to exist in the unused area;
 - (ii) no petroleum recovery operations are being carried on under the licence in relation to the unused area;

the licensee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a retention lease over the unused area.

Note: For *application period*, see subsection (3).

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Part 2.3 Retention leases

Division 2 Obtaining a retention lease

Section 124

- (2) An application under this section must be accompanied by details of:
- (a) the applicant's proposals for work and expenditure in relation to the unused area; and
 - (b) the current commercial viability of the recovery of petroleum from the unused area; and
 - (c) the possible future commercial viability of the recovery of petroleum from the unused area.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

Application period

- (3) The ***application period*** for an application under this section by a production licensee is the period of 5 years that began on:
- (a) the day on which the licence was granted; or
 - (b) if any petroleum recovery operations have been carried on under the licence in relation to the unused area—the last day on which any such operations were so carried on.

124 Grant of retention lease—offer document

If:

- (a) an application for a retention lease has been made under section 123; and
- (b) the Joint Authority is satisfied that recovery of petroleum from the unused area:
 - (i) is not, at the time of the application, commercially viable; and
 - (ii) is likely to become commercially viable within the period of 15 years after that time;

the Joint Authority must give the applicant a written notice (called an ***offer document***) telling the applicant that the Joint Authority is prepared to grant the applicant a retention lease over the unused area.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

125 Refusal to grant retention lease

If:

- (a) an application for a retention lease has been made under section 123; and
- (b) the Joint Authority is not satisfied as to the matters referred to in paragraph 124(b) in relation to the unused area;

the Joint Authority must, by written notice given to the applicant, refuse to grant a retention lease to the applicant.

Note: Consultation procedures apply—see section 226.

126 Grant of retention lease

If:

- (a) an applicant has been given an offer document under section 124; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant a retention lease over the unused area.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

127 Production licence ceases to be in force when retention lease comes into force

When a retention lease under section 126 comes into force in relation to one or more blocks, a production licence ceases to be in force to the extent to which it relates to those blocks.

128 Production licence transferred—transferee to be treated as applicant

Scope

- (1) This section applies if a transfer of a production licence is registered under section 262:
 - (a) after an application has been made under section 123 for the grant of a retention lease over a block or blocks in relation to which the production licence is in force; and
 - (b) before any action has been taken by the Joint Authority under section 124 or 125 in relation to the application.

Transferee to be treated as applicant

- (2) After the transfer, sections 123 to 126 and Part 2.10 have effect in relation to the application as if any reference in those sections to the applicant were a reference to the transferee.

Division 3—Renewal of retention leases

129 Application for renewal of retention lease

Application for renewal

- (1) A retention lessee may apply to the Designated Authority for the renewal by the Joint Authority of the lease.
- (2) An application to renew a retention lease must be made:
 - (a) not more than 12 months before the expiry date of the lease; and
 - (b) at least 180 days before the expiry date of the lease.
- (3) Despite subsection (2), the Designated Authority may accept an application to renew a retention lease if the application is made:
 - (a) later than 180 days before the expiry date of the lease; and
 - (b) before the expiry date of the lease.
- (4) An application to renew a retention lease must be accompanied by details of:
 - (a) the lessee's proposals for work and expenditure in relation to the lease area; and
 - (b) the current commercial viability of recovery of petroleum from the lease area; and
 - (c) the possible future commercial viability of recovery of petroleum from the lease area.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

Extension of duration of retention lease pending decision on application

- (5) If:

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Part 2.3 Retention leases

Division 3 Renewal of retention leases

Section 130

- (a) a retention lessee makes an application to renew the lease;
and
 - (b) the lease would, apart from this subsection, expire:
 - (i) before the Joint Authority grants, or refuses to grant, the renewal of the lease; or
 - (ii) before the application lapses as provided by section 224;the lease continues in force:
 - (c) until the Joint Authority grants, or refuses to grant, the renewal of the lease; or
 - (d) until the application so lapses;
- whichever happens first.
- (6) Subsection (5) has effect subject to this Chapter but despite section 115.

Note: See the notes at the end of section 115.

130 Renewal of retention lease—offer document

Scope

- (1) This section applies if an application to renew a retention lease has been made under section 129.

Offer document—compliance with conditions etc.

- (2) If:
- (a) each of the following has been complied with:
 - (i) the conditions to which the retention lease is, or has from time to time been, subject;
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1;
 - (iii) the regulations; and
 - (b) the Joint Authority is satisfied that recovery of petroleum from the lease area:
 - (i) is not, at the time of the application, commercially viable; and

- (ii) is likely to become commercially viable within the period of 15 years after that time;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the lease.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Offer document—non-compliance with conditions etc.

(3) If:

(a) any of:

(i) the conditions to which the retention lease is, or has from time to time been, subject; or

(ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or

(iii) the provisions of the regulations;
have not been complied with; and

(b) the Joint Authority is satisfied that there are sufficient grounds to warrant the granting of the renewal of the retention lease; and

(c) the Joint Authority is satisfied that recovery of petroleum from the lease area:

(i) is not, at the time of the application, commercially viable; and

(ii) is likely to become commercially viable within the period of 15 years after that time;

the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the lease.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

131 Refusal to renew retention lease

Scope

- (1) This section applies if an application to renew a retention lease has been made under section 129.

Refusal on grounds of non-compliance with conditions

- (2) If:
- (a) any of:
 - (i) the conditions to which the retention lease is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations; have not been complied with; and
 - (b) the Joint Authority is not satisfied that there are sufficient grounds to warrant the granting of the renewal of the retention lease;

the Joint Authority must, by written notice given to the applicant, refuse to renew the lease.

Note: Consultation procedures apply—see section 226.

Refusal on grounds of commercial viability

- (3) If the Joint Authority is satisfied that recovery of petroleum from the lease area is, at the time of the application, commercially viable, the Joint Authority must, by written notice given to the applicant, refuse to renew the lease.

Note: Consultation procedures apply—see section 226.

- (4) If the Joint Authority is satisfied that recovery of petroleum from the lease area is unlikely to become commercially viable within the period of 15 years after the time of the application, the Joint Authority must, by written notice given to the applicant, refuse to renew the lease.

Note: Consultation procedures apply—see section 226.

Application for production licence within 12 months after refusal

- (5) A notice of refusal under subsection (3) must contain a statement to the effect that the lessee may, within 12 months after the notice was given, apply for a production licence over one or more of the blocks comprised in the lease.
- (6) If:
- (a) the Joint Authority makes a decision under subsection (3) refusing to renew the lease; and
 - (b) a notice of refusal is given to the applicant; and
 - (c) within 12 months after the notice was given, the lessee applies for a production licence over one or more of the blocks comprised in the lease; and
 - (d) the lease would, apart from this subsection, expire:
 - (i) before the Joint Authority grants, or refuses to grant, the production licence; or
 - (ii) before the application lapses;
- the lease continues in force until:
- (e) the Joint Authority grants, or refuses to grant, the production licence; or
 - (f) the application lapses;
- whichever happens first.
- (7) If:
- (a) the Joint Authority makes a decision under subsection (3) refusing to renew the lease; and
 - (b) a notice of refusal is given to the applicant; and
 - (c) subsection (6) does not apply; and
 - (d) the lease would, apart from this subsection, expire within 12 months after the notice was given;
- the lease continues in force until the end of the 12-month period beginning on the day on which the notice was given.
- (8) Subsections (6) and (7) have effect subject to this Chapter but despite section 115.

Note: See the notes at the end of section 115.

132 Renewal of retention lease

If:

- (a) an applicant has been given an offer document under section 130; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must renew the retention lease.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Division 4—Revocation of retention leases

133 Notice of proposal to revoke retention lease

Scope

- (1) This section applies if:
- (a) a retention lessee has been given a notice under subsection 114(5) during the term of the lease; and
 - (b) the lessee has carried out, and has informed the Designated Authority of the results of, the re-evaluation required by the notice; and
 - (c) the lessee has not made an application to renew the lease; and
 - (d) after consideration of:
 - (i) the results of the re-evaluation referred to in paragraph (b); and
 - (ii) such other matters as the Joint Authority thinks fit; the Joint Authority is of the opinion that recovery of petroleum from the lease area is commercially viable.

Note: Subsection 114(5) deals with re-evaluation of the commercial viability of petroleum production in the lease area.

Notice of proposal to revoke lease

- (2) The Joint Authority may give the lessee, and such other persons (if any) as the Joint Authority thinks appropriate, a written notice:
- (a) telling the recipient of the notice that the Joint Authority:
 - (i) has formed the opinion that recovery of petroleum from the lease area is commercially viable; and
 - (ii) proposes to revoke the lease; and
 - (b) inviting the recipient of the notice to make a written submission to the Joint Authority about the proposal to revoke the lease; and
 - (c) specifying a time limit for making that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (3) The time limit must be at least 30 days after the notice is given.

134 Revocation of retention lease

- (1) If:
- (a) a notice under subsection 133(2) is given to:
 - (i) the lessee of a retention lease; or
 - (ii) the lessee of a retention lease and one or more other persons; and
 - (b) either:
 - (i) the lessee does not make a submission in accordance with the notice; or
 - (ii) the Joint Authority, after consideration of any submissions made in accordance with the notice, determines that the lease should be revoked;
- the Joint Authority must, by written notice given to the lessee, revoke the lease.

When revocation takes effect

- (2) If:
- (a) a retention lease is revoked under subsection (1); and
 - (b) the lessee applies for a production licence in relation to one or more of the blocks comprised in the lease within the period of 12 months beginning on the day on which the notice of revocation was given;
- the revocation of the lease takes effect:
- (c) when the Joint Authority grants, or refuses to grant, the production licence; or
 - (d) when the application lapses;
- whichever happens first.
- (3) If:
- (a) a retention lease is revoked under subsection (1); and
 - (b) the lessee does not apply for a production licence in relation to one or more of the blocks comprised in the lease within the period of 12 months beginning on the day on which the notice of revocation was given;

the revocation of the lease takes effect at the end of that 12-month period.

- (4) If a retention lease is revoked under subsection (1), the lease continues in force until the revocation takes effect in accordance with subsection (2) or (3).

Part 2.4—Production licences

Division 1—General provisions

135 Simplified outline

The following is a simplified outline of this Part:

- It is an offence to recover petroleum in an offshore area except:
 - (a) under a production licence; or
 - (b) as otherwise authorised or required by or under this Act.
- This Part provides for the grant of production licences over blocks in an offshore area.
- A production licence authorises the licensee to carry out petroleum recovery operations in the licence area.
- There are 3 ways in which a production licence can be granted:
 - (a) grant of a production licence as a result of an application made by an exploration permittee or a retention lessee;
 - (b) grant of a production licence over a surrendered block or a similar block;
 - (c) grant of a production licence over an individual block in exchange for another licence that was in force over the same block.

136 Prohibition of unauthorised recovery of petroleum in offshore area

- (1) A person commits an offence if:
- (a) the person carries on petroleum recovery operations; and
 - (b) the operations are carried on in an offshore area.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply if the operations are:
- (a) authorised by a production licence; or
 - (b) otherwise authorised or required by or under this Act.

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

137 Rights conferred by production licence

- (1) A production licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject:
- (a) to recover petroleum in the licence area; and
 - (b) to recover petroleum from the licence area in another area to which the licensee has lawful access for that purpose; and
 - (c) to explore for petroleum in the licence area; and
 - (d) to carry on such operations, and execute such works, in the licence area as are necessary for those purposes.
- (2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.

138 Conditions of production licences

- (1) The Joint Authority may grant a production licence subject to whatever conditions the Joint Authority thinks appropriate.

Note: A grant of a licence may be a grant by way of renewal—see section 10.

- (2) The conditions (if any) must be specified in the licence.

Production licence to which the Royalty Act applies

- (3) A production licence to which the Royalty Act applies is subject to a condition that the licensee will comply with the provisions of the Royalty Act.

Note: The Royalty Act applies to a small number of North West Shelf titles.

- (4) Despite subsection (2), the condition mentioned in subsection (3) does not need to be specified in the licence.

General condition

- (5) A production licence may be granted subject to a general condition requiring the licensee to:
- (a) explore for petroleum in the licence area with a view to determining whether there is any additional recoverable petroleum in the licence area; and
 - (b) recover such petroleum if it is commercially viable to do so.
- (6) Subsection (5) does not limit subsection (1).

Specific conditions

- (7) Despite subsection (1), a production licence must not be granted subject to specific conditions requiring the licensee to:
- (a) make a well in the licence area; or
 - (b) carry out a seismic survey, or any other kind of survey, in, or in relation to, the licence area; or
 - (c) spend particular amounts on the carrying out of work in, or in relation to, the licence area.
- (8) To avoid doubt, a condition covered by subsection (5) does not breach subsection (7).

Renewal conditions

- (9) In making a decision about the conditions to which a production licence granted on renewal will be subject, the Joint Authority must have regard to:
- (a) the investment of the licensee, or of any former licensee, during the term of:

- (i) the original production licence; or
 - (ii) any production licence granted on a previous renewal;
- where the investment relates to:
- (iii) operations authorised by the licence concerned; or
 - (iv) any other development connected with those operations;
- and
- (b) such other matters (if any) as the Joint Authority considers relevant.

139 Duration of production licence

- (1) The duration of a production licence is worked out using the table:

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Duration of production licences		
Item	This kind of production licence...	remains in force...
1	an original production licence granted on or after 30 July 1998	indefinitely.
2	an original production licence granted before 30 July 1998	for the period of 21 years beginning on: (a) the day on which the licence is granted; or (b) if a later day is specified in the licence as the day on which the licence is to come into force— that later day.
3	a production licence granted by way of the first renewal of a production licence, where the original production licence was granted before 30 July 1998	for the period of 21 years beginning on: (a) the day on which the licence is granted; or (b) if a later day is specified in the licence as the day on which the licence is to come into force— that later day.
4	a production licence granted by way of the second renewal of a production licence, where the original production licence was granted before 30 July 1998	indefinitely.

(2) Subsection (1) has effect subject to this Chapter.

(3) A production licence covered by item 1 or 4 of the table in subsection (1) is called a *life-of-field production licence*.

(4) A production licence covered by item 2 or 3 of the table in subsection (1) is called a *fixed-term production licence*.

Note 1: For a special rule about the extension of the duration of licences pending decisions on renewal applications, see subsection 156(6).

Note 2: For special rules about the duration of licences granted over individual blocks, see subsections 155(3) and (4).

Note 3: For the revocation of an initial production licence mentioned in section 154, see subsection 155(7).

- Note 4: For a special rule about when a production licence ceases to be in force following the grant of a retention lease, see section 127.
- Note 5: For the surrender of a production licence, see Part 2.12.
- Note 6: For the cancellation of a production licence, see Part 2.13.
- Note 7: For the termination of a life-of-field production licence if there have been no recovery operations for 5 years, see section 140.
- Note 8: See also section 249 (compensation for acquisition of property).

140 Termination of life-of-field production licence if no recovery operations for 5 years

Termination of licence

- (1) If:
- (a) a production licence is a life-of-field production licence; and
 - (b) no petroleum recovery operations under the licence have been carried on at any time during a continuous period of at least 5 years;
- the Joint Authority may, by written notice given to the licensee, tell the licensee that the Joint Authority proposes to terminate the licence after the end of 30 days after the notice is given.
- (2) At any time after the end of 30 days after the notice is given to the licensee, the Joint Authority may, by written notice given to the licensee, terminate the licence.
- Note: For remedial directions following termination, see section 312.
- (3) In working out, for the purposes of subsection (1), the period in which no petroleum recovery operations were carried on under a licence, disregard any period in which no such operations were carried on because of circumstances beyond the licensee's control.
- (4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.
- Note: See also section 249 (compensation for acquisition of property).

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Consultation

- (5) The Joint Authority may give a copy of a notice under subsection (1) to such other persons (if any) as the Joint Authority thinks fit.
 - (6) A notice under subsection (1) must:
 - (a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal to terminate the licence; and
 - (b) specify a time limit for making that submission.
- Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.
- (7) In deciding whether to terminate the licence, the Joint Authority must take into account any submissions made in accordance with the notice.

141 Production licences to which the Royalty Act applies

- (1) Schedule 4 has effect.
- (2) A reference in this Act to this Chapter includes a reference to Schedule 4.

Division 2—Obtaining a production licence as a result of an application made by an exploration permittee or a retention lessee

142 Application for production licence by permittee

Scope

- (1) This section applies to an exploration permit if the Royalty Act does not apply to the permit.

Note: Schedule 4 deals with applications for production licences by the holders of exploration permits to which the Royalty Act applies.

Application

- (2) If an exploration permit is in force over a block that constitutes, or the blocks that constitute, a location, the permittee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a production licence over that block or over one or more of those blocks.

Note: For *application period*, see section 143.

Variation of application

- (3) At any time before an offer document relating to the application is given to the applicant, the applicant may, by written notice given to the Designated Authority, vary the number of blocks specified in the application.
- (4) A variation of an application must be made in an approved manner.
- (5) A variation of an application may set out any additional matters that the applicant wishes to be considered.

Proposals for work and expenditure

- (6) An application, or a variation of an application, under this section must be accompanied by details of the applicant's proposals for

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work and expenditure in relation to the area comprised in the block or blocks covered by the varied application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

143 Application period

- (1) The *application period* for an application under section 142 is:
 - (a) the period of 2 years after the day (the *declaration day*) on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
 - (b) such longer period, not more than 4 years after the declaration day, as the Designated Authority allows.
- (2) The Designated Authority may allow a longer period under paragraph (1)(b) only on written application made by the permittee within the period of 2 years mentioned in paragraph (1)(a).
- (3) Despite subsection (1), if:
 - (a) an exploration permittee has applied for a retention lease under section 117 over a block or blocks; and
 - (b) a notice refusing to grant the retention lease has been given to the permittee under section 119;the *application period* for an application made by the permittee under section 142 for the grant of a production licence over the block or blocks is whichever of the following periods ends last:
 - (c) the period that is applicable under subsection (1);
 - (d) the period of 12 months after the day on which the notice was given.

Note: A failure to make an application within the application period results in revocation of the exploration permit to the extent to which it relates to the block concerned—see section 160.

144 Application for production licence by lessee

Scope

- (1) This section applies to a retention lease if the Royalty Act does not apply to the lease.

Note: Schedule 4 deals with applications for production licences by the holders of retention leases to which the Royalty Act applies.

Application for production licence

- (2) If a retention lease is in force over a block or blocks, the lessee may apply to the Designated Authority for the grant by the Joint Authority of a production licence over that block or over one or more of those blocks.

Proposals for work and expenditure

- (3) An application under this section must be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks specified in the application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

145 Offer document

If:

- (a) an application for the grant of a production licence has been made under:
- (i) section 142 or 144; or
 - (ii) clause 2 or 4 of Schedule 4; and
- (b) the Joint Authority is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is

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prepared to grant the applicant a production licence over the block or blocks as to which the Joint Authority is so satisfied.

Note 1: Section 142 and clause 2 of Schedule 4 deal with applications by permittees.

Note 2: Section 144 and clause 4 of Schedule 4 deal with applications by lessees.

Note 3: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 4: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

146 Refusal to grant production licence

Scope

- (1) This section applies if an application for the grant of a production licence has been made under:
- (a) section 142 or 144; or
 - (b) clause 2 or 4 of Schedule 4.

Note 1: Section 142 and clause 2 of Schedule 4 deal with applications by permittees.

Note 2: Section 144 and clause 4 of Schedule 4 deal with applications by lessees.

No block contains petroleum

- (2) If:
- (a) the application specifies one block; and
 - (b) the Joint Authority is not satisfied that the block contains petroleum;
- the Joint Authority must, by written notice given to the applicant, refuse to grant a production licence to the applicant.
- (3) If:
- (a) the application specifies 2 or more blocks; and
 - (b) the Joint Authority is not satisfied that any of the blocks contains petroleum;

the Joint Authority must, by written notice given to the applicant, refuse to grant a production licence to the applicant.

Some, but not all, blocks contain petroleum

- (4) If:
- (a) the application specifies 2 or more blocks; and
 - (b) the Joint Authority is satisfied that:
 - (i) only one of the blocks contains petroleum; or
 - (ii) some, but not all, of the blocks contain petroleum;

the Joint Authority must, by written notice given to the applicant, refuse to grant a production licence to the applicant in relation to the remaining block or blocks.

Note: The exploration permit or retention lease remains in force in relation to the remaining block or blocks.

Reasons for refusal

- (5) A notice under this section must set out the reasons for the Joint Authority's refusal.

147 Grant of production licence

If:

- (a) an applicant has been given an offer document under section 145; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant a production licence over the block or blocks as to which the Joint Authority is satisfied as mentioned in section 145.

Note 1: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Note 2: If an application made by an exploration permittee in relation to a block lapses, the exploration permit is revoked to the extent to which it relates to that block—see section 160 or clause 8 of Schedule 4.

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Division 2 Obtaining a production licence as a result of an application made by an exploration permittee or a retention lessee

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Note 3: If an application made by a retention lessee in relation to a block lapses, the retention lease is revoked to the extent to which it relates to that block—see section 160 or clause 8 of Schedule 4.

148 Exploration permit or retention lease ceases to be in force when production licence comes into force

When a production licence under section 147 comes into force in relation to one or more blocks, an exploration permit or retention lease ceases to be in force to the extent to which it relates to those blocks.

149 Exploration permit or retention lease transferred—transferee to be treated as applicant

Scope

- (1) This section applies if a transfer of an exploration permit or retention lease is registered under section 262:
 - (a) after an application has been made:
 - (i) under section 142 or clause 2 of Schedule 4 for the grant of a production licence over a block in relation to which the exploration permit is in force; or
 - (ii) under section 144 or clause 4 of Schedule 4 for the grant of a production licence over a block in relation to which the retention lease is in force; and
 - (b) before any action has been taken by the Joint Authority under section 145 or 146 in relation to the application.

Transferee to be treated as applicant

- (2) After the transfer:
 - (a) in the case of an application under section 142—that section has effect in relation to the application as if any reference in subsection (3) of that section to the applicant were a reference to the transferee; and
 - (b) if the Royalty Act applies to the permit or lease—subsection 6(2) of the Royalty Act has effect in relation to the application as if any reference in that subsection to a person

who has applied or applies for such a production licence were a reference to the transferee; and

- (c) in all cases—sections 145 and 147 and Part 2.10 of this Act have effect in relation to the application as if any reference in those sections and that Part to the applicant were a reference to the transferee.

Division 3—Obtaining a cash-bid production licence over a surrendered block or similar block

150 Application for cash-bid production licence over surrendered blocks or similar blocks

Invitation to apply for a cash-bid production licence

- (1) If:
- (a) a production licence is surrendered or cancelled to the extent to which it relates to a block; or
 - (b) a production licence is terminated to the extent to which it relates to a block; or
 - (c) an exploration permit or retention lease is surrendered, cancelled or revoked to the extent to which it relates to a block:
 - (i) that, at the time of the surrender, cancellation or revocation, was, or was included in, a location; and
 - (ii) in which, in the opinion of the Joint Authority, there is petroleum;
- the Joint Authority may, at any later time, by notice published in the *Gazette*:
- (d) invite applications for the grant by the Joint Authority of a production licence over that block; and
 - (e) specify a period within which applications may be made.
- (2) A notice under subsection (1) must state that an applicant is required to specify an amount that the applicant would be prepared to pay for the grant of the licence.

Application for cash-bid production licence

- (3) An application under this section must:
- (a) be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block; and

- (b) specify the amount that the applicant would be prepared to pay for the grant of the licence.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

Deposit

- (4) An application under this section must be accompanied by a deposit of 10% of the amount that the applicant has specified under paragraph (3)(b).

Refund of deposit

- (5) If the production licence is not granted, the deposit must be refunded to the applicant.
- (6) Subsection (5) does not apply if:
- (a) the applicant has been given an offer document under subsection 151(2) or 152(3) in relation to the application; and
 - (b) the applicant does not, under section 224, request the grant of the production licence.

151 Grant of cash-bid production licence—only one application

Scope

- (1) This section applies if:
- (a) the Joint Authority publishes a notice under subsection 150(1) inviting applications for the grant of a production licence over a block; and
 - (b) at the end of the period specified in the notice, only one application has been made under section 150 in relation to the block.

Offer document

- (2) The Joint Authority may:

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- (a) give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant a production licence over that block; or
- (b) by written notice given to the applicant, reject the application.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

152 Grant of cash-bid production licence—2 or more applications

Scope

- (1) This section applies if:
 - (a) the Joint Authority publishes a notice under subsection 150(1) inviting applications for the grant of a production licence over a block; and
 - (b) at the end of the period specified in the notice, 2 or more applications have been made under section 150 in relation to the block.

Rejection of applications

- (2) The Joint Authority may reject any or all of the applications.

Unrejected applications

- (3) If the Joint Authority does not reject all of the applications, the table has effect:

Unrejected applications		
Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
1	only one application remains unrejected	the applicant.

Unrejected applications

Item	If...	the Joint Authority may give a written notice (called an <i>offer document</i>) to...
2	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 150(3)(b) are equal	one of those applicants.
3	(a) 2 or more applications remain unrejected; and (b) the amounts specified in the applications under paragraph 150(3)(b) are not equal; and (c) the amount specified in one of the applications is higher than the amount or amounts specified in the remaining application or applications	whichever of those applicants specified the highest amount.
4	(a) 3 or more applications remain unrejected; and (b) 2 or more of the amounts specified in the applications under paragraph 150(3)(b) are: (i) equal; and (ii) higher than the amount or amounts specified in the remaining application or applications	one of the applicants who specified the equal highest amount.

- (4) An offer document given to an applicant must tell the applicant that the Joint Authority is prepared to grant the applicant a production licence over the block.

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Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

Lapsed applications

- (5) If:
- (a) an applicant is given an offer document under this section; and
 - (b) the application lapses as provided by section 224 or 225; and
 - (c) there are one or more remaining unrejected applications;
- subsections (3) and (4) of this section apply in relation to the remaining unrejected applications.

Unsuccessful applications

- (6) If the Joint Authority does not give an offer document to an applicant, the Joint Authority must, by written notice given to the applicant, inform the applicant that the application was unsuccessful.

153 Grant of cash-bid production licence

- (1) If:
- (a) an applicant has been given an offer document under section 151 or 152; and
 - (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section; and
 - (c) in the case of an offer document under section 152—the applicant has paid the specified balance within the period applicable under section 225;

the Joint Authority must grant the applicant a production licence over the block specified in the offer document.

Note 1: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Note 2: In the case of an offer document under section 152, if the applicant has not paid the specified balance within the period applicable under section 225, the application lapses at the end of that period—see subsection 225(2).

- (2) For the purposes of this section, the *specified balance* is the balance specified in the offer document as the balance of the amount that the applicant must pay for the grant of the production licence.

Division 4—Obtaining production licences over individual blocks

154 Applications for production licences over individual blocks

Scope

- (1) This section applies to a production licence (the *initial production licence*) if:
 - (a) the licence is in force over 2 or more blocks; and
 - (b) the blocks do not form a location or part of a location.

Application for production licence

- (2) The licensee of the initial production licence may apply to the Joint Authority for the grant of 2 or more new production licences over the blocks that were the subject of the initial production licence, in exchange for the initial production licence.
- (3) An application under this section:
 - (a) must specify the number of new production licences required; and
 - (b) must specify the block or blocks that were the subject of the initial production licence and for which each new production licence is sought.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

155 Grant of production licences over individual blocks

Scope

- (1) This section applies if a licensee of an initial production licence mentioned in section 154 has made an application under that section.

Grant of production licence

- (2) The Joint Authority must grant the licensee new production licences in accordance with the application.

Duration of new production licence

- (3) If the initial production licence is a fixed-term production licence, a new production licence granted under this section remains in force for the remainder of the term of the initial production licence.
- (4) If the initial production licence is a life-of-field production licence, a new production licence granted under this section remains in force indefinitely.
- (5) Subsections (3) and (4) have effect subject to this Chapter but despite section 139.

Note: See the notes at the end of section 139.

Conditions of new production licence

- (6) A new production licence under this section must be granted subject to conditions corresponding as closely as practicable to the conditions to which the initial production licence was subject.

Revocation of initial production licence

- (7) If new production licences are granted under this section:
- (a) the initial production licence is revoked; and
 - (b) the revocation has effect on the day on which those new licences come into force.

Division 5—Renewal of fixed-term production licences

156 Application for renewal of fixed-term production licence

Scope

- (1) This section applies to a fixed-term production licence.

Application for renewal

- (2) A production licensee may apply to the Designated Authority for the renewal by the Joint Authority of the licence.
- (3) An application to renew a production licence must be made at least 180 days before the expiry date of the licence.
- (4) Despite subsection (3), the Designated Authority may accept an application to renew a production licence if the application is made:
- (a) later than 180 days before the expiry date of the licence; and
 - (b) before the expiry date of the licence.

Proposals for work and expenditure

- (5) An application to renew a production licence must be accompanied by details of the licensee's proposals for work and expenditure in relation to the licence area.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Extension of duration of production licence pending decision on application

- (6) If:
- (a) a production licensee makes an application to renew the licence; and
 - (b) the licence would, apart from this subsection, expire:

- (i) before the Joint Authority grants, or refuses to grant, the renewal of the licence; or
 - (ii) before the application lapses as provided by section 224; the licence continues in force:
 - (c) until the Joint Authority grants, or refuses to grant, the renewal of the licence; or
 - (d) until the application so lapses;
- whichever happens first.
- (7) Subsection (6) has effect subject to this Chapter but despite section 139.

Note: See the notes at the end of section 139.

157 Renewal of fixed-term production licence—offer document

Scope

- (1) This section applies if an application to renew a fixed-term production licence has been made under section 156.

Offer document—compliance with conditions etc., first renewal

- (2) If:
- (a) each of the following has been complied with:
 - (i) the conditions to which the production licence is, or has from time to time been, subject;
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1;
 - (iii) the regulations; and
 - (b) the application is for the first renewal of the production licence;

the Joint Authority must give the applicant a written notice (called an ***offer document***) telling the applicant that the Joint Authority is prepared to renew the licence.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

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Offer document—compliance with conditions etc., second renewal, recovery of petroleum

(3) If:

(a) each of the following has been complied with:

- (i) the conditions to which the production licence is, or has from time to time been, subject;
- (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1;
- (iii) the regulations; and

(b) both:

- (i) the application is for the second renewal of the production licence; and
- (ii) petroleum recovery operations have been carried on in the licence area within 5 years before the application for the renewal was made;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the licence.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Offer document—non-compliance with conditions etc., sufficient grounds to warrant renewal

(4) If:

(a) any of:

- (i) the conditions to which the production licence is, or has from time to time been, subject; or
- (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
- (iii) the provisions of the regulations; have not been complied with; and

(b) the Joint Authority is satisfied that there are sufficient grounds to warrant the renewal of the production licence;

the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to renew the licence.

Note: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

158 Refusal to renew fixed-term production licence

Scope

- (1) This section applies if an application to renew a fixed-term production licence has been made under section 156.

Refusal on grounds of non-compliance with conditions

- (2) If:
- (a) any of:
 - (i) the conditions to which the production licence is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations; have not been complied with; and
 - (b) the Joint Authority is not satisfied that there are sufficient grounds to warrant the renewal of the production licence; the Joint Authority must, by written notice given to the applicant, refuse to renew the licence.

Note: Consultation procedures apply—see section 226.

Refusal on grounds of inactivity

- (3) If:
- (a) the application relates to a renewal other than the first renewal; and
 - (b) no petroleum recovery operations have been carried on in the licence area within 5 years before the application for the renewal was made;

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the Joint Authority may, by written notice given to the applicant, refuse to renew the licence.

159 Renewal of fixed-term production licence

If:

- (a) an applicant has been given an offer document under section 157; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must renew the production licence.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Division 6—What happens if a block is not taken up

160 Revocation of exploration permit or retention lease to the extent to which it relates to a block not taken up

Permittee does not apply for a production licence

- (1) If:
- (a) an exploration permittee could apply under section 142 for a production licence in relation to a block or blocks; and
 - (b) the permittee does not, within the application period, make the application;
- then:
- (c) the exploration permit is revoked to the extent to which it relates to that block or those blocks; and
 - (d) the revocation has effect at the end of the application period.

Note: For *application period*, see section 143.

Permittee's application lapses

- (2) If an application made by an exploration permittee under section 142 in relation to a block or blocks lapses:
- (a) the exploration permit is revoked to the extent to which it relates to that block or those blocks; and
 - (b) the revocation has effect:
 - (i) at the end of the application period; or
 - (ii) on the lapsing of the application;whichever is the later.

Note: For lapsing of applications, see section 224.

Lessee's application lapses

- (3) If an application made by a retention lessee under section 144 in relation to a block or blocks lapses:
- (a) the retention lease is revoked to the extent to which it relates to that block or those blocks; and

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Division 6 What happens if a block is not taken up

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(b) the revocation has effect on the lapsing of the application.

Note 1: For lapsing of applications, see section 224.

Note 2: See also subsection 110(3) (revocation of declaration of location where block is no longer the subject of an exploration permit or a retention lease).

Division 7—Petroleum field development

Subdivision A—Directions about the recovery of petroleum

161 Direction to recover petroleum

Initial direction

- (1) If:
- (a) petroleum is not being recovered in a production licence area; and
 - (b) the Joint Authority is satisfied that there is recoverable petroleum in that area;
- the Joint Authority may, by written notice given to the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.

Further direction

- (2) If:
- (a) a direction is in force under subsection (1) in relation to a licensee; and
 - (b) the Joint Authority is not satisfied with the steps taken or being taken by the licensee;
- the Joint Authority may, by written notice given to the licensee, direct the licensee to take such steps as the Joint Authority thinks necessary and practicable for, or in relation to, the recovery of petroleum in the licence area.

162 Directions about the rate of recovery of petroleum

Initial direction

- (1) If petroleum is being recovered in a production licence area, the Joint Authority may, by written notice given to the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered:
- (a) in the licence area; or

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(b) from a petroleum pool in the licence area;
to the rate specified in the notice.

Further direction

(2) If:

(a) a direction is in force under subsection (1) in relation to a licensee; and

(b) the Joint Authority is not satisfied with the steps taken or being taken by the licensee;

the Joint Authority may, by written notice given to the licensee, give the licensee such directions as the Joint Authority thinks necessary and practicable for, or in relation to, the increase or reduction of the rate at which petroleum is being recovered:

(c) in the licence area; or

(d) from a petroleum pool in the licence area.

Matters to be taken into account

(3) In deciding whether to give a direction under this section, the Joint Authority may take into account matters relating to the effects on Commonwealth revenue of the proposed direction.

(4) Subsection (3) does not limit the matters that may be taken into account.

Good oilfield practice

(5) The Joint Authority must not give a direction under this section if the direction would require action to be taken that is contrary to good oilfield practice.

Subdivision B—Unit development

163 Unit development

Meaning of unit development

(1) In this section, the expression *unit development*:

- (a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee of a production licence and partly in:
 - (i) the licence area of another licensee of a production licence; or
 - (ii) an area that is not within an offshore area but in which a person other than the first-mentioned licensee is lawfully entitled to carry on petroleum recovery operations from the pool; and
- (b) means the carrying on of petroleum recovery operations from that pool under cooperative arrangements between the persons entitled to carry on such operations in each of those areas.

Unit development agreement

- (2) A licensee of a production licence may from time to time enter into a written agreement for, or in relation to, the unit development of a petroleum pool, but nothing in this subsection derogates from the operation of section 270.

Direction to enter into unit development agreement

- (3) The Joint Authority, on the Joint Authority's own initiative or on application made to the Joint Authority in writing by:
 - (a) a licensee of a production licence in whose licence area there is a part of a particular petroleum pool; or
 - (b) a person who is lawfully entitled to carry on petroleum recovery operations in an area outside the offshore area that includes part of a particular petroleum pool that extends into the offshore area;

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee of a production licence whose licence area includes part of the petroleum pool, by written notice given to the licensee, to:

- (c) enter into a written agreement, within the period specified in the notice, for, or in relation to, the unit development of the petroleum pool; and

- (d) lodge an application in accordance with section 271 for approval of any dealing to which the agreement relates.

Unit development scheme

- (4) If:
 - (a) a licensee of a production licence who is directed under subsection (3) to enter into an agreement for, or in relation to, the unit development of a petroleum pool does not enter into such an agreement within the specified period; or
 - (b) the licensee enters into such an agreement, but:
 - (i) an application for approval of a dealing to which the agreement relates is not lodged with the Designated Authority; or
 - (ii) if an application is so lodged—the dealing is not approved under section 275;

the Joint Authority may, by written notice given to the licensee, direct the licensee to submit to the Joint Authority, within the period specified in the notice, a scheme for, or in relation to, the unit development of the petroleum pool.

Directions

- (5) At any time after the end of the period within which a scheme for, or in relation to, the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Joint Authority may, by written notice given to the licensee, give to the licensee such directions as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (6) If a person is the licensee of production licences in relation to 2 or more licence areas in each of which there is part of a particular petroleum pool, the Joint Authority may, by written notice given to the licensee, give to the licensee such directions as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (7) If:
 - (a) an agreement under this section is in force; or

- (b) the Joint Authority has given directions under subsection (5) or (6);
the Joint Authority may, having regard to additional information that has become available, by written notice given to the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as the Joint Authority thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (8) The Joint Authority must not give a direction under subsection (6) or (7) unless the Designated Authority has given to the licensee or licensees concerned an opportunity to confer with the Designated Authority about the proposed direction.
- (9) Directions under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.

Definition

- (10) In this section:

dealing means a dealing to which Part 3.6 applies.

Consultation

- (11) If a petroleum pool extends, or is reasonably believed by the Designated Authority to extend, from the offshore area in respect of a State or Territory into:
- (a) lands to which the laws of that State or Territory, or of another State or Territory, relating to exploiting petroleum resources apply; or
 - (b) the offshore area of an adjoining State or Territory;
- each Designated Authority concerned must consult about exploiting the petroleum pool with:
- (c) any other Designated Authority concerned; and
 - (d) the appropriate authority of a State or Territory referred to in paragraph (a).

Approval

- (12) If subsection (11) applies in relation to a petroleum pool, a Joint Authority must not:
- (a) approve an agreement under this section; or
 - (b) give a direction under this section;
- in relation to that petroleum pool except with the approval of any other Joint Authority concerned and any State or Territory authority concerned.

Part 2.5—Infrastructure licences

Division 1—General provisions

164 Simplified outline

The following is a simplified outline of this Part:

- It is an offence to construct or operate an infrastructure facility in an offshore area except:
 - (a) under an infrastructure licence; or
 - (b) as otherwise authorised or required by or under this Act.
- This Part provides for the grant of infrastructure licences.
- An infrastructure licence authorises the licensee to construct and operate an infrastructure facility in the licence area.

165 Prohibition of unauthorised construction or operation of an infrastructure facility in an offshore area

- (1) A person commits an offence if:
- (a) the person:
 - (i) starts to construct or reconstruct an infrastructure facility; or
 - (ii) continues to construct or reconstruct an infrastructure facility; or
 - (iii) starts to alter an infrastructure facility; or
 - (iv) continues to alter an infrastructure facility; or
 - (v) operates an infrastructure facility; and
 - (b) the person's conduct occurs in an offshore area.

Penalty: Imprisonment for 5 years.

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- (2) Subsection (1) does not apply if the conduct is:
- (a) authorised by an infrastructure licence; or
 - (b) otherwise authorised or required by or under this Act.

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

166 Rights conferred by an infrastructure licence

- (1) An infrastructure licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject:
- (a) to construct infrastructure facilities in the licence area; and
 - (b) to operate infrastructure facilities in the licence area.
- (2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.
- (3) To avoid doubt, the grant of an infrastructure licence is not a precondition to doing anything that could be authorised by an exploration permit, retention lease, production licence or pipeline licence.

167 Conditions of infrastructure licences

- (1) The Joint Authority may grant an infrastructure licence subject to whatever conditions the Joint Authority thinks appropriate.
- (2) The conditions (if any) must be specified in the licence.

168 Duration of infrastructure licence

- (1) An infrastructure licence remains in force indefinitely.
- (2) Subsection (1) has effect subject to this Chapter.

Note 1: For the surrender of an infrastructure licence, see Part 2.12.

Note 2: For the cancellation of an infrastructure licence, see Part 2.13.

Note 3: For the termination of an infrastructure licence if there have been no operations for 5 years, see section 169.

169 Termination of infrastructure licence if no operations for 5 years

Termination of licence

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

the Joint Authority may, by written notice given to the licensee, tell the licensee that the Joint Authority proposes to terminate the infrastructure licence after the end of 30 days after the notice is given.

- (2) At any time after the end of 30 days after the notice referred to in subsection (1) is given to the licensee, the Joint Authority may, by written notice given to the licensee, terminate the infrastructure licence.

Note: For remedial directions following termination, see section 312.

- (3) In working out, for the purposes of subsection (1):
- (a) the period in which an infrastructure licensee did not carry out any construction work under the licence; or
 - (b) the period in which an infrastructure licensee did not use the infrastructure facilities constructed under the licence;

disregard any period in which construction work was not carried out, or the infrastructure facilities were not used, as the case may be, because of circumstances beyond the licensee's control.

- (4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.

Note: See also section 249 (compensation for acquisition of property).

Consultation

- (5) The Joint Authority may give a copy of a notice under subsection (1) to such other persons (if any) as the Joint Authority thinks fit.

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Division 1 General provisions

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- (6) A notice under subsection (1) must:
- (a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal to terminate the licence; and
 - (b) specify a time limit for making that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (7) In deciding whether to terminate the licence, the Joint Authority must take into account any submissions made in accordance with the notice.

Division 2—Obtaining an infrastructure licence

170 Application for infrastructure licence

- (1) A person may apply to the Designated Authority for the grant by the Joint Authority of an infrastructure licence.

Details

- (2) An application under this section must be accompanied by details of the applicant's proposals for the construction and operation of infrastructure facilities at a place that is:
 - (a) in an offshore area; and
 - (b) described in the application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

171 Grant of infrastructure licence—offer document

If an application for the grant of an infrastructure licence has been made under section 170, the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant the Joint Authority is prepared to grant the applicant an infrastructure licence in relation to the place described in the application.

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

Note 3: For consultation procedures, see section 174.

172 Refusal to grant infrastructure licence

If:

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- (a) an application for the grant of an infrastructure licence has been made under section 170; and
- (b) the Joint Authority decides not to give the applicant an offer document under section 171;

the Joint Authority must, by written notice given to the applicant, refuse to grant the infrastructure licence.

173 Grant of infrastructure licence

If:

- (a) an applicant has been given an offer document under section 171; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant the infrastructure licence concerned.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

174 Consultation—grant of infrastructure licence

Scope

- (1) This section applies if:
 - (a) an application for an infrastructure licence (the *proposed infrastructure licence*) has been made under section 170 in relation to a place in a block; and
 - (b) the block:
 - (i) is the subject of an exploration permit, retention lease or production licence; or
 - (ii) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence; or
 - (iii) includes the whole or a part of a place that is the subject of another infrastructure licence; or
 - (iv) is the subject of a special prospecting authority or access authority; and

- (c) the applicant is not the registered holder of the exploration permit, retention lease, production licence, pipeline licence, other infrastructure licence, special prospecting authority or access authority; and
- (d) if subparagraph (b)(i), (ii) or (iii) applies—the registered holder of the exploration permit, retention lease, production licence, pipeline licence or other infrastructure licence has not given written consent to the grant of the proposed infrastructure licence; and
- (e) if subparagraph (b)(iv) applies:
 - (i) the registered holder of the special prospecting authority or access authority has not given written consent to the grant of the proposed infrastructure licence; or
 - (ii) the special prospecting authority or access authority will not expire before any construction or operation of infrastructure facilities under the proposed infrastructure licence would occur.

Consultation

- (2) Before the Joint Authority gives the applicant an offer document under section 171, the Joint Authority must:
 - (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence, pipeline licence, other infrastructure licence, special prospecting authority or access authority, give at least 30 days notice of the Joint Authority's proposal to give the applicant the offer document; and
 - (b) give a copy of the notice to such other persons (if any) as the Joint Authority thinks fit.
- (3) The notice must:
 - (a) set out details of the proposed infrastructure licence; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal; and
 - (c) specify a time limit for the making of that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

Chapter 2 Regulation of activities relating to petroleum

Part 2.5 Infrastructure licences

Division 2 Obtaining an infrastructure licence

Section 174

- (4) In deciding:
- (a) whether to give the applicant the offer document; and
 - (b) the conditions (if any) to which the proposed infrastructure licence should be subject;
- the Joint Authority must take into account any submissions made in accordance with the notice.

Division 3—Varying an infrastructure licence

175 Application for variation of infrastructure licence

- (1) An infrastructure licensee may apply to the Designated Authority for the variation by the Joint Authority of the licence.
- (2) An application under this section must:
 - (a) be accompanied by details of the proposed variation; and
 - (b) set out the reasons for the proposed variation.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

176 Variation of infrastructure licence

- (1) If an infrastructure licensee applies under section 175 for a variation of the licence, the Joint Authority may, by written notice given to the licensee:
 - (a) vary the licence to such extent as the Joint Authority thinks necessary; or
 - (b) refuse to vary the licence.

Note: For consultation procedures, see section 177.

When variation takes effect

- (2) A variation of an infrastructure licence under this section takes effect on the day on which notice of the variation is published in the *Gazette*.

Note: For publication in the *Gazette* of notice of the variation, see section 418.

177 Consultation—variation of infrastructure licence

Scope

- (1) This section applies if:
- (a) an infrastructure licence (the *first infrastructure licence*) relates to a place in a block; and
 - (b) an application for variation of the first infrastructure licence is made under section 175; and
 - (c) the block:
 - (i) is the subject of an exploration permit, retention lease or production licence; or
 - (ii) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence; or
 - (iii) includes the whole or a part of a place that is the subject of another infrastructure licence; or
 - (iv) is the subject of a special prospecting authority or access authority; and
 - (d) the applicant is not the registered holder of the exploration permit, retention lease, production licence, pipeline licence, other infrastructure licence, special prospecting authority or access authority; and
 - (e) if subparagraph (c)(i), (ii) or (iii) applies—the registered holder of the exploration permit, retention lease, production licence, pipeline licence or other infrastructure licence has not given written consent to the variation of the first infrastructure licence; and
 - (f) if subparagraph (c)(iv) applies:
 - (i) the registered holder of the special prospecting authority or access authority has not given written consent to the variation of the first infrastructure licence; or
 - (ii) the special prospecting authority or access authority will not expire before any construction or operation of infrastructure facilities under the first infrastructure licence, as proposed to be varied, would occur.

Consultation

- (2) Before varying the first infrastructure licence, the Joint Authority must:
- (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence, pipeline licence, other infrastructure licence, special prospecting authority or access authority, give at least 30 days notice that the Joint Authority is considering the application; and
 - (b) give a copy of the notice to such other persons (if any) as the Joint Authority thinks fit.

- (3) The notice must:
- (a) set out details of the proposed variation; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal; and
 - (c) specify a time limit for the making of that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (4) In deciding whether to vary the first infrastructure licence, the Joint Authority must take into account any submissions made in accordance with the notice.

Part 2.6—Pipeline licences

Division 1—General provisions

178 Simplified outline

The following is a simplified outline of this Part:

- It is an offence to construct or operate a pipeline in an offshore area without a pipeline licence.
- This Part provides for the grant of pipeline licences.
- A pipeline licence authorises the licensee to construct and operate a pipeline.
- The Joint Authority may direct a pipeline licensee to be a common carrier of petroleum in relation to the pipeline.
- A pipeline licensee must not cease to operate the pipeline without the consent of the Joint Authority.

179 Prohibition of unauthorised construction or operation of a pipeline in an offshore area

General offence

- (1) A person commits an offence if:
- (a) the person:
 - (i) starts to construct or reconstruct a pipeline; or
 - (ii) continues to construct or reconstruct a pipeline; or
 - (iii) starts to alter a pipeline; or
 - (iv) continues to alter a pipeline; or
 - (v) operates a pipeline; and
 - (b) the person's conduct occurs in an offshore area.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply to conduct that is authorised by a pipeline licence.

Note 1: The defendant bears an evidential burden in relation to the matter in subsection (2)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also subsections (7) and (8) of this section.

Offence of starting to operate a pipeline

- (3) A person commits an offence if:
- (a) the person starts to operate a pipeline; and
 - (b) the person's conduct occurs in an offshore area.

Penalty: Imprisonment for 5 years.

- (4) Subsection (3) does not apply if:
- (a) the pipeline has been constructed and tested in accordance with a pipeline licence; and
 - (b) the Designated Authority has certified in writing that the Designated Authority is satisfied that:
 - (i) the pipeline has been constructed and tested in accordance with a pipeline licence; and
 - (ii) the pipeline is fit to be operated.

Note 1: The defendant bears an evidential burden in relation to the matter in subsection (4)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also subsections (7) and (8) of this section.

Offence of recommencing to operate a pipeline

- (5) A person commits an offence if:
- (a) the person recommences to operate a pipeline the previous operation of which was discontinued; and
 - (b) the person's conduct occurs in an offshore area.

Penalty: Imprisonment for 5 years.

- (6) Subsection (5) does not apply if the recommencement is carried out:
- (a) with the written consent of the Designated Authority; and

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- (b) in accordance with the conditions (if any) specified in that consent.

Note 1: The defendant bears an evidential burden in relation to the matter in subsection (6)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also subsections (7) and (8) of this section.

Defences

- (7) Subsections (1), (3) and (5) do not apply if:

- (a) in an emergency in which there is a likelihood of loss or injury; or
- (b) for the purpose of maintaining a pipeline in good order or repair;

the person engages in the conduct to avoid that loss or injury, or to maintain the pipeline in good order and repair, and the person:

- (c) as soon as practicable, notifies the Designated Authority of the conduct; and
- (d) complies with any directions given to the person by the Designated Authority.

Note: The defendant bears an evidential burden in relation to the matter in subsection (7)—see subsection 13.3(3) of the *Criminal Code*.

- (8) Subsections (1), (3) and (5) do not apply to anything done in compliance with a direction under:

- (a) this Act; or
- (b) the regulations.

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

Consents and certificates

- (9) The Designated Authority may:

- (a) refuse to give a consent or certificate for the purposes of this section; or
- (b) make a consent under subsection (6) subject to such conditions as are specified in the consent.

180 Rights conferred by pipeline licence

- (1) A pipeline licence authorises the licensee, in accordance with the conditions (if any) to which the licence is subject:
 - (a) to construct in the offshore area specified in the licence a pipeline:
 - (i) of the design, construction, size and capacity specified in the licence; and
 - (ii) along the route specified in the licence; and
 - (iii) in the position, in relation to the seabed, specified in the licence; and
 - (b) to construct in the offshore area specified in the licence the pumping stations, tank stations and valve stations specified in the licence in the positions specified in the licence; and
 - (c) to operate:
 - (i) that pipeline; and
 - (ii) those pumping stations, tank stations and valve stations; and
 - (d) to carry on such operations, to execute such works and to do all such other things in the offshore area specified in the licence as are necessary for, or incidental to, the construction or operation of:
 - (i) that pipeline; and
 - (ii) those pumping stations, tank stations and valve stations.
- (2) The rights conferred on the licensee by subsection (1) are subject to this Act and the regulations.

181 Conditions of pipeline licences

- (1) The Joint Authority may grant a pipeline licence subject to whatever conditions the Joint Authority thinks appropriate.
- (2) The conditions (if any) must be specified in the licence.

Completion of pipeline

- (3) A pipeline licence may be granted subject to a condition that the licensee must complete the construction of the pipeline within the period specified in the licence.
- (4) Subsection (3) does not limit subsection (1).

182 Duration of pipeline licence

- (1) A pipeline licence comes into force:
 - (a) on the day on which the pipeline licence is granted; or
 - (b) if a later day is specified in the pipeline licence as being the day on which the pipeline licence is to come into force—on that later day.
- (2) A pipeline licence remains in force indefinitely.
- (3) Subsection (2) has effect subject to this Chapter.

Note 1: For the surrender of a pipeline licence, see Part 2.12.

Note 2: For the cancellation of a pipeline licence, see Part 2.13.

Note 3: For the termination of a pipeline licence if there have been no operations for 5 years, see section 183.

183 Termination of pipeline licence if no operations for 5 years

Termination of licence

- (1) If a pipeline licence is in force, and the licensee:
 - (a) has not carried out any construction work under the licence at any time during a continuous period of at least 5 years; and
 - (b) has not used the pipeline or a part of the pipeline at any time during a continuous period of at least 5 years;the Joint Authority may, by written notice given to the licensee, tell the licensee that the Joint Authority proposes to:
 - (c) terminate the pipeline licence; or
 - (d) terminate the pipeline licence in relation to the part of the pipeline;

as the case may be, after the end of 30 days after the notice is given.

- (2) At any time after the end of 30 days after the notice referred to in subsection (1) is given to the licensee, the Joint Authority may, by written notice given to the licensee:

- (a) terminate the pipeline licence; or
- (b) terminate the pipeline licence in relation to the part of the pipeline;

as the case may be.

Note: For remedial directions following termination, see section 312.

- (3) In working out, for the purposes of subsection (1):

- (a) the period in which a pipeline licensee did not carry out any construction work under the licence; or
- (b) the period in which a pipeline licensee did not use the pipeline or a part of the pipeline;

disregard any period in which construction work was not carried out, or the pipeline or part of the pipeline was not used, as the case may be, because of circumstances beyond the licensee's control.

- (4) For the purposes of subsection (3), the depletion of recoverable petroleum is not a circumstance beyond the licensee's control.

Note: See also section 249 (compensation for acquisition of property).

Consultation

- (5) The Joint Authority may give a copy of a notice under subsection (1) to such other persons (if any) as the Joint Authority thinks fit.

- (6) A notice under subsection (1) must:

- (a) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal to:
 - (i) terminate the pipeline licence; or
 - (ii) terminate the pipeline licence in relation to the part of the pipeline; and
- (b) specify a time limit for making that submission.

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Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (7) In deciding whether to:
- (a) terminate the pipeline licence; or
 - (b) terminate the pipeline licence in relation to the part of the pipeline;
- the Joint Authority must take into account any submissions made in accordance with the notice.

184 Alteration or removal of pipeline constructed in breach of this Act

Scope

- (1) This section applies if:
- (a) the construction of a pipeline is started, continued or completed in breach of this Act; or
 - (b) a pipeline is altered or reconstructed in breach of this Act.

Direction by Designated Authority

- (2) The Designated Authority may, by written notice given to whichever of the following persons is applicable:
- (a) if the construction of the pipeline has been completed—the owner of the pipeline;
 - (b) if the construction of the pipeline has not been completed—the person for whom the pipeline is being constructed;
- direct the person:
- (c) to make specified alterations to the pipeline; or
 - (d) to move the pipeline to a specified place in the offshore area; or
 - (e) to remove the pipeline from the offshore area;
- within the period specified in the direction.
- (3) The period specified in the direction must be reasonable.

Designated Authority may take action if direction is not complied with

- (4) If a person does not comply with a direction under subsection (2) within:
- (a) the period specified in the direction; or
 - (b) such longer period as the Designated Authority allows;
- the Designated Authority may do any or all of the things required by the direction to be done.
- (5) The Designated Authority may allow a longer period under paragraph (4)(b) only on written application made by the person referred to in subsection (4) within the period specified in the direction.

Recovery of costs and expenses

- (6) Costs and expenses incurred by the Designated Authority under subsection (4) are:
- (a) a debt due to the Commonwealth by the person referred to in that subsection; and
 - (b) recoverable in a court of competent jurisdiction.

Division 2—Obtaining a pipeline licence

185 Application for pipeline licence

- (1) A person may apply to the Designated Authority for the grant by the Joint Authority of a pipeline licence.

Details

- (2) An application under this section must be accompanied by details of:
- (a) the proposed design and construction of the pipeline; and
 - (b) the proposed size and capacity of the pipeline; and
 - (c) the applicant's proposals for work and expenditure in relation to the construction of the pipeline; and
 - (d) the technical qualifications of the applicant and of the applicant's employees; and
 - (e) the technical advice available to the applicant; and
 - (f) the financial resources available to the applicant; and
 - (g) any agreements that the applicant:
 - (i) has entered into; or
 - (ii) proposes to enter into;for, or in relation to, the supply or conveyance of petroleum by means of the pipeline.

Plan

- (3) An application under this section must be accompanied by a plan, drawn to an approved scale, showing:
- (a) the route to be followed by the pipeline; and
 - (b) the sites of pumping stations, tank stations and valve stations to be used in connection with the pipeline; and
 - (c) the site of any pumping station, tank station or valve station that the applicant wants to be declared under section 14 to be a terminal station in connection with the pipeline.

Note 1: Part 2.10 contains additional provisions about application procedures.

- Note 2: Section 220 requires the application to be accompanied by an application fee.
- Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.
- Note 4: If a pipeline licensee wants to alter the pipeline, the licensee will need to apply under section 190 for the variation of the licence.

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

Application by production licensee

- (1) If:
- (a) a person applies for a pipeline licence in relation to the construction of a pipeline for the conveyance of petroleum recovered in a production licence area; and
 - (b) the person is not the production licensee;
- the production licensee may, within:
- (c) 90 days after the publication in the *Gazette* of notice of the application; or
 - (d) such longer period, not more than 180 days, as the Designated Authority allows;
- apply under section 185 for such a pipeline licence and, in the application, request that the application mentioned in the *Gazette* notice be rejected.

Note: For publication in the *Gazette* of notice of the application, see section 418.

Rejection of application by other person

- (2) If a pipeline licence is granted to the production licensee as a result of an application covered by subsection (1), the Joint Authority must, by written notice given to the person mentioned in paragraph (1)(a), reject the application mentioned in paragraph (1)(c).

Extension of time

- (3) The Designated Authority may allow a longer period under paragraph (1)(d) only on written application made by the

production licensee within the period of 90 days mentioned in paragraph (1)(c).

187 Grant of pipeline licence—offer document

Scope

- (1) This section applies if an application for a pipeline licence has been made under section 185.

Offer document—grant of pipeline licence to person other than production licensee

- (2) If:
- (a) the application is for a pipeline licence in relation to the construction in an offshore area of a pipeline for the conveyance of petroleum recovered in a production licence area (whether the licence area is within that, or another, offshore area); and
 - (b) the applicant is not the production licensee; and
 - (c) the application has not been rejected under subsection 186(2);

the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant the pipeline licence.

Offer document—grant of pipeline licence to production licensee

- (3) If:
- (a) the application is for a pipeline licence in relation to the construction of a pipeline for the conveyance of petroleum recovered in a production licence area; and
 - (b) the applicant is the production licensee; and
 - (c) each of the following has been complied with:
 - (i) the conditions to which the production licence is, or has from time to time been, subject;
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1;
 - (iii) the regulations;

the Joint Authority must give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant the pipeline licence.

- (4) If:
- (a) the application is for a pipeline licence in relation to the construction of a pipeline for the conveyance of petroleum recovered in a production licence area; and
 - (b) the applicant is the production licensee; and
 - (c) any of:
 - (i) the conditions to which the production licence is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations; have not been complied with; and
 - (d) the Joint Authority is satisfied that there are sufficient grounds to warrant the granting of the pipeline licence;
- the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant the pipeline licence.

Offer document—other applications

- (5) If the application is for a pipeline licence in relation to the construction in an offshore area of a pipeline for the conveyance of petroleum recovered from a place beyond the outer limits of any offshore area, the Joint Authority may give the applicant a written notice (called an *offer document*) telling the applicant that the Joint Authority is prepared to grant the applicant a pipeline licence.

Route to be followed by pipeline

- (6) An offer document under this section must specify the route to be followed by the pipeline, and that route must be:
- (a) the route shown in the plan accompanying the application; or
 - (b) if the Joint Authority is of the opinion that, for any reason, that route is not appropriate—a route that, in the opinion of the Joint Authority, is appropriate.

Section 188

Note 1: Section 223 sets out additional requirements for offer documents (for example, a requirement that an offer document must contain a summary of conditions).

Note 2: If the applicant breaches a requirement under section 222 to provide further information, the Joint Authority may refuse to give the applicant an offer document—see subsection 222(3).

188 Refusal to grant pipeline licence

Scope

- (1) This section applies if an application for a pipeline licence has been made under section 185.

Application by licensee of production licence

- (2) If:
- (a) the application is for a pipeline licence in relation to the construction of a pipeline for the conveyance of petroleum recovered in a production licence area; and
 - (b) the applicant is the production licensee; and
 - (c) any of:
 - (i) the conditions to which the production licence is, or has from time to time been, subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations; have not been complied with; and
 - (d) the Joint Authority is not satisfied that there are sufficient grounds to warrant the granting of a pipeline licence;
- the Joint Authority must, by written notice given to the applicant, refuse to grant the pipeline licence.

Note: Consultation procedures apply—see section 226.

Application by a person who is not a production licensee

- (3) If:
- (a) the application is for a pipeline licence in relation to the construction of a pipeline for the conveyance of petroleum recovered in a production licence area; and
-

(b) the applicant is not the production licensee;
the Joint Authority may, by written notice given to the applicant,
refuse to grant the pipeline licence.

189 Grant of pipeline licence

If:

- (a) an applicant has been given an offer document under section 187; and
- (b) the applicant has made a request under section 224 in relation to the offer document within the period applicable under that section;

the Joint Authority must grant the applicant the pipeline licence concerned.

Note: If the applicant does not make a request under section 224 within the period applicable under that section, the application lapses at the end of that period—see subsection 224(4).

Division 3—Varying a pipeline licence

190 Variation of pipeline licence on application by licensee

- (1) A pipeline licensee may apply to the Designated Authority for the variation by the Joint Authority of the licence.
- (2) An application under this section must:
 - (a) be accompanied by details of the proposed variation; and
 - (b) specify the reasons for the proposed variation.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

Note 3: Section 222 enables the Designated Authority to require the applicant to give further information.

- (3) When notice of an application under this section is published in the *Gazette*, the notice must specify a period within which a person may make a written submission to the Designated Authority about the application.

Note: For publication in the *Gazette* of notice of the application, see section 418.

- (4) After considering any submissions made to the Designated Authority under subsection (3), the Joint Authority may, by written notice given to the applicant:
 - (a) vary the pipeline licence to such extent as the Joint Authority thinks necessary; or
 - (b) refuse to vary the pipeline licence.

- (5) A variation of a pipeline licence under this section takes effect on the day on which notice of the variation is published in the *Gazette*.

Note: For publication in the *Gazette* of notice of the variation, see section 418.

191 Variation of pipeline licence at the request of a Minister or a statutory body

Pipeline licence

- (1) The Joint Authority may, by written notice given to a pipeline licensee, direct the licensee to:
 - (a) make such changes to the design, construction, route or position of the pipeline concerned as are specified in the direction; and
 - (b) make those changes within the period specified in the direction;and, if the Joint Authority gives such a direction, the Joint Authority must vary the pipeline licence in accordance with the direction.
- (2) The period specified in the direction must be reasonable.
- (3) A variation of a pipeline licence under this section takes effect on the day on which notice of the variation is published in the *Gazette*.

Note: For publication in the *Gazette* of notice of the variation, see section 418.

Request by Minister or statutory body

- (4) The Joint Authority may give a direction under subsection (1) only if:
 - (a) the Joint Authority is requested to do so by:
 - (i) a Minister of the Commonwealth or of a State or the Northern Territory; or
 - (ii) a body established by a law of the Commonwealth or of a State or Territory; and
 - (b) in the Joint Authority's opinion, it is in the public interest to give the direction.

Offence

- (5) A person commits an offence if:
 - (a) the person is subject to a direction under subsection (1); and
 - (b) the person omits to do an act; and

(c) the omission breaches the direction.

Penalty: Imprisonment for 5 years.

Recovery of cost of complying with direction

(6) If:

(a) the Joint Authority gives a direction to a person under subsection (1) in relation to a pipeline in an offshore area; and

(b) the person complies with the direction;

the person may bring an action in:

(c) the Federal Court; or

(d) the Supreme Court of, or having jurisdiction in, the State or Territory to which the offshore area relates;

against the Minister or body who made the request under subsection (4).

(7) The court must:

(a) hear the action without a jury; and

(b) determine whether it is just that the whole or a part of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.

(8) If the court determines that it is just that such a payment ought to be made, the court must determine the amount of the payment and give judgment accordingly.

Division 4—Pipeline operation

192 Common carrier

Direction to be a common carrier

- (1) The Joint Authority may, by written notice given to a pipeline licensee, direct the licensee to be a common carrier of petroleum in relation to the pipeline concerned.
- (2) If the Joint Authority gives a direction under subsection (1) to a pipeline licensee, the licensee is a common carrier of petroleum in relation to the pipeline concerned.

Exceptions

- (3) Subsection (1) does not apply to a pipeline if:
 - (a) the pipeline is a covered pipeline within the meaning of the Third Party Access Code; or
 - (b) the service provided by means of the pipeline is the subject of a declaration under section 44H of the *Trade Practices Act 1974*; or
 - (c) the service provided by means of the pipeline is the subject of an undertaking accepted by the Australian Competition and Consumer Commission under section 44ZZA of the *Trade Practices Act 1974*.

Application of the Trade Practices Act 1974

- (4) While a direction under subsection (1) is in force in relation to a pipeline:
 - (a) the pipeline cannot be a covered pipeline within the meaning of the Third Party Access Code; and
 - (b) Part IIIA of the *Trade Practices Act 1974* does not apply in relation to any service provided by means of the pipeline.

Definition

- (5) In this section:
-

Third Party Access Code means:

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

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

193 Ceasing to operate pipeline without consent

- (1) A person commits an offence if:
 - (a) the person is a pipeline licensee in relation to a pipeline; and
 - (b) the person ceases to operate the pipeline.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply if the failure of the licensee to operate the pipeline is:
 - (a) with the written consent of the Joint Authority; and
 - (b) in accordance with the conditions (if any) specified in the consent.

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

- (3) Subsection (1) does not apply if the failure of the licensee to operate the pipeline was:
 - (a) in the ordinary course of operating the pipeline; or
 - (b) for the purpose of repairing or maintaining the pipeline; or
 - (c) in an emergency in which there was a likelihood of loss or injury.

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

Part 2.7—Special prospecting authorities

Division 1—General provisions

194 Simplified outline

The following is a simplified outline of this Part:

- This Part provides for the grant of special prospecting authorities over blocks in an offshore area.
- A special prospecting authority may be granted over a block so long as no exploration permit, retention lease or production licence is in force over the block.
- A special prospecting authority authorises the holder to carry on petroleum exploration operations in the authority area (but not to make a well).

195 Rights conferred by special prospecting authority

- (1) A special prospecting authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the petroleum exploration operations specified in the authority.
- (2) A special prospecting authority does not authorise the registered holder to make a well.
- (3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

196 Conditions of special prospecting authorities

- (1) The Designated Authority may grant a special prospecting authority subject to whatever conditions the Designated Authority thinks appropriate.

Chapter 2 Regulation of activities relating to petroleum

Part 2.7 Special prospecting authorities

Division 1 General provisions

Section 197

Note: See also section 302, which deals with insurance.

- (2) The conditions (if any) must be specified in the special prospecting authority.

197 Duration of special prospecting authority

- (1) A special prospecting authority comes into force on the day specified in the authority as the day on which the authority is to come into force.
- (2) A special prospecting authority remains in force for the period specified in the authority.
- (3) The period specified under subsection (2) must not be longer than 180 days.
- (4) Subsection (2) has effect subject to this Chapter.

Note 1: For the surrender of a special prospecting authority, see Part 2.12.

Note 2: For the cancellation of a special prospecting authority, see Part 2.13.

198 Special prospecting authority cannot be transferred

A special prospecting authority cannot be transferred.

Division 2—Obtaining a special prospecting authority

199 Application for special prospecting authority

- (1) A person may apply to the Designated Authority for the grant of a special prospecting authority over a block or blocks, so long as no exploration permit, retention lease or production licence is in force over that block or any of those blocks.
- (2) An application under this section must specify:
 - (a) the petroleum exploration operations that the applicant proposes to carry on; and
 - (b) the block or blocks within which the applicant proposes to carry on those operations.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 220 requires the application to be accompanied by an application fee.

200 Grant or refusal of special prospecting authority

If an application for a special prospecting authority has been made under section 199, the Designated Authority may:

- (a) grant the applicant a special prospecting authority; or
- (b) by written notice given to the applicant, refuse to grant a special prospecting authority to the applicant.

201 Holders to be informed of the grant of another special prospecting authority

Scope

- (1) This section applies if:
 - (a) a person (the *first person*) is the registered holder of a special prospecting authority over a block; and

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- (b) another special prospecting authority is granted to another person (the *second person*) over the block.

Holders to be informed

- (2) The Designated Authority must, by written notice given to the first person, inform the first person of:
 - (a) the petroleum exploration operations authorised by the special prospecting authority granted to the second person; and
 - (b) the conditions of the special prospecting authority granted to the second person.
- (3) The Designated Authority must, by written notice given to the second person, inform the second person of:
 - (a) the petroleum exploration operations authorised by the special prospecting authority granted to the first person; and
 - (b) the conditions of the special prospecting authority granted to the first person.

Part 2.8—Access authorities

Division 1—General provisions

202 Simplified outline

The following is a simplified outline of this Part.

- This Part provides for the grant of access authorities over blocks in an offshore area.
- An access authority authorises the holder to carry on certain petroleum exploration operations, and certain operations relating to the recovery of petroleum, in the authority area (but not to make a well).

203 Rights conferred by access authority

- (1) An access authority authorises the registered holder, in accordance with the conditions (if any) to which the authority is subject, to carry on, in the authority area, the operations specified in the authority.
- (2) An access authority does not authorise the registered holder to make a well.
- (3) The rights conferred on the registered holder by subsection (1) are subject to this Act and the regulations.

204 Conditions of access authorities

- (1) The Designated Authority may grant an access authority subject to whatever conditions the Designated Authority thinks appropriate.

Note: See also section 302, which deals with insurance.

- (2) The conditions (if any) must be specified in the access authority.

205 Duration of access authority

- (1) An access authority comes into force on the day specified in the authority as the day on which the authority is to come into force.
- (2) An access authority remains in force for the period specified in the authority, but may be extended by the Designated Authority for a further specified period.
- (3) Subsection (2) has effect subject to this Chapter.

Note 1: For the surrender of an access authority, see Part 2.12.

Note 2: For the revocation of an access authority, see section 214.

Division 2—Obtaining an access authority**206 Application for access authority**

(1) The table has effect:

Application for access authority			
	Column 1	Column 2	Column 3
Item	This person...	may apply to...	for the grant of an access authority to enable the person to...
1	the registered holder of an exploration permit, retention lease or production licence relating to a particular offshore area	the Designated Authority for that offshore area	carry on, in an area that is: <ul style="list-style-type: none"> (a) part of that offshore area but outside the permit area, lease area or licence area; or (b) part of an adjoining offshore area; either or both of the following: (c) petroleum exploration operations; (d) operations related to the recovery of petroleum in or from the permit area, lease area or licence area.
2	the holder of a State title or Northern Territory title who wants to gain access to a particular offshore area	the Designated Authority for that offshore area	carry on, in a part of that offshore area, either or both of the following: <ul style="list-style-type: none"> (a) petroleum exploration operations; (b) operations related to the recovery of petroleum in or from the area to which that State title or Northern Territory title relates.
3	the registered holder of a special prospecting authority relating to a particular offshore area	the Designated Authority for that offshore area	carry on petroleum exploration operations in an area that is: <ul style="list-style-type: none"> (a) part of that offshore area but outside the authority area of the special prospecting authority; or (b) part of an adjoining offshore area.

(2) An application under this section must specify:

- (a) the operations that the applicant proposes to carry on; and

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- (b) the area in which the applicant proposes to carry on those operations.

Note: Part 2.10 contains additional provisions about application procedures.

207 Grant or refusal of access authority

(1) If:

- (a) an application for an access authority has been made under section 206; and
- (b) the Designated Authority is satisfied that it is necessary or desirable to grant the access authority for:
 - (i) the more effective exercise of the applicant's rights; or
 - (ii) the proper performance of the applicant's duties;in the applicant's capacity as:
 - (iii) the registered holder of an exploration permit, retention lease or production licence; or
 - (iv) the holder of a State title or Northern Territory title; or
 - (v) the registered holder of a special prospecting authority;

the Designated Authority may:

- (c) grant the applicant an access authority; or
- (d) by written notice given to the applicant, refuse to grant an access authority to the applicant.

Note: Consultation procedures apply—see section 208.

Adjoining offshore area—approval of other Designated Authority

- (2) Despite subsection (1), if the application was made in relation to an area that is part of an adjoining offshore area, the Designated Authority may grant the applicant an access authority only with the approval of the Designated Authority for that adjoining offshore area.

Note: Consultation procedures apply—see section 209.

208 Consultation—grant of access authority in same offshore area

Scope

- (1) This section applies if:
-

- (a) an application for an access authority has been made under section 206 in relation to an area (the *application area*) that is not part of an adjoining offshore area; and
- (b) the application area is, to any extent, the subject of an exploration permit, retention lease, production licence or special prospecting authority; and
- (c) the applicant is not the registered holder of the exploration permit, retention lease, production licence or special prospecting authority; and
- (d) the registered holder of the exploration permit, retention lease, production licence or special prospecting authority has not given written consent to the grant of the access authority.

Consultation

- (2) Before granting the access authority, the Designated Authority must:
 - (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence or special prospecting authority, give at least 30 days notice of the Designated Authority's intention to grant the access authority; and
 - (b) give a copy of the notice to such other persons (if any) as the Designated Authority thinks fit.
- (3) The notice must:
 - (a) set out details of the access authority that is proposed to be granted; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Designated Authority about the proposal; and
 - (c) specify a time limit for making that submission.
- (4) In deciding:
 - (a) whether to grant the access authority; and
 - (b) the conditions (if any) to which the access authority should be subject;the Designated Authority must take into account any submissions made in accordance with the notice.

209 Consultation—approval of grant of access authority in adjoining offshore area

Scope

- (1) This section applies if:
 - (a) an application for an access authority has been made under section 206 in relation to an area (the *application area*) that is part of an adjoining offshore area; and
 - (b) the application area is, to any extent, the subject of an exploration permit, retention lease, production licence or special prospecting authority; and
 - (c) the applicant is not the registered holder of the exploration permit, retention lease, production licence or special prospecting authority.

Consultation

- (2) Before approving the grant of the access authority, the Designated Authority for the adjoining offshore area must:
 - (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence or special prospecting authority, give at least 30 days notice of the Designated Authority's intention to approve the grant of the access authority; and
 - (b) give a copy of the notice to such other persons (if any) as the Designated Authority thinks fit.
- (3) The notice must:
 - (a) set out details of the access authority that is proposed to be granted; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Designated Authority about the proposal; and
 - (c) specify a time limit for making that submission.
- (4) In deciding whether to approve the grant of the access authority, the Designated Authority must take into account any submissions made in accordance with the notice.

Division 3—Variation of access authorities

210 Variation of access authority

- (1) The Designated Authority may, by written notice given to the registered holder of an access authority, vary the access authority.

Adjoining offshore area—approval of other Designated Authority

- (2) Despite subsection (1), if an access authority was granted as a result of an application under section 206 in relation to an area that is part of an adjoining offshore area, the Designated Authority may vary the access authority only with the approval of the Designated Authority for the adjoining offshore area.

211 Consultation—variation of access authority in same offshore area

Scope

- (1) This section applies if:
 - (a) an access authority was granted as a result of an application under section 206 in relation to an area that is not part of an adjoining offshore area; and
 - (b) the Designated Authority proposes to vary the access authority; and
 - (c) the authority area is, to any extent, the subject of an exploration permit, retention lease, production licence or special prospecting authority; and
 - (d) the applicant is not the registered holder of the exploration permit, retention lease, production licence or special prospecting authority; and
 - (e) the registered holder of the exploration permit, retention lease, production licence or special prospecting authority has not given written consent to the variation of the access authority.

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Consultation

- (2) Before varying the access authority, the Designated Authority must:
 - (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence or special prospecting authority, give at least 30 days notice of the Designated Authority's intention to vary the access authority; and
 - (b) give a copy of the notice to:
 - (i) the registered holder of the access authority; and
 - (ii) such other persons (if any) as the Designated Authority thinks fit.
- (3) The notice must:
 - (a) set out details of the variation that is proposed to be made; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Designated Authority about the proposal; and
 - (c) specify a time limit for making that submission.
- (4) In deciding whether to vary the access authority, the Designated Authority must take into account any submissions made in accordance with the notice.

212 Consultation—approval of variation of access authority in adjoining offshore area

Scope

- (1) This section applies if:
 - (a) an access authority was granted as a result of an application under section 206 in relation to an area that is part of an adjoining offshore area; and
 - (b) the Designated Authority proposes to vary the access authority; and

- (c) the authority area is, to any extent, the subject of an exploration permit, retention lease, production licence or special prospecting authority; and
- (d) the registered holder of the access authority is not the registered holder of the exploration permit, retention lease, production licence or special prospecting authority.

Consultation

- (2) Before approving the variation of the access authority, the Designated Authority for the adjoining offshore area must:
 - (a) by written notice given to the registered holder of the exploration permit, retention lease, production licence or special prospecting authority, give at least 30 days notice of the Designated Authority's intention to approve the variation of the access authority; and
 - (b) give a copy of the notice to:
 - (i) the registered holder of the access authority; and
 - (ii) such other persons (if any) as the Designated Authority thinks fit.
- (3) The notice must:
 - (a) set out details of the variation that is proposed to be made; and
 - (b) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Designated Authority about the proposal; and
 - (c) specify a time limit for making that submission.
- (4) In deciding whether to approve the variation of the access authority, the Designated Authority must take into account any submissions made in accordance with the notice.

Division 4—Reporting obligations of holders of access authorities

213 Reporting obligations of holders of access authorities

(1) If:

(a) at any time during a particular month, an access authority is in force in relation to an area that consists of, or includes, a block that is the subject of an exploration permit, retention lease or production licence; and

(b) the registered holder of the access authority is not the registered holder of the permit, lease or licence;

the registered holder of the access authority must, within 30 days after the end of that month, give the registered holder of the permit, lease or licence:

(c) a written report about the operations carried on in that block during that month; and

(d) a written summary of the facts ascertained from those operations.

(2) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 50 penalty units.

Division 5—Revocation of access authorities

214 Revocation of access authority

- (1) The Designated Authority may, by written notice given to the registered holder of an access authority, revoke the access authority.
- (2) If:
 - (a) the Designated Authority revokes an access authority; and
 - (b) the access authority authorised operations in:
 - (i) an exploration permit area; or
 - (ii) a retention lease area; or
 - (iii) a production licence area;the Designated Authority must give written notice of the revocation to the permittee, lessee or licensee.

Part 2.9—Scientific investigation consents

215 Simplified outline

The following is a simplified outline of this Part:

- This Part provides for the grant of scientific investigation consents.
- A scientific investigation consent authorises the holder to carry on petroleum exploration operations in the course of a scientific investigation.

216 Rights conferred by scientific investigation consent

- (1) A scientific investigation consent authorises the holder, in accordance with the conditions (if any) to which the consent is subject, to carry on, in the offshore area specified in the consent, the petroleum exploration operations specified in the consent in the course of the scientific investigation specified in the consent.
- (2) The rights conferred on the holder by subsection (1) are subject to section 243.

Note: Section 243 deals with interference with other rights.

217 Conditions of scientific investigation consents

- (1) The Designated Authority may grant a scientific investigation consent subject to whatever conditions the Designated Authority thinks appropriate.
- (2) The conditions (if any) must be specified in the consent.

218 Grant of scientific investigation consent

- (1) The Designated Authority may grant a written scientific investigation consent authorising a person to carry on, in the

offshore area, petroleum exploration operations in the course of a scientific investigation.

- (2) The person is the *holder* of the consent.

Part 2.10—Standard procedures

219 Application to be made in an approved manner

Scope

- (1) This section applies to an application for:
 - (a) the grant or renewal of an exploration permit; or
 - (b) the grant or renewal of a retention lease; or
 - (c) the grant, variation or renewal of a production licence; or
 - (d) the grant or variation of an infrastructure licence; or
 - (e) the grant or variation of a pipeline licence; or
 - (f) the grant of a special prospecting authority; or
 - (g) the grant of an access authority.

Manner

- (2) The application must be made in an approved manner.

Note: See also subsection 33(3A) of the *Acts Interpretation Act 1901*.

220 Application fee

Scope

- (1) This section applies to an application for:
 - (a) the grant or renewal of an exploration permit; or
 - (b) the grant or renewal of a retention lease; or
 - (c) the grant or renewal of a production licence; or
 - (d) the grant or variation of an infrastructure licence; or
 - (e) the grant or variation of a pipeline licence; or
 - (f) the grant of a special prospecting authority.

Application fee

- (2) The application must be accompanied by the fee (if any) prescribed by the regulations.

- (3) Different fees may be prescribed for different applications.
- (4) A fee must not be such as to amount to taxation.
- (5) To avoid doubt, a fee is in addition to:
 - (a) the amount that a person specifies in an application as the amount that the person is prepared to pay for:
 - (i) a cash-bid exploration permit; or
 - (ii) a special exploration permit; or
 - (iii) a section 153 production licence; and
 - (b) the amount specified in an offer document as the amount that a person must pay for a cash-bid exploration permit; and
 - (c) the balance specified in an offer document as the balance that a person must pay for:
 - (i) a special exploration permit; or
 - (ii) a section 153 production licence.

221 Application may set out additional matters

Scope

- (1) This section applies to the following:
 - (a) an application for the grant of an exploration permit (otherwise than by way of renewal);
 - (b) an application for the grant of a retention lease (otherwise than by way of renewal);
 - (c) an application under:
 - (i) section 142, 144 or 150; or
 - (ii) clause 2 or 4 of Schedule 4;for the grant of a production licence;
 - (d) an application for the variation of a production licence;
 - (e) an application for the grant of an infrastructure licence;
 - (f) an application for the grant of a pipeline licence;
 - (g) an application for the grant of an access authority.

Section 222

Additional matters

- (2) The application may set out any additional matters that the applicant wishes to be considered.

222 Designated Authority may require further information

Scope

- (1) This section applies to an application for:
 - (a) the grant of an exploration permit (otherwise than by way of renewal); or
 - (b) the grant or renewal of a retention lease; or
 - (c) the grant of a production licence (otherwise than by way of renewal and otherwise than by way of grant under section 155); or
 - (d) the variation of a production licence; or
 - (e) the grant or variation of an infrastructure licence; or
 - (f) the grant or variation of a pipeline licence.

Requirement to give further information

- (2) The Designated Authority may, by written notice given to the applicant, require the applicant to give the Designated Authority, within the period specified in the notice, further information in connection with the application.

Consequences of breach of requirement

- (3) If the applicant breaches the requirement, the Joint Authority may, by written notice given to the applicant:
 - (a) refuse to consider the application; or
 - (b) refuse to take any action, or any further action, in relation to the application.
- (4) Subsection (3) has effect despite any provision of this Act that requires the Joint Authority to:
 - (a) consider the application; or
 - (b) take any particular action in relation to the application.

- (5) A reference in this section to taking action in relation to the application includes a reference to giving an offer document in relation to the application.

Application by permittee or lessee for production licence—notice specifying date on which information was provided

- (6) If an application for the grant of a production licence has been made under:
- (a) section 142 or 144; or
 - (b) clause 2 or 4 of Schedule 4;
- then:
- (c) if the Designated Authority does not require the applicant to give further information under subsection (2)—the Designated Authority must, within 30 days after the application was made, determine whether or not sufficient information has been received to determine the application; or
 - (d) if the Designated Authority requires the applicant to give further information under subsection (2)—the Designated Authority must, within 30 days after receiving the information, determine whether or not sufficient information has been received to determine the application.
- (7) If, under subsection (6), the Designated Authority determines that sufficient information has been provided, the Designated Authority must issue the applicant with a notice to that effect specifying the last date on which information was provided.
- Note: The date specified in the notice is referred to in paragraph 34A(1)(a) of, and clause 1 of the Schedule to, the *Petroleum Resource Rent Tax Assessment Act 1987*.
- (8) The issuing of a notice under subsection (7) does not prevent the Designated Authority from later requiring further information under subsection (2). However, the later requirement does not affect the notice under subsection (7).
- (9) If an application covered by subsection (6):
- (a) lapses; or
 - (b) is withdrawn; or

Section 223

(c) is refused;
any notice issued under subsection (7) in relation to that application is taken never to have been issued.

223 Offer documents

Scope

- (1) This section applies to an offer document that relates to an application for:
- (a) the grant or renewal of an exploration permit; or
 - (b) the grant or renewal of a retention lease; or
 - (c) the grant or renewal of a production licence; or
 - (d) the grant of an infrastructure licence; or
 - (e) the grant of a pipeline licence.

General requirements

- (2) The offer document must contain:
- (a) a summary of the conditions to which the permit, lease or licence will be subject; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under section 224.

Payment for cash-bid exploration permit

- (3) If the offer document relates to an application for the grant of a cash-bid exploration permit, the offer document must:
- (a) specify the amount that the applicant must pay for the permit; and
 - (b) contain a statement to the effect that the application will lapse if the applicant does not pay the amount to the Commonwealth within the period allowed for making a request under section 224.

Payment for special exploration permit

- (4) If the offer document relates to an application for the grant of a special exploration permit, the offer document must:

- (a) specify the balance of the amount that the applicant must pay for the permit; and
- (b) contain a statement to the effect that the application will lapse if the applicant does not pay the balance to the Commonwealth within the period allowed for making a request under section 224.

Payment for cash-bid production licence over surrendered blocks etc.

- (5) If the offer document is given under section 152 to an applicant for a production licence, the offer document must:
 - (a) specify the balance of the amount that the applicant must pay for the licence; and
 - (b) contain a statement to the effect that the application will lapse if the applicant does not pay the balance to the Commonwealth within the period allowed for making a request under section 224.

224 Acceptance of offer—request by applicant

- (1) The table has effect:

Section 224

Acceptance of offer by applicant			
Item	Column 1	Column 2	Column 3
	If an offer document relates to an application for the grant of...	the applicant may, within...	by written notice given to the Designated Authority, request the Joint Authority to grant the applicant...
1	a work-bid exploration permit	whichever of the following periods is applicable: (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Designated Authority allows;	the permit.
2	a cash-bid exploration permit	30 days after the offer document was given to the applicant,	the permit.
3	a special exploration permit	whichever of the following periods is applicable: (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Designated Authority allows;	the permit.
4	the renewal of an exploration permit	30 days after the offer document was given to the applicant,	the renewal of the permit.

Acceptance of offer by applicant			
Item	Column 1	Column 2	Column 3
	If an offer document relates to an application for the grant of...	the applicant may, within...	by written notice given to the Designated Authority, request the Joint Authority to grant the applicant...
5	a retention lease	whichever of the following periods is applicable: (a) 30 days after the offer document was given to the applicant; (b) such longer period, not more than 60 days after the offer document was given to the applicant, as the Designated Authority allows;	the lease.
6	the renewal of a retention lease	30 days after the offer document was given to the applicant,	the renewal of the lease.
7	a production licence	whichever of the following periods is applicable: (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Designated Authority allows;	the licence.
8	the renewal of a production licence	30 days after the offer document was given to the applicant,	the renewal of the licence.

Section 224

Acceptance of offer by applicant			
Item	Column 1	Column 2	Column 3
	If an offer document relates to an application for the grant of...	the applicant may, within...	by written notice given to the Designated Authority, request the Joint Authority to grant the applicant...
9	an infrastructure licence	whichever of the following periods is applicable: (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Designated Authority allows;	the licence.
10	a pipeline licence	whichever of the following periods is applicable: (a) 90 days after the offer document was given to the applicant; (b) such longer period, not more than 180 days after the offer document was given to the applicant, as the Designated Authority allows;	the licence.

Longer periods

- (2) The Designated Authority may allow a longer period under paragraph (b) of column 2 of item 1 or 5 of the table only on written application made by the applicant within the period of 30 days mentioned in paragraph (a) of that column.

- (3) The Designated Authority may allow a longer period under paragraph (b) of column 2 of item 3, 7, 9 or 10 of the table only on written application made by the applicant within the period of 90 days mentioned in paragraph (a) of that column.

Application lapses if request not made within the applicable period

- (4) If an applicant does not make a request under an item of the table within the period applicable under column 2 of the table, the application lapses at the end of that period.

225 Acceptance of offer—payment

Amount

- (1) If:
- (a) an offer document specifies an amount that the applicant must pay to the Commonwealth for the grant of a cash-bid exploration permit; and
 - (b) the applicant has not paid that amount within the period applicable under column 2 of the table in subsection 224(1);
- the application lapses at the end of that period.

Balance

- (2) If:
- (a) an offer document specifies the balance of the amount that the applicant must pay to the Commonwealth for the grant of:
 - (i) a special exploration permit; or
 - (ii) a section 153 production licence; and
 - (b) the applicant has not paid that balance within the period applicable under column 2 of the table in subsection 224(1);
- the application lapses at the end of that period.

226 Consultation—adverse decisions

Scope

- (1) This section applies to a decision set out in the table, and the *affected person* in relation to that decision is set out in the table.

Section 226

Decisions and affected persons			
Item	Column 1	Column 2	Column 3
	Provision under which decision is made	Decision of the Joint Authority	Affected person
1	section 104	refusal to renew an exploration permit	the permittee
2	section 125	refusal to grant a retention lease to a production licensee	the licensee
3	section 131	refusal to renew a retention lease	the lessee
4	section 158	refusal to renew a production licence	the licensee
5	section 188	refusal to grant a pipeline licence to a production licensee	the licensee

Consultation

- (2) Before making the decision, the Joint Authority must:
- (a) by written notice given to the affected person, give at least 30 days notice of the Joint Authority's intention to make the decision; and
 - (b) give a copy of the notice to such other persons (if any) as the Joint Authority thinks fit.
- (3) The notice must:
- (a) set out details of the decision that is proposed to be made; and
 - (b) set out the reasons for the proposal; and
 - (c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal; and
 - (d) specify a time limit for making that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (4) In deciding whether to make the decision, the Joint Authority must take into account any submissions made in accordance with the notice.

Part 2.11—Variation, suspension and exemption

Division 1—Variation, suspension and exemption decisions relating to exploration permits, retention leases, production licences, infrastructure licences and pipeline licences

227 Variation, suspension and exemption—conditions of titles

When the conditions of a title may be the subject of a variation, suspension or exemption

- (1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists:

When the conditions of a title may be the subject of a variation, suspension or exemption		
Item	Title	Event or circumstance
1	an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence	the permittee, lessee or licensee applies in writing to the Designated Authority for: (a) a variation or suspension of any of the conditions to which the permit, lease or licence is subject; or (b) exemption from compliance with any of the conditions to which the permit, lease or licence is subject.
2	an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence	the Designated Authority or the Joint Authority gives a direction or consent to the permittee, lessee or licensee under: (a) this Chapter; or (b) Chapter 4; or (c) Part 5.1; or (d) the regulations.

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	Title	Event or circumstance
3	an exploration permit or production licence	the permit or licence is: (a) partly cancelled; or (b) partly revoked; or (c) partly surrendered.
4	a retention lease	the lease is partly revoked.
5	an exploration permit, retention lease or production licence	the permittee, lessee or licensee consents to the making of a determination under section 245.
6	an exploration permit, retention lease or production licence	the permit, lease or licence is taken to continue in force until the Joint Authority grants, or refuses to grant, the renewal of the permit, lease or licence (see subsections 97(5), 129(5) and 156(6)).
7	a production licence	the licence is varied under clause 7 of Schedule 4.
8	a production licence	the licensee enters into an agreement under section 163, or a direction is given to the licensee under that section.
9	a pipeline licence	a direction is given to the licensee under section 192.
10	a pipeline licence	the licence is partly cancelled.
11	a pipeline licence	the licence is varied under section 190 or 191.

Variation, suspension or exemption

- (2) The Joint Authority may, by written notice given to the permittee, lessee or licensee:
- (a) vary; or
 - (b) suspend; or
 - (c) exempt the permittee, lessee or licensee from compliance with;

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any of the conditions to which the permit, lease, or licence is subject, on such conditions (if any) as are specified in the notice.

- (3) Subsection (2) does not authorise the giving of a notice to the extent that it would affect:
- (a) a condition of an exploration permit, retention lease or production licence requiring compliance with the Royalty Act; or
 - (b) the term of an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence.

Note: See also section 228 (extension of term).

When variation takes effect

- (4) A variation of a production licence, infrastructure licence or pipeline licence under this section takes effect on the day on which notice of the variation is published in the *Gazette*.
- (5) A variation of an exploration permit or retention lease under this section takes effect on the day on which notice of the variation is given to the permittee or lessee.

**228 Extension of term of exploration permit or retention lease—
suspension or exemption**

Scope

- (1) This section applies if, under section 227, the Joint Authority:
- (a) suspends any of the conditions to which an exploration permit or retention lease is subject; or
 - (b) exempts an exploration permittee or retention lessee from compliance with any of the conditions to which the permit or lease is subject.

Extension of term

- (2) Despite subsection 227(3), if the Joint Authority considers that the circumstances make it reasonable to do so, the Joint Authority may

extend the term of the permit or lease by a period not more than the period of the suspension or exemption.

- (3) The extension may be:
- (a) in the notice of suspension or exemption; or
 - (b) by a later written notice given to the permittee or lessee.

229 Suspension of rights—exploration permit or retention lease

Suspension of rights

- (1) If the Joint Authority is satisfied that it is necessary to do so in the national interest, the Joint Authority must, by written notice given to an exploration permittee or retention lessee, suspend, either:
- (a) for a specified period; or
 - (b) indefinitely;
- any or all of the rights conferred by the permit or lease.

Note: See also section 249 (compensation for acquisition of property).

- (2) If any rights are suspended under subsection (1), any conditions that must be complied with in the exercise of those rights are also suspended.

Termination of suspension

- (3) The Joint Authority may, by written notice give to the permittee or lessee, terminate a suspension of rights under subsection (1).

230 Extension of term of exploration permit or retention lease—suspension of rights

Scope

- (1) This section applies if rights conferred by an exploration permit or retention lease are suspended under section 229.

Extension of term

- (2) The Joint Authority may extend the term of the permit or lease by a period not more than the period of the suspension.

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(3) The extension may be:

- (a) in the notice of suspension; or
- (b) by a later written notice given to the permittee or lessee.

**Division 2—Variation, suspension and exemption decisions
 relating to special prospecting authorities and
 access authorities**

**231 Variation, suspension and exemption—conditions of special
 prospecting authorities and access authorities**

*When the conditions of a title may be the subject of a variation,
 suspension or exemption*

- (1) This section applies if an event specified in the table happens, or a circumstance specified in the table exists:

When the conditions of a title may be the subject of a variation, suspension or exemption

Item	Title	Event or circumstance
1	an access authority	an access authority is in force over the whole or a part of a block that is the subject of an exploration permit, retention lease or production licence.
2	an access authority	the Designated Authority varies an access authority over a block that is the subject of an exploration permit, retention lease or production licence.
3	a special prospecting authority or access authority	the registered holder of the authority applies in writing to the Designated Authority for: (a) a variation or suspension of any of the conditions to which the authority is subject; or (b) exemption from compliance with any of the conditions to which the authority is subject.

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Part 2.11 Variation, suspension and exemption

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When the conditions of a title may be the subject of a variation, suspension or exemption

Item	Title	Event or circumstance
4	a special prospecting authority or access authority	the Designated Authority gives a direction or consent to the registered holder of the authority under: (a) this Chapter; or (b) Chapter 4; or (c) Part 5.1; or (d) the regulations.

Variation, suspension or exemption

- (2) The Designated Authority may, by written notice given to the registered holder of the authority:
- (a) vary; or
 - (b) suspend; or
 - (c) exempt the registered holder from compliance with; any of the conditions to which the authority is subject, on such conditions (if any) as are specified in the notice.

Part 2.12—Surrender of titles

Division 1—Surrender of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

232 Application for consent to surrender title

(1) The table has effect:

Surrender		
Item	The registered holder of...	may apply to the Designated Authority for consent to surrender...
1	an exploration permit	the permit as to some or all of the blocks in relation to which the permit is in force.
2	a production licence	the licence as to some or all of the blocks in relation to which the licence is in force.
3	a retention lease	the lease.
4	an infrastructure licence	the licence.
5	a pipeline licence	the licence as to the whole or a part of the pipeline in relation to which the licence is in force.

(2) An application under subsection (1) must be in writing.

233 Consent to surrender title

Scope

(1) This section applies if an application is made under section 232 for a consent.

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Part 2.12 Surrender of titles

Division 1 Surrender of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

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Decision

- (2) The Designated Authority may, by written notice given to the applicant:
- (a) give consent; or
 - (b) refuse to consent.

Criteria

- (3) The Designated Authority may consent to the surrender sought by the application only if the registered holder of the permit, lease or licence:
- (a) has paid all fees and amounts payable by the holder under the following Acts:
 - (i) this Act;
 - (ii) the Royalty Act;
 - (iii) the Annual Fees Act;or has made arrangements that are satisfactory to the Designated Authority for the payment of those fees and amounts; and
 - (b) has complied with the conditions to which the permit, lease or licence is subject and with the provisions of:
 - (i) this Chapter; and
 - (ii) Chapter 3; and
 - (iii) Chapter 4; and
 - (iv) Part 5.1; and
 - (v) the regulations; and
 - (c) has:
 - (i) to the satisfaction of the Designated Authority, removed or caused to be removed from the surrender area (defined by subsection (7)) all property brought into the surrender area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or
 - (ii) made arrangements that are satisfactory to the Designated Authority in relation to that property; and
 - (d) has, to the satisfaction of the Designated Authority, plugged or closed off all wells made in the surrender area by any

person engaged or concerned in the operations authorised by the permit, lease or licence; and

- (e) has provided, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in the surrender area; and
- (f) has, to the satisfaction of the Designated Authority, made good any damage to the seabed or subsoil in the surrender area caused by any person engaged or concerned in the operations authorised by the permit, lease or licence;

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

(4) Paragraph (3)(e) has effect subject to:

- (a) this Chapter; and
- (b) Chapter 4; and
- (c) the regulations.

Sufficient grounds

(5) Despite subsection (3), if:

- (a) any of:
 - (i) the conditions to which the permit, lease or licence is subject; or
 - (ii) the provisions of this Chapter, Chapter 3, Chapter 4 and Part 5.1; or
 - (iii) the provisions of the regulations;have not been complied with; and
- (b) the Designated Authority is satisfied that there are sufficient grounds to warrant the giving of consent to the surrender sought by the application;

the Designated Authority may give consent under subsection (2) to the surrender sought by the application.

Work-bid exploration permit—compliance with work condition

(6) For the purposes of this section, if:

- (a) the application for consent relates to a work-bid exploration permit; and

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Part 2.12 Surrender of titles

Division 1 Surrender of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

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(b) a condition of the permit requires the registered holder to carry out specified work during a period specified in the permit; and

(c) the application is made during such a period; the registered holder of the permit is taken not to have complied with the condition unless the holder has completed the work specified for the period mentioned in paragraph (c).

Surrender area

(7) For the purposes of this section, the *surrender area* is worked out using the table:

Surrender area		
Item	In the case of a surrender of...	the <i>surrender area</i> is...
1	an exploration permit or production licence	the area constituted by the blocks as to which the permit or licence is proposed to be surrendered.
2	a retention lease	the lease area.
3	an infrastructure licence	the licence area.
4	a pipeline licence	(a) in the case of the surrender of the licence as to the whole of the pipeline in relation to which the licence is in force—the part of the offshore area in which the pipeline is constructed; or (b) in the case of the surrender of the licence as to a part of the pipeline in relation to which the licence is in force—the part of the offshore area in which the part of the pipeline is constructed.

234 Surrender of title

Scope

(1) This section applies if the Designated Authority consents under section 233 to:

- (a) the surrender, in whole or in part, of:
 - (i) an exploration permit; or
 - (ii) a production licence; or
 - (iii) a pipeline licence; or
- (b) the surrender of:
 - (i) a retention lease; or
 - (ii) an infrastructure licence.

Surrender

- (2) The registered holder of the permit, lease or licence may, by written notice given to the Designated Authority, surrender the whole or the part, as the case may be, of the permit, lease or licence.

When surrender takes effect

- (3) The surrender takes effect on the day on which notice of the surrender is published in the *Gazette*.

Division 2—Surrender of special prospecting authorities and access authorities

235 Surrender of special prospecting authority

The registered holder of a special prospecting authority may, by written notice given to the Designated Authority, surrender the special prospecting authority.

236 Surrender of access authority

The registered holder of an access authority may, by written notice given to the Designated Authority, surrender the access authority.

Part 2.13—Cancellation of titles

Division 1—Cancellation of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

237 Grounds for cancellation of title

For the purposes of this Division, each of the following is a ground for cancelling an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence:

- (a) the registered holder has not complied with a condition to which the permit, lease or licence is subject;
- (b) the registered holder has not complied with a direction given to the holder by the Designated Authority or the Joint Authority under this Chapter, Chapter 4 or Part 5.1;
- (c) the registered holder has not complied with a provision of:
 - (i) this Chapter; or
 - (ii) Chapter 3; or
 - (iii) Chapter 4; or
 - (iv) Part 5.1; or
 - (v) the regulations;
- (d) the registered holder has not paid an amount payable by the holder under:
 - (i) this Act; or
 - (ii) the Royalty Act; or
 - (iii) the Annual Fees Act;within the period of 90 days after the day on which the amount became payable.

238 Cancellation of title

- (1) The table has effect:

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Part 2.13 Cancellation of titles

Division 1 Cancellation of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

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Cancellation		
Item	If there is a ground for cancelling...	the Joint Authority may, by written notice given to the registered holder,...
1	an exploration permit	cancel the permit as to some or all of the blocks in relation to which the permit is in force.
2	a retention lease	cancel the lease as to all of the blocks in relation to which the lease is in force.
3	a production licence	cancel the licence as to some or all of the blocks in relation to which the licence is in force.
4	an infrastructure licence	cancel the licence.
5	a pipeline licence	cancel the pipeline licence as to the whole or a part of the pipeline in relation to which the licence is in force.

Note: Consultation procedures apply—see section 239.

- (2) In exercising a power conferred by subsection (1), the Joint Authority must take into account any action taken by the registered holder:
 - (a) to remove the ground of cancellation; or
 - (b) to prevent the recurrence of similar grounds.
- (3) A cancellation takes effect on the day on which notice of the cancellation is published in the *Gazette*.

239 Consultation

- (1) Before making a decision under subsection 238(1), the Joint Authority must:
 - (a) by written notice given to the registered holder, give at least 30 days notice of the Joint Authority's intention to make the decision; and
 - (b) give a copy of the notice to such other persons (if any) as the Joint Authority thinks fit.

- (2) The notice must:
- (a) set out details of the decision that is proposed to be made; and
 - (b) set out the reasons for the proposal; and
 - (c) invite a person to whom the notice, or a copy of the notice, has been given to make a written submission to the Joint Authority about the proposal; and
 - (d) specify a time limit for making that submission.

Note: All communications to the Joint Authority are to be made through the Designated Authority—see section 45.

- (3) In deciding whether to make the decision, the Joint Authority must take into account any submissions made in accordance with the notice.

240 Cancellation of title not affected by other provisions

Cancellation on ground of non-compliance

- (1) If:
- (a) the registered holder of an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence has not complied with a provision of:
 - (i) this Chapter; or
 - (ii) Chapter 3; or
 - (iii) Chapter 4; or
 - (iv) Part 5.1; or
 - (v) the regulations; and
 - (b) the holder has been convicted of an offence relating to that non-compliance;
- the Joint Authority may exercise a power of cancellation under subsection 238(1) on the ground of that non-compliance, even though the holder has been convicted of that offence.
- (2) If:
- (a) a person who was the registered holder of an exploration permit, retention lease, production licence, infrastructure

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Division 1 Cancellation of exploration permits, production licences, retention leases, infrastructure licences and pipeline licences

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licence or pipeline licence has not complied with a provision of:

- (i) this Chapter; or
 - (ii) Chapter 3; or
 - (iii) Chapter 4; or
 - (iv) Part 5.1; or
 - (v) the regulations; and
- (b) the Joint Authority has exercised a power of cancellation under subsection 238(1) on the ground of that non-compliance;

the person may be convicted of an offence relating to the non-compliance, even though the Joint Authority has exercised that power of cancellation.

Cancellation on ground of non-payment

(3) If:

- (a) the registered holder of an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence has not paid an amount payable by the holder under:
 - (i) this Act; or
 - (ii) the Royalty Act; or
 - (iii) the Annual Fees Act;within the period of 90 days after the day on which the amount became payable; and
- (b) either:
 - (i) judgment for the amount has been obtained; or
 - (ii) the amount, or any part of the amount, has been paid or recovered;

the Joint Authority may exercise a power of cancellation under subsection 238(1) on the ground of that non-payment, even though:

- (c) judgment for the amount has been obtained; or
- (d) the amount, or a part of the amount, has been paid or recovered.

(4) If:

- (a) a person who was the registered holder of an exploration permit, retention lease, production licence, infrastructure licence or pipeline licence has not paid an amount payable by the person under:
- (i) this Act; or
 - (ii) the Royalty Act; or
 - (iii) the Annual Fees Act;
- within the period of 90 days after the day on which the amount became payable; and
- (b) the Joint Authority has exercised a power of cancellation under subsection 238(1) on the ground of that non-payment;
- the person continues to be liable to pay:
- (c) that amount; and
 - (d) any late payment penalty relating to that amount;
- even though the Joint Authority has exercised that power of cancellation.

Division 2—Cancellation of special prospecting authorities

241 Cancellation of special prospecting authority

The Designated Authority may, by written notice given to the registered holder of a special prospecting authority, cancel the special prospecting authority if the holder has breached a condition of the special prospecting authority.

Part 2.14—Other provisions

242 Reservation of blocks

- (1) If the following conditions are satisfied in relation to a particular block:
- (a) there is no exploration permit, retention lease or production licence over the block;
 - (b) there is no place in the block that is an infrastructure licence area;
 - (c) there is no pipeline over or in the block;
 - (d) there are no pending applications for the grant of an exploration permit or production licence over the block;
 - (e) there are no pending applications for the grant of an infrastructure licence relating to a place in the block;
 - (f) there are no pending applications for the grant of a pipeline licence relating to a pipeline or proposed pipeline over or in the block;

the Joint Authority may, by notice published in the *Gazette*, declare that:

- (g) the block is not to be the subject of an exploration permit, retention lease, production licence, special prospecting authority or access authority; and
 - (h) an infrastructure licence is not to be granted in relation to a place within the block; and
 - (i) a pipeline licence is not to be granted in relation to a pipeline over or in the block.
- (2) If a declaration under subsection (1) is in force in relation to a block:
- (a) an exploration permit, retention lease, production licence, special prospecting authority or access authority must not be granted over that block; and
 - (b) an infrastructure licence must not be granted in relation to a place within that block; and

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(c) a pipeline licence must not be granted in relation to a pipeline over or in that block.

(3) Subsection (2) has effect despite any other provision of this Act.

243 Interference with other rights

Scope

- (1) This section applies to the following:
- (a) an exploration permit;
 - (b) a retention lease;
 - (c) a production licence;
 - (d) an infrastructure licence;
 - (e) a pipeline licence;
 - (f) a special prospecting authority;
 - (g) an access authority;
 - (h) a scientific investigation consent.

Requirement

- (2) A person (the ***first person***) carrying on activities in an offshore area under the permit, lease, licence, authority or consent must carry on those activities in a manner that does not interfere with:
- (a) navigation; or
 - (b) fishing; or
 - (c) the conservation of the resources of the sea and seabed; or
 - (d) any activities of another person being lawfully carried on by way of:
 - (i) exploration for, recovery of or conveyance of a mineral (whether petroleum or not); or
 - (ii) construction or operation of a pipeline; or
 - (e) the enjoyment of native title rights and interests (within the meaning of the *Native Title Act 1993*);
- to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of the first person.

Offence

- (3) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (2);
and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the requirement.

Penalty for a contravention of this subsection: 100 penalty units.

244 No conditions about payment of money

- (1) There must not be included in:
- (a) an exploration permit; or
 - (b) a retention lease; or
 - (c) a production licence; or
 - (d) an infrastructure licence; or
 - (e) a pipeline licence; or
 - (f) any other instrument under this Act;
- a condition requiring the payment of money to the Designated Authority, the Joint Authority or the Commonwealth.
- (2) Subsection (1) does not apply to an amount payable under the Royalty Act.

245 Certain portions of blocks to be blocks

Scope

- (1) This section applies if the area in relation to which a title is in force includes one or more portions of a section 16 block.

Note: This would be the case if the boundaries of a title area do not conform to the graticular system established by this Act.

Portion of a block to be a block

- (2) For the purposes of this Act:
- (a) the area of that portion or those portions constitutes a block (a ***type A block***); and

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- (b) the area of the remaining portion or portions of the section 16 block (but not including any part of that area in relation to which another title is in force) constitutes a block (a **type B block**).

Amalgamation of portions of blocks

- (3) If a title ceases to be in force in relation to a type A block (the **first type A block**), the Designated Authority may, by written instrument, if the Designated Authority considers it desirable to do so, determine that the first type A block be amalgamated with:
 - (a) another type A block or blocks, so long as the following conditions are satisfied in relation to the other type A block or blocks:
 - (i) the other type A block or blocks form part of the graticular section of which the first type A block forms part;
 - (ii) an exploration permit, retention lease or production licence is in force in relation to the other type A block or blocks; or
 - (b) both:
 - (i) another type A block or blocks covered by paragraph (a); and
 - (ii) a type B block that forms part of the graticular section of which the first type A block forms part.
- (4) If a determination is made under subsection (3), then, for the purposes of this Act:
 - (a) the blocks the subject of the determination cease to constitute blocks; and
 - (b) the areas of those blocks together constitute a block; and
 - (c) the block constituted as a result of the determination is, subject to this Act, for the remainder of the term of the permit, lease or licence concerned, a block in relation to which the permit, lease or licence is in force.
- (5) The Designated Authority must not make a determination under subsection (3) except with the consent of the permittee, lessee or licensee concerned.

Definitions

(6) In this section:

section 16 block means a block constituted as provided by section 16.

title means:

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence; or
- (d) a prescribed instrument.

246 Changes to, or reassessment of the location of, the baseline of Australia's territorial sea

Change or reassessment results in an area ceasing to be within the offshore area of a State or Territory

(1) If:

- (a) a Commonwealth title has been granted on the basis that an area (the **first area**) is within the offshore area of a State or the Northern Territory; and
 - (b) either:
 - (i) the baseline of Australia's territorial sea changes; or
 - (ii) because new data are obtained or existing data are reconsidered, the location of the baseline is reassessed; and
 - (c) as a result of the change to, or reassessment of the location of, the baseline, the first area:
 - (i) ceases to be within the offshore area of the State or Territory; and
 - (ii) falls within the coastal waters of the State or Territory;
- this Act applies in relation to the Commonwealth title as if the first area were still within the offshore area in relation to the State or Territory.

(2) Subsection (1) continues to apply to the first area only while the Commonwealth title remains in force.

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Change or reassessment results in an area ceasing to be within the coastal waters of a State or Territory

- (3) If:
- (a) a State/Territory title has been granted by a State or the Northern Territory on the basis that an area (the *second area*) is within the coastal waters of the State or Territory; and
 - (b) either:
 - (i) the baseline of Australia's territorial sea changes; or
 - (ii) because new data are obtained or existing data are reconsidered, the location of the baseline is reassessed; and
 - (c) as a result of the change to, or reassessment of the location of, the baseline, the second area:
 - (i) ceases to be within the coastal waters of the State or Territory; and
 - (ii) falls within the offshore area of the State or Territory;
- then, so far as the State/Territory title is concerned, this Act does not apply to the second area.
- (4) Subsection (3) continues to apply to the second area only while the State/Territory title remains in force.

Application

- (5) This section applies to a change in the baseline, or a reassessment of the location of the baseline, whether occurring before, at or after the commencement of this section.

Definitions

- (6) In this section:
- Commonwealth title** means:
- (a) an exploration permit; or
 - (b) a retention lease; or
 - (c) a production licence; or
 - (d) an infrastructure licence; or
 - (e) a pipeline licence.

State/Territory title means an instrument under a law of a State or the Northern Territory that confers, in relation to the coastal waters of the State or Territory, some or all of the rights that a Commonwealth title confers in relation to the offshore area of the State or Territory.

247 Notification of discovery of petroleum

Scope

- (1) This section applies if petroleum is discovered in an exploration permit area or a retention lease area.

Notification

- (2) The permittee or lessee must immediately inform the Designated Authority of the discovery.
- (3) The permittee or lessee must, within 3 days after the date of the discovery, give the Designated Authority a written notice setting out details of the discovery.

Offence

- (4) A person commits an offence if:
 - (a) the person is subject to a requirement under subsection (2) or (3); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty for a contravention of this subsection: 100 penalty units.

248 Property in petroleum

Scope

- (1) This section applies if:
 - (a) petroleum is recovered by an exploration permittee in the permit area; or
 - (b) petroleum is recovered by a retention lessee in the lease area;
or

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- (c) petroleum is recovered by a production licensee in the licence area.

Property

- (2) The petroleum becomes the property of the permittee, lessee or licensee.
- (3) The petroleum is not subject to any rights of other persons (other than a person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).
- (4) Subsections (2) and (3) have effect subject to this Act.

Note: See also Division 3 of Part 1.2 (which deals with apportionment of petroleum recovered from adjoining title areas).

249 Compensation for acquisition of property

- (1) If:
 - (a) the operation of:
 - (i) subsection 139(1); or
 - (ii) subsection 140(4); or
 - (iii) subsection 169(4); or
 - (iv) subsection 183(4); or
 - (v) section 229;would result in the acquisition of property otherwise than on just terms; and
 - (b) the acquisition would not be valid, apart from this subsection, because a particular person has not been compensated;the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Chapter 3—Registration and dealings

Part 3.1—Introduction

250 Simplified outline

The following is a simplified outline of this Chapter:

- The Designated Authority must keep a Register of titles and special prospecting authorities.
- A transfer of title must be approved by the Designated Authority, and an instrument of transfer must be registered under this Part.
- A dealing in a title must be approved by the Designated Authority, and the approval must be entered in the Register.

251 Definition

In this Chapter:

title means:

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence; or
- (d) an infrastructure licence; or
- (e) a pipeline licence; or
- (f) an access authority.

252 Dealing—series of debentures

For the purposes of this Chapter, if a dealing forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures are taken to be one dealing.

Part 3.2—Register of titles and special prospecting authorities

253 Register to be kept

The Designated Authority for an offshore area must keep a Register of:

- (a) titles; and
 - (b) special prospecting authorities;
- relating to the offshore area.

254 Entries in Register—general

Memorial

- (1) The Designated Authority must enter in the Register a memorial for each title and special prospecting authority.
- (2) The memorial must comply with the table:

Content of memorial		
Item	In the case of..	the memorial must..
1	a title or special prospecting authority	specify the name of the holder of the title or special prospecting authority.
2	an exploration permit, retention lease, production licence, special prospecting authority or access authority	set out an accurate description (including, where convenient, a map) of the permit area, lease area, licence area or authority area.
3	an infrastructure licence	set out details of the licence area.
4	a pipeline licence	set out an accurate description of the route of the pipeline.
5	a title or special prospecting authority	specify the term of the title or special prospecting authority.

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Content of memorial

Item	In the case of...	the memorial must...
6	a title or special prospecting authority	set out such other matters and things as are required by this Act to be entered in the Register.
7	a title or special prospecting authority	set out such further matters relating to the registered holder, or to the conditions of the title or special prospecting authority, as the Designated Authority thinks proper and expedient in the public interest.

(3) The Designated Authority must enter in the Register a memorial of:

(a) a notice or instrument:

(i) varying; or

(ii) cancelling (to any extent); or

(iii) surrendering (to any extent); or

(iv) otherwise affecting;

a title or special prospecting authority; or

(b) a notice under subsection 163(5), (6) or (7); or

(c) a notice or instrument varying or revoking a notice or instrument referred to in paragraph (a) or (b).

Note 1: Subparagraph (a)(iv) would cover, for example, a notice terminating a production licence, infrastructure licence or pipeline licence, or a notice revoking a retention lease or access authority.

Note 2: Subsections 163(5), (6) and (7) deal with unit development.

Copy of title may be entered instead of memorial

(4) It is a sufficient compliance with the requirements of subsection (1), (2) or (3) if the Designated Authority enters a copy of the title, special prospecting authority, notice or instrument in the Register.

Date of entry to be endorsed

(5) The Designated Authority must endorse on:

(a) the memorial; or

(b) the copy of the title, special prospecting authority, notice or instrument;
a memorandum of the date on which the memorial or copy was entered in the Register.

255 Entry in Register—cessation, revocation or expiry of title

If an event specified in the table happens, the Designated Authority must enter in the Register a memorial of the fact.

Cessation of title etc.	
Item	Event
1	An exploration permit or retention lease ceases to be in force over a block in relation to which a production licence is granted.
2	An exploration permit ceases to be in force over a block in relation to which a retention lease is granted.
3	An exploration permit is wholly or partly revoked.
4	A retention lease is wholly or partly revoked otherwise than under section 134.
5	An exploration permit, retention lease, production licence, special prospecting authority or access authority expires.

Part 3.3—Transfer of titles

256 Approval and registration of transfers

A transfer of a title is of no force until:

- (a) it has been approved by the Designated Authority; and
- (b) an instrument of transfer is registered as provided by this Part.

257 Application for approval of transfer

- (1) One of the parties to a proposed transfer of a title may apply to the Designated Authority for approval of the transfer.
- (2) The application must be in writing.

258 Documents to accompany application

An application for approval of a transfer must be accompanied by:

- (a) an instrument of transfer in the prescribed form executed by:
 - (i) the registered holder or, if there are 2 or more registered holders, by each registered holder; and
 - (ii) the transferee or, if there are 2 or more transferees, by each transferee; and
- (b) if the transferee, or one or more of the transferees, is not a registered holder or are not registered holders of the title—a document setting out:
 - (i) the technical qualifications of that transferee or those transferees; and
 - (ii) details of the technical advice that is or will be available to that transferee or those transferees; and
 - (iii) details of the financial resources that are or will be available to that transferee or those transferees; and
- (c) a copy of each of the following:
 - (i) the application;
 - (ii) the instrument referred to in paragraph (a);

(iii) the document referred to in paragraph (b).

259 Time limit for application

- (1) An application for approval of a transfer must be made within:
 - (a) 90 days after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer; or
 - (b) such longer period as the Designated Authority allows.
- (2) The Designated Authority may allow a longer period under paragraph (1)(b) only if there are sufficient grounds to warrant allowing the longer period.

260 Date of application to be entered in Register

If an application is made for approval of a transfer, the Designated Authority:

- (a) must enter a memorandum in the Register of the date on which the application was lodged; and
- (b) may make such other notation in the Register as the Designated Authority considers appropriate.

261 Approval of transfer

Scope

- (1) This section applies if an application is made for approval of a transfer.

Decision

- (2) The Designated Authority must:
 - (a) approve the transfer; or
 - (b) refuse to approve the transfer.
- (3) The Designated Authority must, by written notice given to the applicant, notify the applicant of the Designated Authority's decision.

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- (4) If the Designated Authority refuses to approve the transfer, the Designated Authority must make a notation of the refusal in the Register.

262 Registration of transfer

Scope

- (1) This section applies if the Designated Authority approves the transfer of a title.

Endorsement

- (2) The Designated Authority must immediately endorse on:
- (a) the instrument of transfer; and
 - (b) the copy of the instrument of transfer;
- a memorandum of approval.
- (3) On payment of the fee provided for in the Registration Fees Act, the Designated Authority must enter in the Register a memorandum of:
- (a) the transfer; and
 - (b) the name of the transferee or of each transferee.
- (4) On the entry in the Register of the memorandum:
- (a) the transfer is taken to be registered; and
 - (b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.
- (5) If the transfer is registered:
- (a) the copy of the instrument of transfer endorsed with the memorandum of approval must be:
 - (i) retained by the Designated Authority; and
 - (ii) made available for inspection in accordance with this Chapter; and
 - (b) the instrument of transfer endorsed with the memorandum of approval must be returned to the person who applied for approval of the transfer.

263 Instrument of transfer does not create an interest in the title

The mere execution of an instrument of transfer of a title creates no interest in the title.

264 Limit on effect of approval of transfers

The approval of a transfer of a title does not give to the transfer any force, effect or validity that the transfer would not have had if this Chapter had not been enacted.

Part 3.4—Devolution of title

265 Application to have name entered on the Register as the holder of a title

- (1) If the rights of the registered holder of a particular title have devolved on a person by operation of law, the person may apply to the Designated Authority to have the person's name entered in the Register as the holder of the title.
- (2) The application must be in writing.

266 Entry of name in the Register

Scope

- (1) This section applies if an application is made under section 265 in relation to a title.

Entry in Register

- (2) If:
 - (a) the Designated Authority is satisfied that the rights of the holder have devolved on the applicant by operation of law; and
 - (b) the applicant has paid the prescribed fee;the Designated Authority must enter the name of the applicant in the Register as the holder of the title.
- (3) On that entry being made, the applicant becomes the registered holder of the title.

Part 3.5—Change in name of company

267 Application to have new name entered on the Register

- (1) If:
 - (a) a company is the registered holder of a particular title; and
 - (b) the company has changed its name;the company may apply to the Designated Authority to have its new name substituted for its previous name in the Register in relation to that title.
- (2) The application must be in writing.

268 Alteration in the Register

Scope

- (1) This section applies if a company applies under section 267 to have its new name substituted for its previous name in the Register in relation to a particular title.

Alteration

- (2) If:
 - (a) the Designated Authority is satisfied that the company has changed its name; and
 - (b) the company has paid the prescribed fee;the Designated Authority must make the necessary alterations in the Register.

Part 3.6—Dealings relating to existing titles

269 Dealings to which this Part applies

This Part applies to a dealing (other than a transfer of a title) that would have one or more of the effects set out in the table:

Effects of dealings	
Item	Effect
1	The creation or assignment of an interest in an existing title.
2	The creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title.
3	The determination of the manner in which persons may: (a) exercise the rights conferred by an existing title; or (b) comply with the obligations imposed by an existing title; or (c) comply with the conditions of an existing title; (including the exercise of those rights, or the compliance with those obligations or conditions, under cooperative arrangements to recover petroleum).
4	The creation or assignment of an interest in relation to an existing exploration permit, retention lease or production licence, where the interest is known as: (a) an overriding royalty interest; or (b) a production payment; or (c) a net profits interest; or (d) a carried interest.

Effects of dealings	
Item	Effect
5	The creation or assignment of an interest that is similar to an interest covered by item 4, where the interest relates to: (a) petroleum produced from operations authorised by an existing exploration permit, retention lease or production licence; or (b) revenue derived as a result of the carrying out of operations authorised by an existing exploration permit, retention lease or production licence.
6	The creation or assignment of an option (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4 and 5.
7	The creation or assignment of a right (conditional or otherwise) to enter into a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4 and 5.
8	The alteration or termination of a dealing, where the dealing would have one or more of the effects referred to in items 1, 2, 3, 4, 5, 6 and 7.

270 Approval and registration of dealings

A dealing is of no force, in so far as the dealing would have an effect of a kind referred to in the table in section 269 in relation to a particular title, until:

- (a) the Designated Authority has approved the dealing, in so far as it relates to that title; and
- (b) the Designated Authority has made an entry in the Register in relation to the dealing under section 276.

271 Application for approval of dealing

- (1) An application for approval of a dealing must be made in accordance with subsection (2) or (3).

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Application—dealing relates to only one title

- (2) If a dealing relates to only one title, a party to the dealing may apply to the Designated Authority for approval of the dealing in so far as it relates to that title.

Application—dealing relates to 2 or more titles

- (3) If a dealing relates to 2 or more titles, a party to the dealing may make a separate application to the Designated Authority for approval of the dealing in so far as it relates to each title.

Written application

- (4) An application must be in writing.

272 Documents to accompany application

Instrument evidencing dealing

- (1) An application for approval of a dealing must be accompanied by:
- (a) the instrument evidencing the dealing; or
 - (b) if that instrument has already been lodged with the Designated Authority for the purposes of another application—a copy of that instrument.

Supplementary instrument

- (2) An application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.
- (3) An instrument under subsection (2) is called a **supplementary instrument**.

Copies

- (4) An application for approval of a dealing must be accompanied by:
- (a) a copy of the application;

- (b) a copy, or an additional copy, of the instrument referred to in subsection (1);
- (c) a copy of any supplementary instrument.

Charge over assets of a body corporate—copies of documents

- (5) If:
- (a) a dealing (including a dealing referred to in section 252) creates a charge over some or all of the assets of a body corporate; and
 - (b) a person applies for approval of the dealing; and
 - (c) the application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the *Corporations Act 2001* in relation to the creation of the charge;
- the person is taken to have complied with:
- (d) subsection (1); and
 - (e) subsection (4) in so far as that subsection requires a copy, or an additional copy, of the instrument referred to in subsection (1) to accompany the application.

273 Timing of application

- (1) An application for approval of a dealing must be made within:
 - (a) 90 days after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument; or
 - (b) such longer period as the Designated Authority allows.
- (2) The Designated Authority may allow a longer period under paragraph (1)(b) only if there are sufficient grounds to warrant allowing the longer period.
- (3) This section has effect subject to section 284.

Note: Section 284 is about approval of a dealing that was entered into before the title came into existence.

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274 Application date to be entered in Register

If an application is made for approval of a dealing, the Designated Authority:

- (a) must enter a memorandum in the Register of the date on which the application was lodged; and
- (b) may make such other notation in the Register as the Designated Authority considers appropriate.

275 Approval of dealing

Scope

- (1) This section applies if an application is made for approval of a dealing in so far as it relates to a particular title.

Decision

- (2) The Designated Authority must:
 - (a) approve the dealing; or
 - (b) refuse to approve the dealing;in so far as it relates to that title.

Note: Section 284 limits the power conferred on the Designated Authority by this section. Section 284 is about approval of a dealing that was entered into before the title came into existence.

Notification of decision

- (3) The Designated Authority must, by written notice given to the applicant, notify the applicant of the Designated Authority's decision.

Refusal to approve dealing—notation in Register

- (4) If the Designated Authority refuses to approve the dealing in so far as it relates to that title, the Designated Authority must make a notation of the refusal in the Register.

276 Entry of dealing in Register

Scope

- (1) This section applies if the Designated Authority approves a dealing in so far as it relates to a particular title.

Endorsement

- (2) The Designated Authority must immediately endorse a memorandum of approval:
 - (a) on the original instrument evidencing the dealing and on the copy of that instrument; or
 - (b) if the original instrument was not lodged with the application for approval—on both of the copies of that instrument.

Entry in Register

- (3) On payment of the fee provided for in the Registration Fees Act, the Designated Authority must make an entry of the approval of the dealing in the Register on:
 - (a) the memorial relating to that title; or
 - (b) the copy of that title.

277 Retention, inspection and return of instruments

Scope

- (1) This section applies if the Designated Authority makes an entry of the approval of a dealing in the Register.

Application accompanied by supplementary instrument

- (2) If the application for approval of the dealing was accompanied by a supplementary instrument:
 - (a) a copy of the supplementary instrument, endorsed with a copy of the memorandum of approval, must be:
 - (i) retained by the Designated Authority; and
 - (ii) made available for inspection in accordance with this Chapter; and

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- (b) the supplementary instrument must be returned to the person who applied for approval; and
- (c) a copy of the instrument evidencing the dealing must not be made available for inspection in accordance with this Chapter; and
- (d) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note: For inspection, see section 296.

Application not accompanied by supplementary instrument

- (3) If the application for approval of the dealing was not accompanied by a supplementary instrument:
 - (a) one copy of the instrument evidencing the dealing, endorsed with a memorandum of approval, must be:
 - (i) retained by the Designated Authority; and
 - (ii) made available for inspection in accordance with this Chapter; and
 - (b) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval, must be returned to the person who applied for approval.

Note: For inspection, see section 296.

Definition

- (4) In this section:

supplementary instrument has the meaning given by subsection 272(3) or 281(3).

278 Strict compliance with application provisions not required

The approval of a dealing, or the making of an entry in the Register in relation to a dealing, is not made ineffective because of any failure to comply, in relation to the application for approval of the dealing, with the requirements of this Part.

279 Limit on effect of approval of dealing

The approval of a dealing does not give to the dealing any force, effect or validity that the dealing would not have had if this Chapter had not been enacted.

Part 3.7—Dealings in future interests

280 Provisional application for approval of dealing

Scope

- (1) This section applies if:
 - (a) 2 or more persons enter into a dealing relating to a title that may come into existence in the future; and
 - (b) that dealing would, if the title came into existence, become a dealing to which Part 3.6 applies.

Provisional application—dealing relates to only one title

- (2) If the dealing relates to only one title that may come into existence in the future, a party to the dealing may make a provisional application to the Designated Authority for approval of the dealing.

Provisional application—dealing relates to 2 or more titles

- (3) If the dealing relates to 2 or more titles that may come into existence in the future, a party to the dealing may make a separate provisional application to the Designated Authority for approval of the dealing in relation to each title that may come into existence in the future.

Written provisional application

- (4) A provisional application must be in writing.

281 Documents to accompany provisional application

Instrument evidencing dealing

- (1) A provisional application for approval of a dealing must be accompanied by:
 - (a) the instrument evidencing the dealing; or

- (b) if that instrument has already been lodged with the Designated Authority for the purposes of another provisional application—a copy of that instrument.

Supplementary instrument

- (2) A provisional application for approval of a dealing may be accompanied by an instrument setting out such details (if any) as are prescribed for the purposes of a provisional application for approval of a dealing of that kind.
- (3) An instrument under subsection (2) is called a ***supplementary instrument***.

Copies

- (4) A provisional application for approval of a dealing must be accompanied by:
 - (a) a copy of the provisional application; and
 - (b) a copy, or an additional copy, of the instrument referred to in subsection (1); and
 - (c) a copy of any supplementary instrument.

Charge over assets of a body corporate—copies of documents

- (5) If:
 - (a) a dealing (including a dealing referred to in section 252) creates a charge over some or all of the assets of a body corporate; and
 - (b) a person makes a provisional application for approval of the dealing; and
 - (c) the provisional application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the *Corporations Act 2001* in relation to the creation of the charge;the person is taken to have complied with:
 - (d) subsection (1); and

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- (e) subsection (4) in so far as that subsection requires a copy, or an additional copy, of the instrument referred to in subsection (1) to accompany the provisional application.

282 Timing of provisional application

A provisional application must be made within the period worked out using the table:

Period for making a provisional application			
Item	In this case...	the period begins on...	and ends on...
1	a provisional application for approval of a dealing relating to any of the following titles that may come into existence in the future: (a) an exploration permit; (b) a retention lease; (c) a production licence; (d) an infrastructure licence; (e) a pipeline licence	the day on which an offer document that relates to the application for the title is given to the applicant for the title	the day on which the title comes into existence.
2	a provisional application for approval of a dealing relating to an access authority that may come into existence in the future	the day on which the application for the grant of the access authority is made	the day on which the access authority comes into existence.

283 Provisional application to be treated as an application under section 271 when title comes into existence

If:

- (a) a provisional application is made for approval of a dealing; and
- (b) the title to which the dealing relates comes into existence; and
- (c) on that title coming into existence, the dealing becomes a dealing to which Part 3.6 applies;

the provisional application is to be treated as if it were an application made under section 271 on the day on which that title came into existence.

284 Limit on approval of dealing

- (1) If:
- (a) Part 3.6 applies to a dealing relating to a title; and
 - (b) immediately before the title came into existence, the dealing was a dealing referred to in subsection 280(1);
- the Designated Authority may approve the dealing under section 275 only if:
- (c) a provisional application for approval of the dealing was made under section 280; or
 - (d) an application for approval of the dealing was made under section 271 within:
 - (i) 90 days after the day on which the title came into existence; or
 - (ii) such longer period as the Designated Authority allows.
- (2) The Designated Authority may allow a longer period under subparagraph (1)(d)(ii) only if there are sufficient grounds to warrant allowing the longer period.

Part 3.8—Correction and rectification of Register

285 Corrections of clerical errors or obvious defects

The Designated Authority may alter the Register for the purposes of correcting a clerical error or an obvious defect in the Register.

286 General power of correction of Register

Power of correction

- (1) The Designated Authority may make such entries in the Register as the Designated Authority considers appropriate for the purposes of ensuring that the Register accurately records the interests and rights existing in relation to a title.
- (2) The Designated Authority may exercise the power conferred by subsection (1):
 - (a) on written application being made to the Designated Authority by a person; or
 - (b) on the Designated Authority's own initiative.

Consultation

- (3) Before the Designated Authority makes an entry in the Register under subsection (1), the Designated Authority must cause to be published in the *Gazette* a notice:
 - (a) setting out the terms of the entry that the Designated Authority proposes to make in the Register; and
 - (b) inviting interested persons to give the Designated Authority written submissions about the making of the entry; and
 - (c) specifying a time limit for the making of those submissions.
- (4) The time limit must not be shorter than 45 days after the publication of the notice.

- (5) In deciding whether to make the entry in the Register, the Designated Authority must take into account any submissions made in accordance with the notice.

Gazettal of terms of entry

- (6) If the Designated Authority makes an entry in the Register under subsection (1), the Designated Authority must cause to be published in the *Gazette* a notice setting out the terms of the entry.

287 Rectification of Register

Application for rectification

- (1) If a person is aggrieved by any of the following:
- (a) the omission of an entry from a Register;
 - (b) an entry made in a Register without sufficient cause;
 - (c) an entry wrongly existing in a Register;
 - (d) an error or defect in an entry in a Register;
- the person may apply to:
- (e) the Federal Court; or
 - (f) the Supreme Court of, or having jurisdiction in, the State or Territory to which the relevant offshore area relates;
- for the rectification of the Register.

Court orders

- (2) If an application is made under subsection (1) to a court for the rectification of a Register, the court may make such order as it thinks fit directing the rectification of the Register.
- (3) In proceedings under this section, the court may decide any question that it is necessary or expedient to decide in connection with the rectification of the Register.

Appearance of Designated Authority

- (4) Notice of an application under this section must be given to the Designated Authority concerned, who:
- (a) may appear and be heard; and

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(b) must appear if so directed by the court.

Copy of order to be given to Designated Authority

- (5) An office copy of an order made by the court may be given to the Designated Authority.

Compliance with order

- (6) The Designated Authority must, on receipt of the order, rectify the Register accordingly.

Part 3.9—Information-gathering powers

288 Designated Authority may obtain information from applicants

Scope

- (1) This section applies if:
 - (a) an application for approval of the transfer of a title is made under section 257; or
 - (b) an application is made under section 265 or 267 in relation to a title; or
 - (c) an application for approval of a dealing is made under section 271; or
 - (d) a provisional application for approval of a dealing is made under section 280; or
 - (e) an application is made under section 286 in relation to a title.

Requirement to give information

- (2) The Designated Authority may, by written notice given to the applicant, require the applicant to give the Designated Authority, within the period and in the manner specified in the notice, such information about the matter to which the application relates as the Designated Authority considers necessary or advisable.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

Offences

- (4) A person commits an offence if:
 - (a) the person has been given a notice under subsection (2); and
 - (b) the person omits to do an act; and
 - (c) the omission contravenes a requirement in the notice.

Penalty: 50 penalty units.

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- (5) A person commits an offence if:
- (a) the Designated Authority requires the person to give information under subsection (2); and
 - (b) the person gives information; and
 - (c) the person does so knowing that the information is false or misleading in a material particular.

Penalty: 50 penalty units.

Notice to set out the effect of offence provisions

- (6) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (4);
 - (b) subsection (5).

Note: The same conduct may be an offence against both subsection (5) of this section and section 137.1 of the *Criminal Code*.

289 Designated Authority may obtain information from a party to an approved dealing

Scope

- (1) This section applies if:
- (a) a person is a party to a dealing relating to a title; and
 - (b) the dealing has been approved under section 275.

Requirement to give information

- (2) The Designated Authority may, by written notice given to the person, require the person to give to the Designated Authority, within the period and in the manner specified in the notice, such information about alterations in the interests or rights existing in relation to the title as the Designated Authority considers necessary or advisable.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

Offences

- (4) A person commits an offence if:
- (a) the person has been given a notice under subsection (2); and
 - (b) the person omits to do an act; and
 - (c) the omission contravenes a requirement in the notice.

Penalty: 50 penalty units.

- (5) A person commits an offence if:
- (a) the Designated Authority requires the person to give information under subsection (2); and
 - (b) the person gives information; and
 - (c) the person does so knowing that the information is false or misleading in a material particular.

Penalty: 50 penalty units.

Notice to set out the effect of offence provisions

- (6) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (4);
 - (b) subsection (5).

Note: The same conduct may be an offence against both subsection (5) of this section and section 137.1 of the *Criminal Code*.

290 Production and inspection of documents

Scope

- (1) This section applies if the Designated Authority has reason to believe that a document:
- (a) is in the possession or under the control of a person; and
 - (b) relates to:
 - (i) a transfer or dealing for which approval is sought under this Chapter; or
 - (ii) an application under section 265, 267 or 286.

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Requirement

- (2) The Designated Authority may, by written notice given to the person, require the person:
 - (a) to produce the document to the Designated Authority, within the period and in the manner specified in the notice; or
 - (b) to make the document available for inspection by or on behalf of the Designated Authority.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

Offences

- (4) A person commits an offence if:
 - (a) the person has been given a notice under subsection (2); and
 - (b) the person omits to do an act; and
 - (c) the omission contravenes a requirement in the notice.

Penalty: 50 penalty units.

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

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

- (6) A person commits an offence if:
 - (a) the person has been given a notice under subsection (2); and
 - (b) the person:
 - (i) produces a document to the Designated Authority; or
 - (ii) makes a document available for inspection by or on behalf of the Designated Authority; and
 - (c) the person does so knowing that the document is false or misleading in a material particular; and
 - (d) the document is produced or made available in compliance or purported compliance with the notice.

Penalty: 50 penalty units.

Notice to set out the effect of offence provisions

- (7) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (4);
 - (b) subsection (6).

Note: The same conduct may be an offence against both subsection (6) of this section and section 137.2 of the *Criminal Code*.

291 Designated Authority may retain documents

- (1) The Designated Authority may take possession of a document produced under section 290, and retain it for as long as is necessary.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Designated Authority to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Designated Authority must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

Part 3.10—Other provisions

292 Designated Authority etc. not concerned with the effect of instrument lodged under this Chapter

None of the following is concerned with the effect in law of an instrument lodged under this Chapter:

- (a) the Joint Authority;
- (b) the Designated Authority;
- (c) a person acting under the direction or authority of the Joint Authority or the Designated Authority.

293 True consideration to be shown

Offence

- (1) A person commits an offence if:
 - (a) the person is a party to:
 - (i) a transfer of a title; or
 - (ii) a dealing to which Part 3.6 applies; or
 - (iii) a dealing referred to in subsection 280(1); and
 - (b) the person gives the Designated Authority:
 - (i) an instrument of transfer; or
 - (ii) an instrument evidencing the dealing; or
 - (iii) a supplementary instrument; and
 - (c) the instrument contains a statement relating to:
 - (i) the consideration for the transfer or dealing; or
 - (ii) any other fact or circumstance affecting the amount of the fee payable under the Registration Fees Act in relation to the transfer or dealing; and
 - (d) the person gives the instrument knowing that the statement is false or misleading in a material particular.

Penalty: 100 penalty units.

Definition

(2) In this section:

supplementary instrument has the meaning given by subsection 272(3) or 281(3).

Note: The same conduct may be an offence against both subsection (1) of this section and section 137.2 of the *Criminal Code*.

294 Making a false entry in a Register

A person commits an offence if:

- (a) the person:
 - (i) makes an entry in a Register; or
 - (ii) causes an entry to be made in a Register; or
 - (iii) concurs in the making of an entry in a Register; and
- (b) the person does so knowing that the entry is false.

Penalty: 50 penalty units.

Note: The same conduct may be an offence against both this section and section 145.4 of the *Criminal Code*.

295 Falsified documents

A person commits an offence if:

- (a) the person produces or tenders in evidence a document; and
- (b) the document falsely purports to be:
 - (i) a copy of or extract from an entry in a Register; or
 - (ii) a copy of or extract from an instrument given to the Designated Authority under this Chapter.

Penalty: 50 penalty units.

Note: The same conduct may be an offence against both this section and section 137.2 of the *Criminal Code*.

296 Inspection of Register and instruments

Inspection of Register

- (1) The Designated Authority must ensure that the Register is open for inspection, at all convenient times, by any person on payment of a fee calculated under the regulations.

Instruments

- (2) The Designated Authority must ensure that all instruments, or copies of instruments, subject to inspection under this Chapter are open for inspection, at all convenient times, by any person on payment of a fee calculated under the regulations.

297 Evidentiary provisions

Register

- (1) A Register is to be received in all courts and proceedings as prima facie evidence of all matters required or authorised by this Chapter to be entered in the Register.

Certified copies and extracts

- (2) The Designated Authority may, on payment of a fee calculated under the regulations, supply:
 - (a) a copy of or extract from the Register; or
 - (b) a copy of or extract from any instrument lodged with the Designated Authority under this Chapter; certified by the Designated Authority to be a true copy or true extract, as the case may be.
- (3) The certified copy or extract is admissible in evidence in all courts and proceedings without further proof or production of the original.

Evidentiary certificate

- (4) The Designated Authority may, on payment of a fee calculated under the regulations, issue a written certificate:

- (a) stating that an entry, matter or thing required or permitted by or under this Chapter to be made or done:
 - (i) has been made or done; or
 - (ii) has not been made or done; or
 - (b) stating that an entry, matter or thing required by or under this Chapter not to be made or done:
 - (i) has not been made or done; or
 - (ii) has been made or done.
- (5) The certificate is to be received in all courts and proceedings as prima facie evidence of the statements in the certificate.

Criminal proceedings—copy of certificate to be given to defendant 14 days before certificate admitted in evidence

- (6) A certificate must not be admitted in evidence under subsection (5) in proceedings for an offence unless:
- (a) the person charged with the offence; or
 - (b) a barrister or solicitor who has appeared for the person in those proceedings;
- has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with notice of the intention to produce the certificate as evidence in the proceedings.

Person signing the certificate may be called to give evidence

- (7) If, under subsection (5), a certificate is admitted in evidence in proceedings for an offence, the person charged with the offence may require the person who signed the certificate to be:
- (a) called as a witness for the prosecution; and
 - (b) cross-examined as if the person who signed the certificate had given evidence of the matters stated in the certificate.
- (8) However, subsection (7) does not entitle the person charged to require the person who signed the certificate to be called as a witness for the prosecution unless:

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- (a) the prosecutor has been given at least 4 days notice of the person's intention to require the person who signed the certificate to be so called; or
- (b) the court, by order, allows the person charged to require the person who signed the certificate to be so called.

Evidence in support, or in rebuttal, of matters in certificate to be considered on its merits

- (9) Any evidence given in support, or in rebuttal, of a matter stated in a certificate issued under subsection (4) must be considered on its merits, and the credibility and probative value of such evidence must be neither increased nor diminished by reason of this section.

298 Assessment of fee

Original determination

- (1) The Designated Authority may determine the amount of the fee payable under the Registration Fees Act in relation to an entry in the Register.

Fresh determination—false or misleading information given to Designated Authority

- (2) If:
 - (a) the Designated Authority has determined the amount of a fee payable under the Registration Fees Act in relation to a transfer or dealing; and
 - (b) a person is convicted of an offence against section 293 in relation to giving the Designated Authority an instrument that contains a statement about:
 - (i) the consideration for the transfer or dealing; or
 - (ii) any other fact or circumstance affecting the amount of the fee payable under the Registration Fees Act in relation to the transfer or dealing;

the Designated Authority may make a fresh determination of the amount of the fee payable under the Registration Fees Act in relation to the transfer or dealing.

Note: Section 293 is about giving an instrument that contains a false or misleading statement.

Appeal

- (3) A person dissatisfied with a determination of the Designated Authority under subsection (1) or (2) may appeal against the determination to:
 - (a) the Federal Court; or
 - (b) the Supreme Court of, or having jurisdiction in, the State or Territory to which the relevant offshore area relates.
- (4) The court hearing the appeal may affirm, set aside or modify the determination of the Designated Authority.

Appearance of Designated Authority

- (5) Notice of an appeal under this section is to be given to the Designated Authority concerned, who:
 - (a) may appear and be heard; and
 - (b) must appear if so directed by the court.

Chapter 4—Administration

Part 4.1—Operations

299 Simplified outline

The following is a simplified outline of this Part:

- This Part imposes requirements that must be complied with by titleholders in relation to the following:
 - (a) the commencement of works or operations;
 - (b) work practices;
 - (c) insurance;
 - (d) the maintenance and removal of property.

300 Commencement of works or operations

Scope

- (1) This section applies to:
 - (a) a special exploration permit; or
 - (b) a retention lease; or
 - (c) an infrastructure licence; or
 - (d) a pipeline licence;

if the permit, lease or licence is granted subject to a condition that works or operations specified in the permit, lease or licence are to be carried out.

Commencement of works or operations

- (2) The registered holder of the permit, lease or licence must begin to carry out those works or operations within:

- (a) 180 days after the day on which the permit, lease or licence comes into force; or
- (b) such longer period as the Designated Authority allows.

301 Work practices

- (1) The table has effect:

Work practices		
Item	This person...	must...
1	the registered holder of an exploration permit, retention lease or production licence	<ul style="list-style-type: none"> (a) carry out all petroleum exploration operations in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice; and (b) carry out all petroleum recovery operations in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice; and (c) control the flow, and prevent the waste or escape, in the permit area, lease area or licence area, of petroleum or water; and (d) prevent the escape, in the permit area, lease area or licence area, of any mixture of water or drilling fluid with petroleum or any other matter; and (e) prevent damage to petroleum-bearing strata in an area (whether in the offshore area or not) in relation to which the permit, lease or licence is not in force; and (f) keep separate each petroleum pool discovered in the permit area, lease area or licence area; and (g) keep separate such of the sources of water (if any) discovered in the permit area, lease area or licence area as the Designated Authority, by written notice given to the registered holder, directs; and (h) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area or licence area except when required by, and in accordance with, good oilfield practice.

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Work practices		
Item	This person...	must...
2	the registered holder of an infrastructure licence	(a) carry out operations authorised by the licence in a safe manner and in accordance with good oilfield practice and good processing and transport practice; and (b) control the flow, and prevent the waste or escape, from an infrastructure facility constructed under the licence, of water, petroleum or any product derived by processing petroleum.
3	the registered holder of a pipeline licence	(a) operate the pipeline in a proper and workmanlike manner; and (b) prevent the waste or escape of petroleum or water from the pipeline or from any secondary line, pumping station, tank station, valve station or water line.
4	the registered holder of a special prospecting authority or access authority	carry out all petroleum exploration operations in the authority area in a proper and workmanlike manner and in accordance with good oilfield practice.

- (2) Paragraphs (c) to (h) of item 1, and paragraph (b) of item 2, of the table in subsection (1) have effect subject to any authorisation given, or requirement made, by or under:
- (a) this Act; or
 - (b) the regulations; or
 - (c) a direction under this Act.
- (3) Paragraphs (b) to (h) of item 1 of the table in subsection (1) do not limit paragraph (a) of that item.
- (4) Paragraph (b) of item 2 of the table in subsection (1) does not limit paragraph (a) of that item.
- (5) Paragraph (b) of item 3 of the table in subsection (1) does not limit paragraph (a) of that item.

Offence

- (6) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1);
and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the requirement.

Penalty: 100 penalty units.

Defence

- (7) In:
- (a) a prosecution for an offence against subsection (6) in relation to a breach of a paragraph of an item of the table in subsection (1); or
 - (b) an action arising out of a breach of a paragraph of an item of the table in subsection (1);

it is a defence if the defendant proves that the defendant took all reasonable steps to comply with that paragraph.

Note: In a prosecution for an offence, the defendant bears a legal burden in relation to the matter in subsection (7)—see section 13.4 of the *Criminal Code*.

This section has effect subject to certain other provisions etc.

- (8) This section has effect subject to:
- (a) any other provision of this Act; and
 - (b) the regulations; and
 - (c) a direction under section 305; and
 - (d) any other law.

302 Insurance

Permits, leases and licences

- (1) The registered holder of:
- (a) an exploration permit; or
 - (b) a retention lease; or

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- (c) a production licence; or
- (d) an infrastructure licence; or
- (e) a pipeline licence;

must maintain, as directed by the Designated Authority from time to time, insurance against:

- (f) expenses; or
- (g) liabilities; or
- (h) specified things;

arising in connection with, or as a result of:

- (i) the carrying out of work under the permit, lease or licence; or
- (j) the doing of any other thing under the permit, lease or licence;

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum.

Authorities

- (2) The conditions of a special prospecting authority or an access authority may include a condition that the registered holder maintain, as directed by the Designated Authority from time to time, insurance against:

- (a) expenses; or
- (b) liabilities; or
- (c) specified things;

arising in connection with, or as a result of:

- (d) the carrying out of work under the authority; or
- (e) the doing of any other thing under the authority;

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum.

Direction to be in writing

- (3) A direction under this section must be in writing.

303 Maintenance and removal of property etc. by titleholder

Titleholder and title area

(1) For the purposes of this section, the table has effect:

Titleholder and title area			
Item	In the case of...	the titleholder is...	and the title area is...
1	an exploration permit	the permittee	the permit area.
2	a retention lease	the lessee	the lease area.
3	a production licence	the licensee	the licence area.
4	an infrastructure licence	the licensee	the licence area.
5	a pipeline licence	the licensee	the part of the offshore area in which the pipeline is constructed.
6	a special prospecting authority	the registered holder of the authority	the authority area.
7	an access authority	the registered holder of the authority	the authority area.

Maintenance of property etc.

- (2) A titleholder must maintain in good condition and repair all structures that are, and all equipment and other property that is:
- (a) in the title area; and
 - (b) used in connection with the operations authorised by the permit, lease, licence or authority.

Removal of property etc.

- (3) A titleholder must remove from the title area all structures that are, and all equipment and other property that is, neither used nor to be used in connection with the operations:
- (a) in which the titleholder is or will be engaged; and
 - (b) that are authorised by the permit, lease, licence or authority.

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Offence

- (4) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (2) or (3); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 100 penalty units.

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

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

Exception

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

Section has effect subject to other provisions etc.

- (7) This section has effect subject to:
- (a) any other provision of this Act; and
 - (b) the regulations; and
 - (c) a direction under section 305; and
 - (d) any other law.

Part 4.2—Directions

Division 1—Simplified outline

304 Simplified outline

The following is a simplified outline of this Part:

- The Designated Authority may give a direction to a titleholder. A direction may extend to other persons.
- If there is a breach of a direction under Chapter 2, this Chapter or the regulations, the Designated Authority may do anything required by the direction to be done, and the Designated Authority's costs may be recovered from the person to whom the direction was given.
- In a prosecution for an offence relating to a breach of a direction under Chapter 2, this Chapter or the regulations, it is a defence if the defendant proves that the defendant took all reasonable steps to comply with the direction.

Division 2—General power to give directions

305 General power to give directions

Definition

- (1) In this section:

title means:

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence; or
- (d) an infrastructure licence; or
- (e) a pipeline licence; or
- (f) a special prospecting authority; or
- (g) an access authority.

Direction to registered holder

- (2) The Designated Authority may, by written notice given to the registered holder of a title, give the registered holder a direction as to any matter in relation to which regulations may be made.

Note 1: Section 444 is the main provision setting out matters in relation to which regulations may be made.

Note 2: For enforcement, see section 307.

Extended application of direction

- (3) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to:
- (a) a specified class of persons, so long as the class consists of, or is included in, either or both of the following classes:
 - (i) employees or agents of, or persons acting on behalf of, the registered holder;
 - (ii) persons performing work or services, whether directly or indirectly, for the registered holder; or

- (b) any person (other than the registered holder or a person to whom the direction applies in accordance with paragraph (a)) who is:
- (i) in the offshore area for any reason touching, concerning, arising out of, or connected with, exploring the seabed or subsoil of the offshore area for petroleum or exploiting the petroleum that occurs as a natural resource of that seabed or subsoil; or
 - (ii) in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the offshore area for a reason of that kind.
- (4) If a direction so expressed is given, the direction is taken to apply to each person included in the specified class mentioned in paragraph (3)(a) or to each person who is in the offshore area as mentioned in paragraph (3)(b), as the case may be.

Note: For notification requirements, see section 306.

Additional matters

- (5) The Designated Authority must not give a direction under this section of a standing or permanent nature except with the approval of the Joint Authority, but the validity of a direction is not affected by a breach of this subsection.
- (6) A direction under this section has effect, and must be complied with, despite:
- (a) any previous direction under this section; and
 - (b) anything in the regulations or the applied provisions.
- Note: For *applied provisions*, see subsection 59(2).
- (7) A direction under this section may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) a code of practice or standard contained in an instrument:
- (a) as in force or existing at the time when the direction takes effect; or
 - (b) as in force or existing from time to time;

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so long as the code of practice or standard is relevant to that matter.

- (8) To avoid doubt, subsection (7) applies to an instrument, whether issued or made in Australia or outside Australia.
- (9) A direction under this section may prohibit the doing of an act or thing:
 - (a) unconditionally; or
 - (b) subject to conditions, including conditions requiring the consent or approval of a person specified in the direction.

Directions

- (10) If paragraph (3)(b) applies to a direction under this section, the direction is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (11) If paragraph (3)(b) does not apply to a direction under this section, the direction is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

306 Notification of a direction that has an extended application

Notification

- (1) If a direction under section 305 applies to:
 - (a) a registered holder; and
 - (b) a person referred to in paragraph 305(3)(a);the registered holder must cause a copy of the notice by which the direction was given to be:
 - (c) given to that other person; or
 - (d) displayed at a prominent position at a place in the offshore area frequented by that other person.
- (2) If a direction under section 305 applies to:
 - (a) a registered holder; and
 - (b) a person referred to in paragraph 305(3)(b);the registered holder must cause a copy of the notice by which the direction was given to be displayed at a prominent position at a place in the offshore area.

- (3) If a direction under section 305 applies to:
- (a) a registered holder; and
 - (b) a person referred to in paragraph 305(3)(b);
- the Designated Authority may, by written notice given to the registered holder, require the registered holder to cause to be displayed:
- (c) at such places in the offshore area; and
 - (d) in such manner;
- as are specified in the notice, copies of the notice by which the direction was given.

Offence

- (4) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1), (2) or (3); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty for contravention of this subsection: 50 penalty units.

307 Compliance with direction

Offence

- (1) A person commits an offence if:
- (a) the person is subject to a direction under section 305; and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the direction.

Penalty: 100 penalty units.

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

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

Defence

- (3) If:
- (a) a direction under section 305 applies to:

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- (i) a registered holder; and
- (ii) another person; and
- (b) the other person is prosecuted for an offence against subsection (1) in relation to a breach of the direction; and
- (c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction;

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

Division 3—Designated Authority may take action if there is a breach of a direction

308 Designated Authority may take action if there is a breach of a direction

Action by Designated Authority

- (1) If:
 - (a) a person is subject to a direction under:
 - (i) Chapter 2; or
 - (ii) this Chapter; or
 - (iii) Part 5.1; or
 - (iv) the regulations; and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the direction;the Designated Authority may do any or all of the things required by the direction to be done.
- (2) If the direction was given by the Joint Authority, the Designated Authority must not take action under subsection (1) except with the approval of the Joint Authority.

Recovery of costs and expenses incurred by the Designated Authority

- (3) Costs or expenses incurred by the Designated Authority under subsection (1) in relation to a direction are:
 - (a) a debt due to the Commonwealth by the person subject to the direction; and
 - (b) recoverable in a court of competent jurisdiction.

Exception—direction that has an extended application

- (4) If:
 - (a) a direction under section 305 applies to:
 - (i) a registered holder; and

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- (ii) another person; and
- (b) an action under subsection (3) relating to the direction is brought against the other person; and
- (c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction;

the other person is not liable under subsection (3) unless the plaintiff proves that the other person knew, or could reasonably be expected to have known, of the existence of the direction.

Defence

- (5) In an action under subsection (3), it is a defence if the defendant proves that the defendant took all reasonable steps to comply with the direction.

Division 4—Defence of taking reasonable steps to comply with a direction

309 Defence of taking reasonable steps to comply with a direction

In a prosecution for an offence in relation to a breach of a direction under:

- (a) Chapter 2; or
- (b) this Chapter; or
- (c) Part 5.1; or
- (d) the regulations;

it is a defence if the defendant proves that the defendant took all reasonable steps to comply with the direction.

Note: The defendant bears a legal burden in relation to the matter in this section—see section 13.4 of the *Criminal Code*.

Part 4.3—Restoration of the environment

310 Simplified outline

The following is a simplified outline of this Part:

- The Designated Authority may give remedial directions to titleholders or former titleholders about the following matters:
 - (a) the removal of property;
 - (b) the plugging or closing off of wells;
 - (c) the conservation and protection of natural resources;
 - (d) the making good of damage to the seabed or subsoil.
- If there is a breach of a remedial direction, the Designated Authority may do anything required by the direction to be done.
- If property has not been removed in accordance with a remedial direction, the Designated Authority may direct the owner to remove or dispose of the property.

311 Remedial directions to current holders of permits, leases and licences

Scope

- (1) This section applies to:
 - (a) an exploration permit; or
 - (b) a retention lease; or
 - (c) a production licence; or

- (d) an infrastructure licence; or
- (e) a pipeline licence.

Direction to registered holder

- (2) The Designated Authority may, by written notice given to the registered holder of the permit, lease or licence, direct the holder to do any or all of the following things on or before the applicable date:
 - (a) to:
 - (i) remove, or cause to be removed, from the title area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, lease or licence; or
 - (ii) make arrangements that are satisfactory to the Designated Authority in relation to that property;
 - (b) to plug or close off, to the satisfaction of the Designated Authority, all wells made in the title area by any person engaged or concerned in those operations;
 - (c) to provide, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in the title area;
 - (d) to make good, to the satisfaction of the Designated Authority, any damage to the seabed or subsoil in the title area caused by any person engaged or concerned in those operations.

Note 1: For *applicable date* and *title area*, see subsection (5).

Note 2: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (3) Paragraph (2)(c) has effect subject to:
 - (a) Chapter 2; and
 - (b) this Chapter; and
 - (c) the regulations.

Offence

- (4) A person commits an offence if:
 - (a) the person is subject to a direction under subsection (2); and
 - (b) the person omits to do an act; and

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(c) the omission breaches the direction.

Penalty: 100 penalty units.

Applicable date and title area

(5) For the purposes of this section, the table has effect:

Applicable date and title area			
Item	In the case of...	the applicable date is...	and the title area is...
1	an exploration permit	the expiry date of the permit	the permit area.
2	a retention lease	the expiry date of the lease	the lease area.
3	a fixed-term production licence	the expiry date of the licence	the licence area.
4	a production licence that is not a fixed-term production licence	the first date on which the licence can be terminated under this Act	the licence area.
5	an infrastructure licence	the first date on which the licence can be terminated under this Act	the licence area.
6	a pipeline licence	the first date on which the licence can be terminated under this Act	the part of the offshore area in which the pipeline is constructed.

(6) A notice under subsection (2) need not identify the applicable date as a particular calendar date.

312 Remedial directions to former holders of permits, leases, licences and authorities etc.

Scope

(1) This section applies if an event specified in the table has happened:

Scope		
Item	Title	Event
1	Exploration permit	(a) the permit has been wholly or partly revoked; (b) the permit has been wholly or partly cancelled; (c) the permit has expired.
2	Retention lease	(a) the lease has been wholly or partly revoked; (b) the lease has been cancelled; (c) the lease has expired.
3	Production licence	(a) the licence has been wholly or partly revoked; (b) the licence has been wholly or partly cancelled; (c) the licence has been terminated; (d) the licence has expired.
4	Infrastructure licence	(a) the licence has been cancelled; (b) the licence has been terminated.
5	Pipeline licence	(a) the licence has been wholly or partly cancelled; (b) the licence has been wholly or partly terminated.
6	Special prospecting authority	(a) the authority has been surrendered; (b) the authority has been cancelled; (c) the authority has expired.
7	Access authority	(a) the authority has been revoked; (b) the authority has been surrendered; (c) the authority has expired.

Direction

- (2) The Designated Authority may, by written notice given to the person who was, or is, as the case may be, the registered holder of the permit, lease, licence or authority, direct the person to do any or all of the following things within the period specified in the notice:

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- (a) to:
 - (i) remove, or cause to be removed, from the vacated area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, lease, licence or authority; or
 - (ii) make arrangements that are satisfactory to the Designated Authority in relation to that property;
 - (b) to plug or close off, to the satisfaction of the Designated Authority, all wells made in the vacated area by any person engaged or concerned in those operations;
 - (c) to provide, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in the vacated area;
 - (d) to make good, to the satisfaction of the Designated Authority, any damage to the seabed or subsoil in the vacated area caused by any person engaged or concerned in those operations.
- (3) The period specified in the notice must be reasonable.
- (4) Paragraph (2)(c) has effect subject to:
- (a) Chapter 2; and
 - (b) this Chapter; and
 - (c) the regulations.

Offence

- (5) A person commits an offence if:
- (a) the person is subject to a direction under subsection (2); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the direction.

Penalty for contravention of this subsection: 100 penalty units.

313 Designated Authority may take action if a direction has been breached

Scope

- (1) This section applies if a direction is given under section 312.

Designated Authority may take action

- (2) If:
- (a) a direction under section 312 has been breached in relation to the vacated area; or
 - (b) an arrangement under section 312 has not been carried out in relation to the vacated area;
- the Designated Authority may do any or all of the things required by the direction or arrangement to be done.

Direction to remove property

- (3) If any property brought into the vacated area by any person engaged or concerned in the operations authorised by the permit, lease, licence or authority has not been removed in accordance with:
- (a) a direction under section 312 in relation to the vacated area; or
 - (b) an arrangement under section 312 in relation to the vacated area;
- the Designated Authority may, by written notice published in the *Gazette*, direct the owner or owners of that property to:
- (c) remove the property from the vacated area; or
 - (d) dispose of the property to the satisfaction of the Designated Authority;
- within the period specified in the notice.

Note: For sanctions, see section 314.

- (4) The period specified in the notice must be reasonable.
- (5) If a direction is given under subsection (3) in relation to property, the Designated Authority must give a copy of the notice to each

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person whom the Designated Authority believes to be an owner of the property or of any part of the property.

314 Removal, disposal or sale of property by Designated Authority—breach of direction

Power to remove, dispose of or sell property

- (1) If a direction under subsection 313(3) has been breached in relation to property, the Designated Authority may do any or all of the following things:
- (a) remove, in such manner as the Designated Authority thinks fit, any or all of that property from the vacated area concerned;
 - (b) dispose of, in such manner as the Designated Authority thinks fit, any or all of that property;
 - (c) if, under subsection 313(5), a person was given a copy of the notice of the direction—sell, by public auction or otherwise, as the Designated Authority thinks fit, any or all of that property that belongs, or that the Designated Authority believes to belong, to that person.

Deduction of costs and expenses etc. from proceeds of sale

- (2) The Designated Authority may deduct, from the proceeds of a sale under subsection (1) of property that belongs (or that the Designated Authority believes to belong) to a particular person, the whole or a part of:
- (a) any costs and expenses incurred by the Designated Authority under that subsection in relation to that property; and
 - (b) any costs and expenses incurred by the Designated Authority in relation to the doing of any thing required by a direction under section 312 to be done by that person; and
 - (c) any fees or amounts payable by that person under this Act, so long as the fee or amount concerned is due and payable; and
 - (d) any amounts payable by that person under the Royalty Act, so long as the amount concerned is due and payable; and
 - (e) any amounts payable by that person under the Annual Fees Act, so long as the amount concerned is due and payable.

Balance of proceeds of sale to be paid to owner of property

- (3) The proceeds of a sale of property under subsection (1), less any deductions under subsection (2), are to be paid to the owner of the property.

Recovery of costs and expenses—removal, disposal or sale of property

- (4) If the Designated Authority incurs any costs or expenses under subsection (1) in relation to the removal, disposal or sale of property, the costs or expenses:
- (a) are a debt due by the owner of the property to the Commonwealth; and
 - (b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

Recovery of costs and expenses—breach of direction

- (5) If the Designated Authority incurs costs or expenses in relation to the doing of anything required by a direction under section 312 to be done by a person who is or was the registered holder of an exploration permit, retention lease, production licence, infrastructure licence, pipeline licence, special prospecting authority or access authority, the costs or expenses:
- (a) are a debt due by the person to the Commonwealth; and
 - (b) to the extent to which they are not recovered under subsection (2)—are recoverable in a court of competent jurisdiction.

315 Removal, disposal or sale of property—limitation of action etc.

Limitation of action etc.

- (1) Except as provided by subsection 314(4) or section 316, no action, suit or proceeding lies in relation to the removal, disposal or sale, or the purported removal, disposal or sale, of property under section 314.

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- (2) Section 436 does not apply to an act or matter to the extent to which subsection (1) of this section applies to the act or matter.

Judicial review

- (3) This section does not affect:
- (a) any rights conferred on a person by the *Administrative Decisions (Judicial Review) Act 1977* to apply to a court in relation to:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision; or
 - (b) any other rights that a person has to seek a review by a court or tribunal in relation to:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision.
- (4) An expression used in subsection (3) has the same meaning as in section 10 of the *Administrative Decisions (Judicial Review) Act 1977*.

316 Removal, disposal or sale of property—compensation for acquisition of property

- (1) If:
- (a) the operation of section 314 or 315 would result in the acquisition of property otherwise than on just terms; and
 - (b) the acquisition would not be valid, apart from this subsection, because a particular person has not been compensated;
- the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Part 4.4—Offences and enforcement

317 Simplified outline

The following is a simplified outline of this Part:

- The Designated Authority may appoint project inspectors, and the project inspectors may exercise powers of access, inspection and entry for the purposes of this Act and the regulations.
- A person must not interfere with offshore petroleum installations or operations.
- A court may make a forfeiture order in relation to property used in the commission of an offence.
- Proceedings in relation to an offence may be brought at any time.

318 Appointment of project inspectors

Appointment

- (1) The Designated Authority for an offshore area may, by writing, appoint a person to be a project inspector in relation to the offshore area if the person is an officer, or employee, of:
 - (a) the Commonwealth, a State or a Territory; or
 - (b) an authority of the Commonwealth, a State or a Territory.

Identity cards

- (2) The Designated Authority must issue an identity card to a project inspector. The identity card must:
 - (a) specify the offshore area concerned; and
 - (b) contain a recent photograph of the project inspector.

- (3) A person commits an offence if:
- (a) the person has been issued with an identity card; and
 - (b) the person ceases to be a project inspector; and
 - (c) the person does not immediately return the identity card to:
 - (i) the Designated Authority; or
 - (ii) if the Designated Authority, by written notice given to the person, specifies another person to whom the card is to be returned—that other person.

Penalty: 5 penalty units.

- (4) Subsection (3) does not apply if the identity card was lost or destroyed.

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

- (5) A project inspector must carry the identity card at all times when exercising powers, or performing functions, under this Act or the regulations as a project inspector.

319 Monitoring powers of project inspectors

Powers

- (1) For the purposes of this Act and the regulations, a project inspector may, at all reasonable times and on production of the project inspector's identity card, exercise the powers conferred by subsection (2).
- (2) The powers a project inspector may exercise under this section are as follows:
- (a) to have access to any part of the offshore area specified in the card;
 - (b) to have access to any structure, vessel, aircraft or building in the offshore area that the project inspector has reasonable grounds to believe has been, is being or is to be used in connection with any of the following operations in the offshore area:
 - (i) petroleum exploration operations;
 - (ii) petroleum recovery operations;

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- (iii) operations relating to the processing or storage of petroleum;
- (iv) operations relating to the preparation of petroleum for transport;
- (v) operations connected with the construction or operation of a pipeline;
- (c) to inspect and test any equipment that the project inspector has reasonable grounds to believe has been, is being or is to be used in the offshore area in connection with any of those operations;
- (d) to enter any structure, vessel, aircraft, building or place that is in:
 - (i) the offshore area; or
 - (ii) the State or Territory to which the offshore area relates; and in which the project inspector has reasonable grounds to believe there are any documents relating to any of those operations, and to inspect, take extracts from and make copies of any of those documents.

Residential premises

- (3) A project inspector may exercise powers under paragraph (2)(d) to enter residential premises in a State or Territory only:
 - (a) in accordance with a warrant issued under section 320; or
 - (b) after obtaining the consent of the occupier of the premises.
- (4) If:
 - (a) a project inspector enters residential premises in accordance with a warrant issued under section 320; and
 - (b) the occupier of the premises is present at the premises;the project inspector must make available to the occupier a copy of the warrant or a copy of the form of the warrant.
- (5) Before obtaining the consent of a person as mentioned in paragraph (3)(b), a project inspector must inform the person that the person may refuse consent.
- (6) A consent of a person is not effective for the purposes of subsection (3) unless the consent is voluntary.

Facilities and assistance to be provided by occupier or person in charge

- (7) A person who is:
- (a) the occupier or person in charge of any building, structure or place referred to in subsection (2); or
 - (b) the person in charge of any vessel, aircraft or equipment referred to in subsection (2);
- must provide a project inspector with all reasonable facilities and assistance for the effective exercise of the project inspector's powers under this section.
- (8) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (7); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 50 penalty units.

Obstructing or hindering a project inspector

- (9) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct obstructs or hinders a project inspector in the exercise of the project inspector's powers under this section.

Penalty: 50 penalty units.

- (10) Subsection (9) does not apply if the person has a reasonable excuse.

Note 1: The defendant bears an evidential burden in relation to the matter in subsection (10)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

Note 3: The same conduct may be an offence against both subsection (9) of this section and section 149.1 of the *Criminal Code*.

320 Warrants to enter residential premises

- (1) A project inspector may apply to a Magistrate for a warrant authorising the project inspector, with such assistance as the project inspector thinks necessary, to exercise the power referred to in paragraph 319(2)(d) in relation to particular residential premises.
- (2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the project inspector is applying for the warrant.
- (3) If the Magistrate is satisfied that there are reasonable grounds for issuing the warrant, the Magistrate may issue the warrant.
- (4) A warrant issued under subsection (3) must state:
 - (a) the name of the project inspector; and
 - (b) whether the inspection may be carried out at any time or only during specified hours of the day; and
 - (c) the day on which the warrant ceases to have effect; and
 - (d) the purposes for which the warrant is issued.
- (5) The day specified under paragraph (4)(c) is not to be more than 7 days after the day on which the warrant is issued.
- (6) The purposes specified under paragraph (4)(d) must include the identification of the premises in relation to which the warrant is issued.

321 Interfering with offshore petroleum installations or operations

- (1) A person commits an offence if:
 - (a) the person engages in conduct; and
 - (b) the person's conduct results in:
 - (i) damage to, or interference with, any structure or vessel that is in an offshore area and that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or
 - (ii) damage to, or interference with, any equipment on, or attached to, such a structure or vessel; or

- (iii) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, such a structure or vessel.

Penalty: Imprisonment for 10 years.

- (2) In this section:

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

322 Forfeiture orders etc.

Scope

- (1) This section applies if a person is convicted by a court of:
 - (a) an offence against section 77, 136, 165 or 179; or
 - (b) an offence against section 6 of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a) of this subsection.

Note: For ancillary offences, see section 11.6 of the *Criminal Code*.

Orders

- (2) The court may, in addition to imposing a penalty, make any or all of the following orders:
 - (a) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence;
 - (b) an order for the forfeiture of specified equipment used in the commission of the offence;
 - (c) an order for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence;
 - (d) an order for the payment by that person to the Commonwealth of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed;
 - (e) an order for the payment by that person to the Commonwealth of:

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- (i) an amount equal to the value at the wellhead, assessed by the court, of the quantity, so assessed, of petroleum so recovered or conveyed; or
 - (ii) such part of that amount as the court, having regard to all the circumstances, thinks fit.
- (3) If the court is satisfied that an order under paragraph (2)(c) cannot, for any reason, be enforced, the court may, on the application of the person by whom the proceedings were brought:
 - (a) set aside the order; and
 - (b) make either of the orders referred to in paragraphs (2)(d) and (e).
- (4) The court may, before making an order under this section:
 - (a) require notice to be given to such persons as the court thinks fit; and
 - (b) hear such persons as the court thinks fit.
- (5) Goods in relation to which an order is made under this section:
 - (a) must be dealt with as the Attorney-General directs; and
 - (b) pending the Attorney-General's direction, may be detained in such custody as the court directs.

323 Time for bringing proceedings for offences

- (1) Proceedings in relation to any of the following offences may be brought at any time:
 - (a) an offence against:
 - (i) Chapter 2; or
 - (ii) Chapter 3; or
 - (iii) this Chapter; or
 - (iv) Part 5.1; or
 - (v) the regulations;
 - (b) an offence against section 6 of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a) of this subsection.

Note: For ancillary offences, see section 11.6 of the *Criminal Code*.

- (2) Subsection (1) has effect despite section 15B of the *Crimes Act 1914*.

Part 4.5—Safety zones and the area to be avoided

Division 1—Introduction

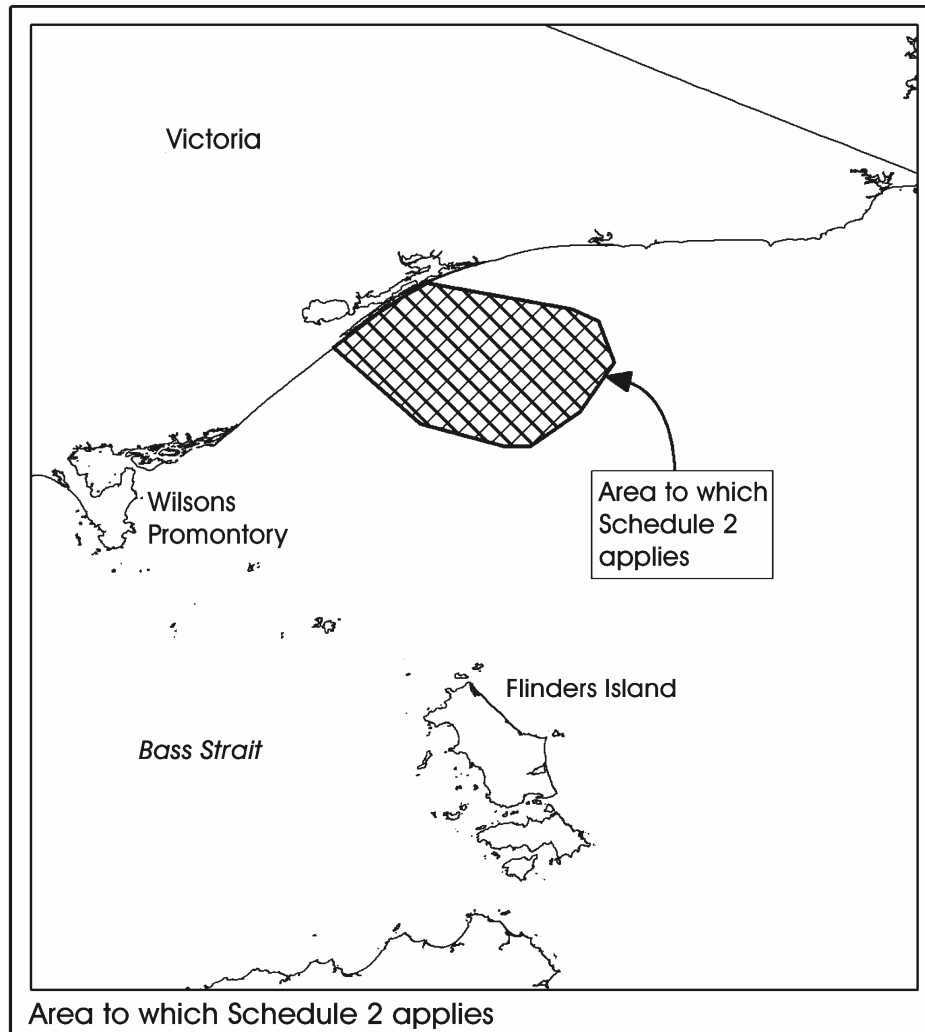
324 Simplified outline

The following is a simplified outline of this Part:

- The Designated Authority may prohibit certain vessels from entering or being present in an area (called a *safety zone*) surrounding a well or structure, or an item of equipment, in an offshore area.
- The *area to be avoided* is the area described in Schedule 2 (an area off the coast of Victoria), but does not include a safety zone or the coastal waters of Victoria.
- A vessel must not enter or be present in the area to be avoided unless authorised to do so under this Part.
- An authorised person may exercise powers for the purposes of the enforcement of this Part.

325 Simplified map of the area to which Schedule 2 applies

This section sets out a simplified map illustrating the area to which Schedule 2 applies:



326 Definitions

In this Part:

area to be avoided means so much of the area to which Schedule 2 applies as comprises waters of the sea that:

- (a) are not within the coastal waters of Victoria or within any area on the landward side of those coastal waters; and

- (b) are not within a safety zone.

Note: The area to which Schedule 2 applies is an area off the coast of Victoria.

authorised person has the meaning given by section 328.

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

- (a) that is excluded from the operation of section 329 in relation to that safety zone because:
 - (i) the vessel is specified in the notice establishing the safety zone; or
 - (ii) the vessel is included in a class of vessels specified in the notice establishing the safety zone; or
- (b) for which a written consent of the Designated Authority under subsection 329(1) is in force in relation to the safety zone.

foreign-flag vessel means a vessel that:

- (a) under the law of a foreign country, is entitled to fly the flag of that country; and
- (b) is flying that flag.

government body means:

- (a) the Commonwealth, a State or a Territory; or
- (b) a body corporate established for a public purpose by or under a law of the Commonwealth or of a State or Territory, other than:
 - (i) the Western Australian Coastal Shipping Commission; or
 - (ii) the Transport Commission established under the *Transport Act 1981* of Tasmania; or
 - (iii) a body corporate that is declared by regulations made under the *Shipping Registration Act 1981* not to be a Government authority for the purposes of that Act.

Government vessel means:

- (a) a vessel that is beneficially owned by a government body; or
- (b) a vessel the whole possession and control of which is for the time being vested in a government body.

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

owner, in relation to a vessel, means:

- (a) if the vessel is being operated by a person who:
 - (i) does not own the vessel; and
 - (ii) has the whole possession and control of the vessel; the person operating the vessel; or
- (b) in any other case—the person who owns the vessel.

prescribed safety zone means a safety zone that is situated within any part of the area to which Schedule 2 applies that comprises waters of the sea that are not within the coastal waters of Victoria or within any area on the landward side of those coastal waters.

Note: The area to which Schedule 2 applies is an area off the coast of Victoria.

relevant vessel means:

- (a) a vessel that satisfies the following conditions:
 - (i) the vessel is registered under the *Shipping Registration Act 1981*;
 - (ii) the gross tonnage of the vessel specified in the certificate of registration of the vessel exceeds 200;
 - (iii) the vessel is not a Government vessel; or
- (b) a vessel that satisfies the following conditions:
 - (i) the vessel is not registered under the *Shipping Registration Act 1981*;
 - (ii) the vessel is permitted to be registered under that Act;
 - (iii) the vessel is not a foreign-flag vessel;
 - (iv) the tonnage length of the vessel equals or exceeds 24 metres (for this purpose, the tonnage length is to be determined in the same manner as it is determined for the purposes of the *Shipping Registration Act 1981*);
 - (v) the vessel is not a Government vessel; or
- (c) a vessel that satisfies the following conditions:
 - (i) the vessel is not a vessel to which paragraph (a) or (b) applies;

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- (ii) the vessel is in the offshore area for the purpose of exploring the seabed or subsoil of the offshore area for petroleum or minerals or for the purpose of exploiting the petroleum or minerals which occur as natural resources of that seabed or subsoil;
- (iii) the vessel is not a Government vessel.

Note: If a state of emergency is declared under section 327, this Part has effect as if subparagraphs (a)(ii) and (b)(iv) of this definition were omitted—see subsection 327(6).

safety zone means an area that is a safety zone for the purposes of section 329.

terrorist activity includes an activity involving extortion.

327 Emergency periods—modification of definition of *relevant vessel*

Declaration of state of emergency

- (1) If the responsible Commonwealth Minister is satisfied that:
 - (a) terrorist activity is likely to occur in the area to be avoided or in a prescribed safety zone; and
 - (b) if that activity occurred:
 - (i) the safety of any person in the area to be avoided or in a prescribed safety zone would be likely to be at risk; or
 - (ii) any well, pipeline, structure or equipment in the area to be avoided or in a prescribed safety zone would be likely to be damaged;

the responsible Commonwealth Minister may, by notice published in the *Gazette*, declare that a state of emergency exists in relation to the area to be avoided.

Duration of state of emergency

- (2) A notice under subsection (1):
 - (a) comes into force on the day on which the notice is published in the *Gazette*; and
 - (b) continues to be in force during the period (not exceeding 14 days) specified in the notice.

Extension of state of emergency

- (3) If:
- (a) a notice under subsection (1) is in force; and
 - (b) before the end of the period during which the notice remains in force, the responsible Commonwealth Minister is satisfied that it is necessary to extend the period of the state of emergency;
- the responsible Commonwealth Minister may, by notice published in the *Gazette*, extend the period of the state of emergency by the period (not exceeding 14 days) specified in the notice.

Consultation

- (4) Before making a notice under subsection (1), the responsible Commonwealth Minister must consult the Designated Authority about the proposed making of the notice.
- (5) Before extending the period of a state of emergency under subsection (3), the responsible Commonwealth Minister must consult the Designated Authority about the proposed extension.

*Modification of definition of **relevant vessel***

- (6) During any period during which a notice under this section is in force, this Part has effect as if subparagraphs (a)(ii) and (b)(iv) were omitted from the definition of **relevant vessel** in section 326.

Note 1: Subparagraph (a)(ii) of the definition of **relevant vessel** in section 326 deals with gross tonnage.

Note 2: Subparagraph (b)(iv) of the definition of **relevant vessel** in section 326 deals with tonnage length.

Gazettal of notice

- (7) Section 442 does not apply to a notice under this section.

328 Authorised persons

- (1) For the purposes of this Part, an **authorised person** is:
- (a) a member or special member of the Australian Federal Police; or

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- (b) a member of the police force of a State or Territory; or
 - (c) a member of the Defence Force; or
 - (d) an officer of customs within the meaning of the *Customs Act 1901*; or
 - (e) a person who is an authorised person because of a declaration under subsection (2).
- (2) The Designated Authority may, by notice published in the *Gazette*, declare that a person, or a person included in a specified class of persons, is an authorised person for the purposes of this Part.

Declaration

- (3) A declaration under subsection (2) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Division 2—Safety zones

329 Safety zones

Prohibition

- (1) For the purpose of protecting a well or structure, or any equipment, in an offshore area, the Designated Authority may, by notice published in the *Gazette*, prohibit:
 - (a) all vessels; or
 - (b) all vessels other than specified vessels; or
 - (c) all vessels other than the vessels included in specified classes of vessels;from entering or being present in a specified area (the *safety zone*) surrounding the well, structure or equipment without the written consent of the Designated Authority.
- (2) A safety zone specified in a notice under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the notice, where that distance is measured from each point of the outer edge of the well, structure or equipment.

Offences

- (3) A person commits an offence if:
 - (a) the person is the owner or master of a vessel; and
 - (b) the vessel is subject to a notice under subsection (1); and
 - (c) in breach of the notice, the vessel enters or is present in the safety zone specified in the notice.

Penalty: Imprisonment for 15 years.

- (4) The fault element for paragraph (3)(c) is intention.
- (5) A person commits an offence if:
 - (a) the person is the owner or master of a vessel; and
 - (b) the vessel is subject to a notice under subsection (1); and

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- (c) in breach of the notice, the vessel enters or is present in the safety zone specified in the notice.

Penalty: Imprisonment for 12.5 years.

- (6) The fault element for paragraph (5)(c) is recklessness.
- (7) A person commits an offence if:
 - (a) the person is the owner or master of a vessel; and
 - (b) the vessel is subject to a notice under subsection (1); and
 - (c) in breach of the notice, the vessel enters or is present in the safety zone specified in the notice.

Penalty: Imprisonment for 10 years.

- (8) The fault element for paragraph (7)(c) is negligence.
- (9) A person commits an offence if:
 - (a) the person is the owner or master of a vessel; and
 - (b) the vessel is subject to a notice under subsection (1); and
 - (c) in breach of the notice, the vessel enters or is present in the safety zone specified in the notice.

Penalty: Imprisonment for 5 years.

- (10) An offence against subsection (9) is an offence of strict liability.

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

Notice

- (11) A notice under subsection (1) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Division 3—Unauthorised vessel not to enter area to be avoided

330 Designated Authority may authorise entry into area to be avoided

Application for authorisation

- (1) The owner of a vessel may apply to the Designated Authority for the grant of an authorisation for the vessel to enter, and to be present in, the area to be avoided.
- (2) An application under subsection (1) must be in writing.

Grant of authorisation

- (3) If an application is made under subsection (1) in relation to a vessel, the Designated Authority may, by written notice given to the applicant, authorise the vessel to enter, and to be present in, the area to be avoided.

Conditions

- (4) An authorisation under subsection (3) is subject to such conditions as are specified in the notice of authorisation.

Revocation of authorisation

- (5) If an authorisation under subsection (3) is in force in relation to a vessel, the Designated Authority may, by written notice given to the owner of the vessel, revoke the authorisation.

331 Unauthorised vessel not to enter area to be avoided

- (1) A person commits an offence if:
 - (a) the person is the owner or master of a relevant vessel; and
 - (b) the vessel is not an exempt vessel in relation to a prescribed safety zone; and

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Division 3 Unauthorised vessel not to enter area to be avoided

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- (c) the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under subsection 330(3).

Penalty: Imprisonment for 7.5 years.

- (2) The fault element for paragraph (1)(c) is intention.

- (3) A person commits an offence if:

- (a) the person is the owner or master of a relevant vessel; and
- (b) the vessel is not an exempt vessel in relation to a prescribed safety zone; and
- (c) the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under subsection 330(3).

Penalty: Imprisonment for 6.25 years.

- (4) The fault element for paragraph (3)(c) is recklessness.

- (5) A person commits an offence if:

- (a) the person is the owner or master of a relevant vessel; and
- (b) the vessel is not an exempt vessel in relation to a prescribed safety zone; and
- (c) the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under subsection 330(3).

Penalty: Imprisonment for 5 years.

- (6) The fault element for paragraph (5)(c) is negligence.

- (7) A person commits an offence if:

- (a) the person is the owner or master of a relevant vessel; and
- (b) the vessel is not an exempt vessel in relation to a prescribed safety zone; and
- (c) the vessel enters or is present in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under subsection 330(3).

Penalty: Imprisonment for 2.5 years.

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

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

(9) In a prosecution for an offence against subsection (1), (3), (5) or (7), it is a defence if the defendant proves that:

(a) an unforeseen emergency rendered it necessary for the vessel to enter or be present in the area in order to attempt to secure the safety of:

- (i) the vessel; or
- (ii) another vessel; or
- (iii) any well, pipeline, structure or equipment; or
- (iv) human life; or

(b) the vessel entered or was present in the area in circumstances not under the control of the person who was in charge of the navigational watch of the vessel.

Note: A defendant bears a legal burden in relation to the matter in subsection (9)—see section 13.4 of the *Criminal Code*.

Division 4—Powers of authorised persons

332 Requirement to move vessel etc.

- (1) An authorised person may:
- (a) require the master of a vessel that satisfies the following conditions:
 - (i) the vessel is a relevant vessel, or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel;
 - (ii) the vessel is in the area to be avoided otherwise than in accordance with an authorisation in force in relation to the vessel under subsection 330(3);
 - (iii) the vessel is not an exempt vessel in relation to a prescribed safety zone;to take the vessel outside the area to be avoided; or
 - (b) require the master of a vessel that satisfies the following conditions:
 - (i) the vessel is in a safety zone;
 - (ii) the vessel is not an exempt vessel in relation to the safety zone;to take the vessel outside the safety zone; or
 - (c) require the master of a disabled vessel that satisfies any of the following conditions:
 - (i) the vessel is in the area to be avoided, and either the vessel is a relevant vessel or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel;
 - (ii) the vessel is in a safety zone;
 - (iii) the vessel is a relevant vessel (or the authorised person has reasonable grounds to believe that the vessel is a relevant vessel), and the authorised person has reasonable grounds to believe that the vessel is likely to cause damage to any well, pipeline, structure or equipment in the area to be avoided or in a safety zone;

to permit the vessel to be towed away from the area to be avoided or the safety zone, as the case requires, or to accept the giving of such other assistance to the vessel as the authorised person considers necessary.

Offences

- (2) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 50 penalty units.

- (3) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct hinders or obstructs an authorised person who is acting under subsection (1).

Penalty for contravention of this subsection: 50 penalty units.

Note: The same conduct may be an offence against both subsection (3) of this section and section 149.1 of the *Criminal Code*.

333 Other powers of authorised persons

- (1) An authorised person may:
- (a) board a vessel that the authorised person has reasonable grounds to believe has been used, is being used or is about to be used in contravention of section 329 or 331; or
 - (b) if the authorised person has boarded a vessel in the exercise of powers under paragraph (a):
 - (i) require any person on board the vessel to answer questions relating to the vessel or to the movements of the vessel; or
 - (ii) require the master of the vessel to state whether a consent under subsection 329(1), or an authorisation under subsection 330(3), is in force in relation to the vessel and, if so, to produce the consent or authorisation, as the case may be; or

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Part 4.5 Safety zones and the area to be avoided

Division 4 Powers of authorised persons

Section 333

- (iii) if the vessel is registered under the *Shipping Registration Act 1981*—require the master of the vessel to produce the certificate of registration of the vessel; or
 - (iv) search the vessel for any documents relating to the vessel or to the movements of the vessel; or
 - (c) if the following conditions are satisfied in relation to a vessel:
 - (i) the vessel is in, or is near, the area to be avoided;
 - (ii) the authorised person has reasonable grounds to believe that the vessel is a vessel of the kind referred to in paragraph (b) of the definition of *relevant vessel* in section 326;
 - (iii) no authorisation under subsection 330(3) is in force in relation to the vessel;
 - (iv) the vessel is not an exempt vessel in relation to a prescribed safety zone;require the master of the vessel to permit the authorised person to take measurements of the vessel; or
 - (d) detain a vessel that the authorised person has reasonable grounds to believe has been used in contravention of section 329 or 331.
- (2) An authorised person may exercise powers under subsection (1) in relation to a vessel only:
- (a) in accordance with a warrant issued under section 334; or
 - (b) after obtaining the consent of the master of the vessel; or
 - (c) in circumstances of seriousness and urgency, in accordance with section 335.

Offences

- (3) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 50 penalty units.

(4) A person must facilitate, by all reasonable means, the boarding of a vessel by an authorised person under subsection (1).

(5) A person commits an offence if:

- (a) the person is subject to a requirement under subsection (4);
and
- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty: 50 penalty units.

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

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

(7) A person must allow a search authorised under subsection (1) to be made by an authorised person.

(8) A person commits an offence if:

- (a) the person is subject to a requirement under subsection (7);
and
- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty: 50 penalty units.

(9) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct hinders or obstructs an authorised person who is acting under subsection (1).

Penalty: 50 penalty units.

(10) A person (the *first person*) commits an offence if:

- (a) an authorised person requires the first person to give information under subsection (1); and
- (b) the first person gives information; and
- (c) the first person does so knowing that the information is false or misleading in a material particular.

Penalty for contravention of this subsection: 50 penalty units.

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Division 4 Powers of authorised persons

Section 334

Note: The same conduct may be an offence against both subsection (10) of this section and section 137.1 of the *Criminal Code*.

334 Warrants

(1) If:

- (a) an information on oath or affirmation is laid before a Magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used in contravention of section 329 or 331; and
- (b) the information sets out those grounds and identifies the vessel;

the Magistrate may issue a warrant authorising an authorised person named in the warrant, with such assistance as the authorised person thinks necessary, to exercise any or all of the powers referred to in subsection 333(1) in relation to that vessel.

(2) A Magistrate may issue a warrant under subsection (1) only if:

- (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant issued under subsection (1) must:

- (a) specify the purpose for which the warrant is issued; and
- (b) set out a description of the vessel in relation to which the warrant is issued; and
- (c) specify a day as the day on which the warrant ceases to have effect.

(4) The day specified under paragraph (3)(c) must not be later than 7 days after the day on which the warrant is issued.

335 Exercise of powers in serious circumstances

An authorised person may exercise, in relation to a vessel, any or all of the powers referred to in subsection 333(1) if:

- (a) the authorised person has reasonable grounds to believe that:
 - (i) the vessel has been used, is being used or is about to be used in contravention of section 329 or 331; or
 - (ii) the exercise of those powers is necessary to prevent damage being caused to any well, pipeline, structure or equipment in the area to be avoided or in a safety zone; and
- (b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 334.

Part 4.6—Collection of fees and royalties

Division 1—Fees payable under the Annual Fees Act

336 When fee due for payment

Scope

- (1) This section applies to a fee payable under the Annual Fees Act in relation to a year of the term of:
 - (a) a work-bid exploration permit; or
 - (b) a special exploration permit; or
 - (c) a retention lease; or
 - (d) a production licence; or
 - (e) an infrastructure licence; or
 - (f) a pipeline licence.

First year

- (2) The fee for the first year of the term of the permit, lease or licence is due and payable at the end of 30 days after the day on which the term begins.

Later year

- (3) The fee for a later year of the term of the permit, lease or licence is due and payable at the end of 30 days after the anniversary of the day on which the first year of the term begins.

337 Late payment penalty

- (1) This section applies if a fee payable by a person under the Annual Fees Act remains unpaid after the time when it became due for payment.
- (2) The person is liable to pay a penalty accruing from the time the fee became due for payment until it is paid in full.

- (3) The penalty is calculated at the rate of 0.333333% per day on the amount of the fee remaining unpaid.
- (4) A penalty under this section is to be known as a *late payment penalty*.

338 Recovery of annual fee debts

- (1) For the purposes of this section, an *annual fee debt* is:
 - (a) an amount of a fee under the Annual Fees Act that is due and payable by a person; or
 - (b) an amount of late payment penalty under section 337.
- (2) An annual fee debt is a debt due to the Commonwealth.
- (3) An annual fee debt may be recovered by the Commonwealth by action in a court of competent jurisdiction.

339 Amounts payable to the Designated Authority

The following amounts are payable to the Designated Authority on behalf of the Commonwealth:

- (a) an amount of a fee under the Annual Fees Act; or
- (b) an amount of late payment penalty under section 337.

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Part 4.6 Collection of fees and royalties

Division 2 Fees payable under the Registration Fees Act

Section 340

Division 2—Fees payable under the Registration Fees Act

340 Fees payable to the Designated Authority

A fee under the Registration Fees Act is payable to the Designated Authority on behalf of the Commonwealth.

Division 3—Royalties payable under the Royalty Act

341 When royalty due for payment

(1) Royalty payable under the Royalty Act in relation to petroleum recovered during a royalty period is due and payable at the end of the next royalty period.

(2) In this section:

royalty period has the same meaning as in the Royalty Act.

342 When adjusted amount due for payment

Provisional value

(1) If:

(a) an amount is payable under subsection 16(2) of the Royalty Act; and

(b) paragraph 16(1)(a) of the Royalty Act applies;
the amount is due and payable at the end of the next royalty period following the royalty period in which the agreement or determination mentioned in that paragraph was made.

Error in calculation etc.

(2) If:

(a) an amount is payable by a person under subsection 16(2) of the Royalty Act; and

(b) paragraph 16(1)(b) of the Royalty Act applies;
the amount is due and payable at the end of the next royalty period following the royalty period in which the error mentioned in that paragraph was notified to the person.

Definition

(3) In this section:

royalty period has the same meaning as in the Royalty Act.

343 Late payment penalty

- (1) This section applies if royalty payable by a person under the Royalty Act remains unpaid after the time when it became due for payment.
- (2) The person is liable to pay a penalty accruing from the time the royalty became due for payment until it is paid in full.
- (3) The penalty is calculated at the rate of 0.333333% per day on the amount of the royalty remaining unpaid.
- (4) A penalty is not payable under this section in relation to any period before the end of 7 days after the value of the petroleum was agreed or determined under section 12 of the Royalty Act.
- (5) An amount payable under this section is to be known as a *late payment penalty*.
- (6) In this section:
royalty includes an amount under subsection 16(2) of the Royalty Act.

344 Recovery of royalty debts

- (1) For the purposes of this section, a *royalty debt* is:
 - (a) an amount of royalty under the Royalty Act that is due and payable by a person; or
 - (b) an amount under subsection 16(2) of the Royalty Act that is due and payable by a person; or
 - (c) an amount of late payment penalty under section 343 of this Act.
- (2) A royalty debt is a debt due to the Commonwealth.
- (3) A royalty debt may be recovered by the Commonwealth by action in a court of competent jurisdiction.

345 Amounts payable to the Designated Authority

The following amounts are payable to the Designated Authority on behalf of the Commonwealth:

- (a) an amount of royalty under the Royalty Act; or
- (b) an amount under subsection 16(2) of the Royalty Act; or
- (c) an amount of late payment penalty under section 343 of this Act.

Division 4—Fees payable under this Act

346 Fees payable under this Act

Each of the following fees is payable to the Designated Authority on behalf of the Commonwealth:

- (a) a fee under subsection 220(2);
- (b) a fee under subsection 266(2);
- (c) a fee under subsection 268(2);
- (d) a fee under subsection 296(1) or (2);
- (e) a fee under subsection 297(2) or (4);
- (f) a fee under regulations made for the purposes of paragraph 422(2)(c) or 423(2)(c);
- (g) a fee under Schedule 5 that is payable because of a requirement of the Designated Authority.

Part 4.7—Occupational health and safety

347 Occupational health and safety

Schedule 3 has effect.

348 Listed OHS laws

- (1) The following provisions are the *listed OHS laws* for the purposes of this Act:
 - (a) section 321 of this Act, to the extent to which that section relates to:
 - (i) damage to, or interference with, a facility (within the meaning of Schedule 3 to this Act); or
 - (ii) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, a facility (within the meaning of Schedule 3 to this Act); or
 - (iii) conduct that affects, or has the potential to affect, the health or safety of members of the workforce at a facility (within the meaning of Schedule 3 to this Act);
 - (b) Schedule 3 to this Act;
 - (c) regulations made for the purposes of Schedule 3 to this Act;
 - (d) the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996*;
 - (e) the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002*;
 - (f) the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*;
 - (g) the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*, to the extent that those regulations relate to occupational health and safety matters;
 - (h) any other regulations relating to occupational health and safety matters that are prescribed for the purposes of this paragraph.

Section 349

- (2) If the regulations referred to in paragraph (1)(d), (e), (f) or (g) are renamed, that paragraph is amended by omitting the old name and substituting the new name.

349 Regulations relating to occupational health and safety

- (1) The regulations may make provision in relation to the health and safety of persons at or near a regulated operations site who are under the control of a person who is carrying on a regulated operation.
- (2) Regulations made for the purposes of subsection (1) may:
- (a) require a person who is carrying on a regulated operation to establish and maintain a system of management to secure the health and safety of persons referred to in that subsection; and
 - (b) specify requirements with which the system must comply.
- (3) Subsection (2) does not limit subsection (1).

Note: Under subsection 59(3), the application in an offshore area of State or Territory laws is subject to regulations made under this Act.

350 Commonwealth maritime legislation does not apply in relation to facilities located in offshore areas

- (1) Commonwealth maritime legislation does not apply in relation to:
- (a) a facility located in the offshore area of a State or Territory; or
 - (b) a person at such a facility; or
 - (c) a person near such a facility, to the extent to which the person is affected by:
 - (i) such a facility; or
 - (ii) activities that take place at such a facility; or
 - (d) activities that take place at such a facility.

Note: Instead, a facility located in the offshore area of a State or Territory will be covered by the listed OHS laws.

- (2) However, subsection (1) does not prevent the application of Commonwealth maritime legislation to the extent that it relates to the transfer of persons or goods between a ship and a facility.

Note: In these cases, Commonwealth maritime legislation will generally apply in addition to the listed OHS laws.

- (3) In this section:

Commonwealth maritime legislation means:

- (a) the *Navigation Act 1912*; and
- (b) the *Occupational Health and Safety (Maritime Industry) Act 1993*; and
- (c) any subordinate legislation under either of those Acts.

facility has the same meaning as in Schedule 3.

ship means any kind of vessel that:

- (a) is used in navigation by water, however propelled or moved; and
- (b) is not, for the time being, a facility or part of a facility.

Note: See also Part 1.4, which deals with the application of State and Northern Territory laws.

351 Commonwealth maritime legislation does not apply in relation to facilities located in designated coastal waters

- (1) This section applies in relation to the designated coastal waters of a State or of the Northern Territory if the relevant State or Territory PSLA and regulations under the relevant State or Territory PSLA, in their application to those designated coastal waters, substantially correspond to the listed OHS laws.
- (2) Commonwealth maritime legislation is disapplied in those designated coastal waters to the same extent as Commonwealth maritime legislation is disapplied in the offshore area.
- (3) In this section:

Commonwealth maritime legislation has the same meaning as in section 350.

Section 351

designated coastal waters, in relation to a State or the Northern Territory, has the same meaning as in Part 4.8.

State PSLA has the same meaning as in Part 4.8.

Territory PSLA has the same meaning as in Part 4.8.

Part 4.8—National Offshore Petroleum Safety Authority

Division 1—Introduction

352 Simplified outline

The following is a simplified outline of this Part:

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

353 Definitions

In this Part, unless the contrary intention appears:

Board means the National Offshore Petroleum Safety Authority Board continued in existence by section 363.

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

CEO means the Chief Executive Officer of the Safety Authority.

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

designated coastal waters, in relation to a State or the Northern Territory, has the meaning given by section 354.

facility means:

- (a) a facility (within the meaning of Schedule 3) located in Commonwealth waters; or
- (b) if there are provisions of a State or Territory PSLA that substantially correspond to Schedule 3 to this Act—a vessel, structure or other thing that:
 - (i) is located in the designated coastal waters of the State or of the Northern Territory, as the case may be; and
 - (ii) would have been a facility (within the meaning of Schedule 3 to this Act) if it had been located in Commonwealth waters.

For the purposes of paragraph (b), assume that a reference in Schedule 3 to this Act to a pipeline licence includes a reference to a pipeline licence under a State or Territory PSLA.

Northern Territory Petroleum Minister means:

- (a) the Minister of the Northern Territory who is responsible for the Territory PSLA; or
- (b) another Minister of the Northern Territory acting for and on behalf of the Minister referred to in paragraph (a).

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

- (a) relate to:
 - (i) the exploration for petroleum; or
 - (ii) the recovery, processing, storage, offloading or piped conveyance of petroleum; and
- (b) if the operations are diving operations—take place in Safety Authority waters; and

- (c) if the operations are not diving operations—take place:
 - (i) in Safety Authority waters; and
 - (ii) at a facility.

OHS inspector means a person appointed as an OHS inspector under section 390.

regulated operation includes an activity to which the core regulatory provisions of a State or Territory PSLA apply. For this purpose, the **core regulatory provisions** are the provisions that substantially correspond to Chapter 2 of this Act.

Safety Authority waters means:

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

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

State Petroleum Minister, in relation to a State, means:

- (a) the Minister of that State who is responsible for the State PSLA; or
- (b) another Minister of that State acting for and on behalf of the Minister referred to in paragraph (a).

State PSLA means:

- (a) in relation to New South Wales—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (b) in relation to Victoria—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (c) in relation to Queensland—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (d) in relation to Western Australia—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (e) in relation to South Australia—the *Petroleum (Submerged Lands) Act 1982* of that State; or
- (f) in relation to Tasmania—the *Petroleum (Submerged Lands) Act 1982* of that State.

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

Note: See also section 10A of the *Acts Interpretation Act 1901* (references to amended or re-enacted State and Territory laws).

354 Designated coastal waters

- (1) For the purposes of this Part, ***designated coastal waters***, in relation to a State or the Northern Territory, means:
 - (a) so much of the scheduled area for that State or Territory as consists of the first 3 nautical miles of the territorial sea from the baseline; and
 - (b) any area that:
 - (i) is within the scheduled area for that State or Territory; and
 - (ii) is seaward of the coastline of that State or Territory at mean low water and landward of the inner limit of Australia's territorial sea; and
 - (iii) was, immediately before the commencement of the relevant State or Territory PSLA, the subject of an exploration permit under the repealed *Petroleum (Submerged Lands) Act 1967*.
- (2) Paragraph (1)(b) has effect subject to subsection (3).
- (3) For the purposes of this Part, if (whether before or after the commencement of this subsection) an area that is within the designated coastal waters of a State or Territory because it is described in subparagraphs (1)(b)(i), (ii) and (iii) became or becomes an area that is:
 - (a) not the subject of an exploration permit under the relevant State or Territory PSLA; and
 - (b) not the subject of a retention lease under the relevant State or Territory PSLA; and
 - (c) not the subject of a production licence under the relevant State or Territory PSLA; and
 - (d) not the subject of an application for a retention lease or production licence under the relevant State or Territory PSLA;

the area is taken to have ceased to be part of the designated coastal waters of that State or Territory.

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

355 Establishment of the National Offshore Petroleum Safety Authority

The National Offshore Petroleum Safety Authority that was, immediately before the commencement of this section, in existence under the *Petroleum (Submerged Lands) Act 1967* is continued in existence under the same name.

356 Safety Authority's functions

The Safety Authority has the following functions:

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

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

357 Policy principles

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

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

- (6) A policy principle is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

358 Safety Authority's ordinary powers

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

359 References to functions and powers of the Safety Authority

- (1) For the avoidance of doubt, a reference in this Part (other than section 360) to the functions or powers of the Safety Authority includes a reference to the functions or powers conferred on the Safety Authority by or under a State or Territory PSLA.
- (2) A reference in this Part (other than section 360) to the powers of the Safety Authority does not include a reference to the powers

conferred on the Safety Authority by or under a law of a State or the Northern Territory as permitted by section 360.

360 Safety Authority may be given additional powers in certain circumstances

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

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

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

- (3) Neither the Safety Authority nor members of the staff of the Safety Authority can exercise powers in a place referred to in subsection (1) unless there is agreement between the Commonwealth and the State or Territory concerned as to the fees payable by the State or Territory to the Safety Authority, on behalf of the Commonwealth, for the exercise of those powers.

Staff

- (4) For the purposes of this section, *staff*, in relation to the Safety Authority, includes a person who is appointed as an OHS inspector under this Part, whether or not that person is engaged under the *Public Service Act 1999* for the purposes of subsection 386(1).

361 Power to refer matters to NOGSAC

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

362 Safety Authority is a body corporate

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

Seal

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

Division 3—National Offshore Petroleum Safety Authority Board

Subdivision A—Establishment, functions and membership

363 Establishment of Board

The National Offshore Petroleum Safety Authority Board that was, immediately before the commencement of this section, in existence under the *Petroleum (Submerged Lands) Act 1967* is continued in existence under the same name.

364 Functions of the Board

- (1) The Board has the following functions:
 - (a) to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;
 - (b) to give advice, and make recommendations, to:
 - (i) the responsible Commonwealth Minister; and
 - (ii) a State Petroleum Minister; and
 - (iii) the Northern Territory Petroleum Minister; and
 - (iv) the body known as the Ministerial Council on Mineral and Petroleum Resources;about either or both of the following:
 - (v) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations;
 - (vi) the performance by the Safety Authority of its functions;
 - (c) such other functions (if any) as are specified in a written notice given by the responsible Commonwealth Minister to the Chair of the Board.
- (2) A notice under paragraph (1)(c) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

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

365 Powers of the Board

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

366 Membership

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

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

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

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

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

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

Subdivision B—Board procedures

367 Board procedures

- (1) The responsible Commonwealth Minister may, by writing, determine matters relating to the operation of the Board, including (but not limited to) the following:
 - (a) procedures for convening Board meetings;
 - (b) the constitution of a quorum for a Board meeting;
 - (c) procedures for conducting Board meetings, including (but not limited to) the way the Board may resolve matters;
 - (d) disclosure of interests;
 - (e) Board records;
 - (f) reporting requirements, including (but not limited to) reports to the responsible Commonwealth Minister and to the public.
- (2) If no determination is in force for the purposes of a paragraph of subsection (1), the Board may operate in the way it determines in respect of the matters described in that paragraph.
- (3) A determination under subsection (1) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (4) A determination under subsection (2) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Subdivision C—Terms and conditions for Board members

368 Term of appointment and related matters for Board members

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

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

369 Remuneration and allowances of Board members

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

370 Leave of absence of Board members

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

371 Resignation of Board members

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

372 Termination of appointment of Board members

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

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- (2) The responsible Commonwealth Minister may terminate the appointment of a Board member if:
- (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) the member fails, without reasonable excuse, to comply with a section 367 determination to the extent to which the determination relates to disclosure of interests; or
 - (d) the responsible Commonwealth Minister is satisfied that the performance of the member has been unsatisfactory for a significant period.
- (3) The responsible Commonwealth Minister must consult all State Petroleum Ministers and the Northern Territory Petroleum Minister before terminating the appointment of a Board member.

373 Other terms and conditions of Board members

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

374 Acting Board members

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

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

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

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

375 Appointment of the CEO

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

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

376 Duties of the CEO

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

377 Working with the Board

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

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

378 Remuneration and allowances of the CEO

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

379 Leave of absence of the CEO

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

380 Resignation of the CEO

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

381 Notification of possible conflict of interest by CEO

Immediately after the CEO:

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

the CEO must notify the responsible Commonwealth Minister, in writing, of that interest.

382 Termination of CEO's appointment

Termination

- (1) The responsible Commonwealth Minister may terminate the appointment of the CEO for misbehaviour or physical or mental incapacity.
- (2) The responsible Commonwealth Minister may terminate the appointment of the CEO if:
 - (a) the CEO:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the CEO is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the CEO engages, except with the responsible Commonwealth Minister's approval, in paid employment outside the duties of his or her office; or
 - (d) the CEO fails, without reasonable excuse, to comply with section 381; or
 - (e) the responsible Commonwealth Minister is satisfied that the performance of the CEO has been unsatisfactory for a significant period.

Conflict of interest

- (3) If the responsible Commonwealth Minister becomes aware, whether because of a notification under section 381 or otherwise, that the CEO has an interest that could conflict with the proper performance of the CEO's duties, the responsible Commonwealth Minister must make a written determination either that the interest does, or that it does not, pose a significant risk of a conflict of interest.
- (4) If the responsible Commonwealth Minister determines that the interest poses a significant risk, the responsible Commonwealth Minister must require the CEO to dispose of that interest within a period specified by the responsible Commonwealth Minister.
- (5) If:
 - (a) the responsible Commonwealth Minister requires the CEO to dispose of an interest; and
 - (b) the CEO refuses or fails to comply with that requirement;the responsible Commonwealth Minister must terminate the appointment of the CEO.

383 Other terms and conditions

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

384 Acting appointments

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

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

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

385 Delegation by CEO

- (1) The CEO may, by writing, delegate any or all of his or her functions or powers (except a power conferred by section 390) to:
 - (a) a member of staff of the Safety Authority; or
 - (b) an employee of the Commonwealth or of a Commonwealth authority; or
 - (c) an employee of a State or of the Northern Territory or of an authority of a State or of the Northern Territory.
- (2) In exercising powers under the delegation, the delegate must comply with any directions of the CEO.

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

386 Staff of the Safety Authority

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

387 Consultants and persons seconded to the Safety Authority

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

- (2) The terms and conditions of engagement of persons engaged under subsection (1) are such as the CEO determines in writing.
- (3) The Safety Authority may also be assisted:
 - (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth; or
 - (b) by officers and employees of, or of authorities of, a State or the Northern Territory;
whose services are made available to the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers.
- (4) An instrument under subsection (3) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Division 5—Corporate plans

388 Corporate plans

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

389 Responsible Commonwealth Minister's response to corporate plan

- (1) On receiving a corporate plan, the responsible Commonwealth Minister must:
 - (a) provide a copy of the plan to each State and Northern Territory Petroleum Minister; and
 - (b) consult those Ministers on the content of the plan.

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

Division 6—OHS inspectors

390 Appointment of OHS inspectors

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

391 Identity cards

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

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

Penalty: 1 penalty unit.

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

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

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

Note: For requirements to produce the card when entering premises, see clauses 50, 51, 52, 56 and 57 of Schedule 3.

Division 7—National Offshore Petroleum Safety Account

392 National Offshore Petroleum Safety Account

- (1) The National Offshore Petroleum Safety Account that was, immediately before the commencement of this subsection, in existence under the *Petroleum (Submerged Lands) Act 1967* is continued in existence under the same name.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

393 Credits to the Account

The following amounts must be credited to the Account:

- (a) amounts equal to amounts paid to the Safety Authority on behalf of the Commonwealth by way of fees paid under regulations made for the purposes of subsection 395(1);
- (b) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of safety investigation levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 396(2);
- (c) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of safety case levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 397(4);
- (d) amounts equal to the following amounts paid to the Safety Authority on behalf of the Commonwealth:
 - (i) amounts paid by way of pipeline safety management plan levy imposed by the Safety Levies Act;
 - (ii) amounts paid by way of late payment penalty under subsection 398(2);

- (e) amounts equal to amounts paid to the Safety Authority, on behalf of the Commonwealth, by a State or the Northern Territory under an agreement referred to in subsection 360(3);
- (f) amounts equal to any other amounts paid to the Safety Authority, on behalf of the Commonwealth, by a State or the Northern Territory;
- (g) amounts equal to any other amounts paid to the Safety Authority on behalf of the Commonwealth.

Note: The Account is a Special Account. An Appropriation Act may contain a provision to the effect that, if any of the purposes of a Special Account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to that Special Account.

394 Purposes of the Account

- (1) The purposes of the Account are as follows:
 - (a) to pay or discharge the costs, expenses and other obligations incurred by the Safety Authority in the performance of its functions or the exercise of its powers;
 - (b) to pay any remuneration or allowances payable to Board members, the CEO and the staff of the Safety Authority;
 - (c) to make any other payments that the Safety Authority is authorised to make by or under any law of a State or of the Northern Territory that confers powers on the Safety Authority or on the staff of the Safety Authority in the area and under circumstances described in section 360.

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

- (2) For the purposes of this section, *staff*, in relation to the Safety Authority, includes a person who is appointed as an OHS inspector under this Part, whether or not that person is engaged under the *Public Service Act 1999* for the purposes of subsection 386(1).

Division 8—Other financial matters

395 Fees for expenses incurred by the Safety Authority

Fees

- (1) The regulations may provide for the payment to the Safety Authority, on behalf of the Commonwealth, of fees in respect of matters in relation to which expenses are incurred by the Safety Authority under this Act or the regulations, including, but not limited to, fees in respect of, or for applications for:
 - (a) the registration of a person under regulations made for the purposes of subclause 5(1) of Schedule 3; or
 - (b) the issue, variation or transfer of licences granted under regulations made for the purposes of paragraph 17(3)(g) of Schedule 3.
- (2) Subsection (1) does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

Recovery of fees

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

396 Safety investigation levy

When safety investigation levy becomes due and payable

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

Late payment penalty

- (2) If safety investigation levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (3) The late payment penalty is calculated at the rate of 0.333333% per day on the amount of the safety investigation levy remaining unpaid.
- (4) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of safety investigation levy and late payment penalty

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

397 Safety case levy

Remittal

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

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- (b) the facility in fact only operates for a part of that part of the year.

When safety case levy becomes due and payable

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

Late payment penalty

- (4) If safety case levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (5) The late payment penalty is calculated at the rate of 0.333333% per day on the amount of the safety case levy remaining unpaid.
- (6) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of safety case levy and late payment penalty

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

Definitions

- (8) In this section:

facility:

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

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

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

398 Pipeline safety management plan levy

When pipeline safety management plan levy becomes due and payable

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

Late payment penalty

- (2) If pipeline safety management plan levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
- (3) The late payment penalty is calculated at the rate of 0.333333% per day on the amount of the pipeline safety management plan levy remaining unpaid.
- (4) The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of pipeline safety management plan levy and late payment penalty

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

399 Liability to taxation

- (1) The Safety Authority is not subject to taxation under the laws of the Commonwealth or of a State or Territory.
- (2) However, the regulations may provide that subsection (1) does not apply in relation to a specified law of the Commonwealth or of a State or Territory.

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

Division 9—Miscellaneous

400 Annual reports

Safety Authority

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

Note: See also section 34C of the *Acts Interpretation Act 1901*.

- (2) A report under subsection (1) must include such other matters as are prescribed in the regulations.

Board

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

Note: See also section 34C of the *Acts Interpretation Act 1901*.

Tabling of reports

- (4) The responsible Commonwealth Minister must cause a copy of each report under this section to be tabled in each House of the Parliament within 15 sitting days of that House after receiving the report.

401 Ministers may require the Safety Authority to prepare reports or give information

Reports

- (1) The responsible Commonwealth Minister or a State or Northern Territory Petroleum Minister may, by written notice given to the Safety Authority, require the Safety Authority:
- (a) to prepare a report about one or more specified matters relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the report to:
 - (i) the responsible Commonwealth Minister; and
 - (ii) each State Petroleum Minister; and
 - (iii) the Northern Territory Petroleum Minister;within the period specified in the notice.

Information

- (2) The responsible Commonwealth Minister or a State or Northern Territory Petroleum Minister may, by written notice given to the Safety Authority, require the Safety Authority to:
- (a) prepare a document setting out specified information relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the document to:
 - (i) the responsible Commonwealth Minister; and
 - (ii) each State Petroleum Minister; and
 - (iii) the Northern Territory Petroleum Minister;within the period specified in the notice.

Compliance with requirement

- (3) The Safety Authority must comply with a requirement under subsection (1) or (2).

Reports and documents

- (4) A report under subsection (1) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (5) A document under subsection (2) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

402 Responsible Commonwealth Minister may give directions to the Safety Authority

Minister may give directions

- (1) The responsible Commonwealth Minister may give written directions to the Safety Authority as to the performance of its functions or the exercise of its powers.

Note: For agreement and consultation requirements, see subsections (7) and (11).

- (2) Directions given by the responsible Commonwealth Minister must not relate to regulated operations at a particular facility.
- (3) Subsection (2) does not prevent the responsible Commonwealth Minister from directing the Safety Authority to investigate a particular occurrence in relation to a facility located in Safety Authority waters.

State/Northern Territory Petroleum Minister may request the responsible Commonwealth Minister to give a direction

- (4) A State Petroleum Minister or the Northern Territory Petroleum Minister may request the responsible Commonwealth Minister to give a direction to the Safety Authority that relates wholly or principally to the Safety Authority's operations in the designated coastal waters of the relevant State or the Northern Territory, as the case may be.

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- (5) The responsible Commonwealth Minister must use his or her best endeavours to make a decision on the request within 30 days after receiving the request.
- (6) If the responsible Commonwealth Minister refuses the request, the responsible Commonwealth Minister must give the Minister who made the request a written statement setting out the reasons for the refusal.

Agreement of State/Northern Territory Petroleum Ministers

- (7) The responsible Commonwealth Minister must not give a direction that relates wholly or principally to the Safety Authority's operations in the designated coastal waters of one or more of the States and the Northern Territory unless the responsible Commonwealth Minister has obtained the agreement of each State or Northern Territory Petroleum Minister concerned (the *affected Minister or Ministers*).

Urgency

- (8) If the responsible Commonwealth Minister is satisfied that the circumstances of a case are sufficiently urgent to warrant it, the responsible Commonwealth Minister may, despite subsection (7), give a direction to the Safety Authority without obtaining the agreement of the affected Minister or Ministers.
- (9) If the responsible Commonwealth Minister gives a direction as mentioned in subsection (8), the direction expires at the end of the 30-day period beginning on the day on which the direction was given unless, before the end of that period, the responsible Commonwealth Minister has obtained the agreement of the affected Minister or Ministers.
- (10) If a direction expires because of subsection (9), this Act does not prevent the responsible Commonwealth Minister from giving a subsequent direction in the same or similar terms as the expired direction.

Consultation with State/Northern Territory Petroleum Ministers

- (11) Before giving a direction that is not covered by subsection (7), the responsible Commonwealth Minister must consult each State and Northern Territory Petroleum Minister.

Compliance with directions

- (12) The Safety Authority must comply with any direction given by the responsible Commonwealth Minister under this section.

Other provisions do not limit this section

- (13) Sections 357 and 401 do not limit the scope of the directions that may be given by the responsible Commonwealth Minister under this section.

Directions

- (14) A direction under this section is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

403 Prosecutions by the Director of Public Prosecutions under mirror provisions

The Commonwealth Director of Public Prosecutions has the functions and powers (including the power to institute and carry on appeals arising out of prosecutions of offences) conferred on him or her by or under an Act or regulation of a State or of the Northern Territory in relation to offences under laws that substantially correspond to listed OHS laws.

404 Australian Industrial Relations Commission may exercise powers under mirror provisions

- (1) If the laws of a State or of the Northern Territory confer appropriate powers and functions on the Australian Industrial Relations Commission to do so, the Australian Industrial Relations Commission may deal with appeals against decisions of an OHS inspector under laws or regulations of that State or Territory that substantially correspond to listed OHS laws in respect of which a

similar decision can be the subject of an appeal under clause 81 of Schedule 3.

- (2) If the laws of a State or of the Northern Territory confer appropriate powers and functions on the Australian Industrial Relations Commission to do so, the Australian Industrial Relations Commission may deal with the resolution of matters under a law of that State or Territory that substantially corresponds to clause 23 of Schedule 3.

405 Reviews of operations of Safety Authority

- (1) The responsible Commonwealth Minister must cause to be conducted reviews of the operations of the Safety Authority in relation to Safety Authority waters.
- (2) The responsible Commonwealth Minister must cause to be prepared a report of a review under subsection (1).
- (3) The first review is to relate to the 3-year period beginning on 1 January 2005, and is to be completed within 6 months, or such longer period as the responsible Commonwealth Minister allows, after the end of that 3-year period.
- (4) Subsequent reviews are to relate to successive 3-year periods, and must be completed within 6 months, or such longer period as the responsible Commonwealth Minister allows, after the end of the 3-year period to which the review relates.
- (5) For the purposes of this section, a review is *completed* when the report of the review is made available to the responsible Commonwealth Minister.
- (6) A State or Northern Territory Petroleum Minister may give the responsible Commonwealth Minister a written request that a particular review under subsection (1) be conducted in conjunction with another review that:
 - (a) is a review of the operations of the Safety Authority in the designated coastal waters of the State or of the Northern Territory, as the case may be; and

(b) is being, or is to be, conducted by the State or Northern Territory Petroleum Minister at the same time.

The responsible Commonwealth Minister must ensure that the request is complied with.

- (7) Without limiting the matters to be covered by a review under subsection (1), the review must include an assessment of the effectiveness of the Safety Authority in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
- (8) The responsible Commonwealth Minister must cause a copy of the report of a review under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of that House after the report of the review is made available to the responsible Commonwealth Minister.

Chapter 5—Information

Part 5.1—Data management and gathering of information

Division 1—Introduction

406 Simplified outline

The following is a simplified outline of this Part:

- The Designated Authority may direct a titleholder to keep records.
- The regulations may make provision for data management.
- The Designated Authority or a project inspector may obtain information or documents.

Division 2—Data management

407 Direction to keep records

Scope

- (1) This section applies if a person is carrying on operations in an offshore area under:
 - (a) an exploration permit; or
 - (b) a retention lease; or
 - (c) a production licence; or
 - (d) an infrastructure licence; or
 - (e) a pipeline licence; or
 - (f) a special prospecting authority; or
 - (g) an access authority; or
 - (h) a scientific investigation consent.

Direction by Designated Authority

- (2) The Designated Authority may, by written notice given to the person, direct the person to do any or all of the following things:
 - (a) to keep such accounts, records and other documents in connection with those operations as are specified in the notice;
 - (b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified in the notice;
 - (c) to give to:
 - (i) the Designated Authority; or
 - (ii) a person specified in the notice;in the manner specified in the notice, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are specified in the notice.

Offence

- (3) A person commits an offence if:

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- (a) the person is subject to a direction under subsection (2); and
- (b) the person omits to do an act; and
- (c) the omission breaches the direction.

Penalty: 100 penalty units.

Direction by responsible Commonwealth Minister

- (4) The responsible Commonwealth Minister may give the Designated Authority directions about the exercise of the Designated Authority's powers under subsection (2).
- (5) A direction under subsection (4) may:
 - (a) relate to a particular case; or
 - (b) be of general application.

Directions

- (6) A direction under subsection (2) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (7) If a direction under subsection (4) is of general application, the direction is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (8) If a direction under subsection (4) relates to a particular case, the direction is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

408 Regulations about data management

- (1) The regulations may make provision for and in relation to:
 - (a) the keeping of accounts, records and other documents in connection with operations in an offshore area under:
 - (i) an exploration permit; or
 - (ii) a retention lease; or
 - (iii) a production licence; or
 - (iv) an infrastructure licence; or
 - (v) a pipeline licence; or
 - (vi) a special prospecting authority; or

- (vii) an access authority; or
- (viii) a scientific investigation consent; and
- (b) the collection and retention of cores, cuttings and samples in connection with those operations; and
- (c) the giving to the Designated Authority, or a specified person, of reports, returns, other documents, cores, cuttings and samples in connection with those operations.

Data management plans

- (2) In particular, the regulations may establish a scheme that:
 - (a) applies in relation to operations in an offshore area under:
 - (i) an exploration permit; or
 - (ii) a retention lease; or
 - (iii) a production licence; or
 - (iv) an infrastructure licence; or
 - (v) a pipeline licence; or
 - (vi) a special prospecting authority; or
 - (vii) an access authority; or
 - (viii) a scientific investigation consent; held by a person (the *holder*); and
 - (b) requires the holder to prepare and submit a plan (a *data management plan*) that deals with any or all of the following:
 - (i) the keeping of accounts, records and other documents in connection with those operations;
 - (ii) the collection and retention of cores, cuttings and samples in connection with those operations;
 - (iii) the giving to the Designated Authority, or to a person specified in the data management plan, of reports, returns, other documents, cores, cuttings and samples in connection with those operations; and
 - (c) empowers the Designated Authority to make decisions about the approval of:
 - (i) a data management plan; and
 - (ii) variations of a data management plan; and

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Part 5.1 Data management and gathering of information

Division 2 Data management

Section 408

- (d) requires the holder to comply with an approved data management plan submitted by the holder.
- (3) A scheme referred to in subsection (2) may provide that the holder must not commence the relevant operations unless:
 - (a) an approved data management plan is in force; or
 - (b) the Designated Authority gives consent to the commencement of those operations.
- (4) Subsections (2) and (3) do not limit subsection (1).

Directions are in addition to regulations

- (5) A requirement under section 407 is in addition to a requirement under regulations made for the purposes of this section.

Division 3—Information-gathering powers

409 Designated Authority or project inspector may obtain information and documents

Scope

- (1) This section applies to a person if:
 - (a) the Designated Authority in relation to an offshore area; or
 - (b) a project inspector in relation to an offshore area;believes on reasonable grounds that the person has information or a document, or is capable of giving evidence, that relates to any or all of the following operations in the offshore area:
 - (c) petroleum exploration operations;
 - (d) petroleum recovery operations;
 - (e) operations relating to the processing or storage of petroleum;
 - (f) operations relating to the preparation of petroleum for transport;
 - (g) operations connected with the construction or operation of a pipeline.

Requirement

- (2) The Designated Authority or the project inspector may, by written notice given to the person, require the person:
 - (a) to give to the Designated Authority or the project inspector, within the period and in the manner specified in the notice, any such information; or
 - (b) to produce to the Designated Authority or the project inspector, within the period and in the manner specified in the notice, any such documents; or
 - (c) to make copies of any such documents and to produce to the Designated Authority or the project inspector, within the period and in the manner specified in the notice, those copies; or

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- (d) if the person is an individual—to appear before the Designated Authority or the project inspector at a time and place specified in the notice to:
 - (i) give any such evidence, either orally or in writing; and
 - (ii) produce any such documents; or
 - (e) if the person is a body corporate—to cause a competent officer of the body to appear before the Designated Authority or the project inspector at a time and place specified in the notice to:
 - (i) give any such evidence, either orally or in writing; and
 - (ii) produce any such documents.
- (3) A period specified under paragraph (2)(a), (b) or (c) must not be shorter than 14 days after the notice is given.
- (4) A time specified under paragraph (2)(d) or (e) must not be earlier than 14 days after the notice is given.

Offence

- (5) A person commits an offence if:
- (a) the person has been given a notice under subsection (2); and
 - (b) the person omits to do an act; and
 - (c) the omission contravenes a requirement in the notice.

Penalty: 100 penalty units.

Notice to set out the effect of offence provisions

- (6) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (5);
 - (b) section 415;
 - (c) section 416;
 - (d) section 417.

Note 1: Section 415 is about giving false or misleading information.

Note 2: Section 416 is about producing false or misleading documents.

Note 3: Section 417 is about giving false or misleading evidence.

410 Copying documents—reasonable compensation

A person is entitled to be paid reasonable compensation for complying with a requirement covered by paragraph 409(2)(c).

411 Power to examine on oath or affirmation

The Designated Authority or a project inspector may:

- (a) administer an oath or affirmation to a person required to appear before the Designated Authority or the project inspector under section 409; and
- (b) examine that person on oath or affirmation.

412 Self-incrimination

- (1) A person is not excused from giving information or evidence or producing a document under section 409 on the ground that the information or evidence or the production of the document might tend to incriminate the person or expose the person to a penalty.
- (2) However:
 - (a) the information or evidence given or the document produced; or
 - (b) giving the information or evidence or producing the document; or
 - (c) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document;is not admissible in evidence against the person:
 - (d) in any civil proceedings; or
 - (e) in criminal proceedings other than:
 - (i) proceedings for an offence against subsection 409(5) or section 415, 416 or 417; or
 - (ii) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

413 Copies of documents

The Designated Authority or a project inspector may inspect a document produced under this Division and may make and retain copies of, or take and retain extracts from, such a document.

414 Designated Authority or project inspector may retain documents

- (1) The Designated Authority or a project inspector may take possession of a document produced under this Division, and retain it for as long as is reasonably necessary.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Designated Authority or a project inspector to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Designated Authority or a project inspector must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

415 False or misleading information

A person commits an offence if:

- (a) the Designated Authority or a project inspector requires the person to give information under subsection 409(2); and
- (b) the person gives information; and
- (c) the person does so knowing that the information is false or misleading in a material particular.

Penalty: 100 penalty units.

Note: The same conduct may be an offence against both this section and section 137.1 of the *Criminal Code*.

416 False or misleading documents

A person commits an offence if:

- (a) the person has been given a notice under subsection 409(2);
and
- (b) the person produces a document to the Designated Authority
or a project inspector; and
- (c) the person does so knowing that the document is false or
misleading in a material particular; and
- (d) the document is produced in compliance or purported
compliance with the notice.

Penalty: 100 penalty units.

Note: The same conduct may be an offence against both this section and
section 137.2 of the *Criminal Code*.

417 False or misleading evidence

A person commits an offence if:

- (a) the person gives evidence to another person; and
- (b) the person does so knowing that the evidence is false or
misleading in a material particular; and
- (c) the evidence is given under section 409.

Penalty: Imprisonment for 12 months.

Part 5.2—Release of regulatory information

418 Notifiable events—*Gazette* notice

If an event specified in the table happens, the Designated Authority must cause notice of:

- (a) the event; and
- (b) such details of the event as the Designated Authority thinks fit;

to be published in the *Gazette*.

Notifiable events	
Item	Event
1	The grant (otherwise than by way of renewal) of an exploration permit, retention lease or production licence.
2	The renewal of an exploration permit, retention lease or production licence.
3	The grant of an infrastructure licence or pipeline licence.
4	The variation of a production licence, infrastructure licence or pipeline licence.
5	The surrender or cancellation of an exploration permit or production licence as to some or all of the blocks in the permit area or licence area.
6	The surrender or cancellation of a retention lease.
7	The surrender or cancellation of an infrastructure licence.
8	The revocation of an exploration permit or retention lease as to a block or blocks.
9	The making of an application for a pipeline licence.
10	The making of an application for a variation of a pipeline licence.
11	The surrender or cancellation of a pipeline licence as to the whole or part of the pipeline.
12	The expiry of an exploration permit, retention lease or fixed-term production licence.

Notifiable events	
Item	Event
13	The termination of a production licence, infrastructure licence or pipeline licence.

419 Designated Authority to make documents available to responsible Commonwealth Minister

Scope

- (1) This section applies to a document received or issued by the Designated Authority in connection with this Act.

Document to be made available to the responsible Commonwealth Minister

- (2) The responsible Commonwealth Minister may require the Designated Authority to make copies of the document available to the responsible Commonwealth Minister.
- (3) The Designated Authority must comply with a requirement under subsection (2).

Part 5.3—Release of technical information

Division 1—Introduction

420 Simplified outline

The following is a simplified outline of this Part:

- This Part deals with the confidentiality and release of:
 - (a) information (*documentary information*) contained in certain documents given to the Designated Authority; and
 - (b) petroleum mining samples given to the Designated Authority.

421 Definitions

In this Part, unless the contrary intention appears:

applicable document means:

- (a) an application made on or after 7 March 2000 to the Designated Authority under:
 - (i) this Act; or
 - (ii) the repealed *Petroleum (Submerged Lands) Act 1967*; or
- (b) a document accompanying such an application; or
- (c) a report, return or other document that relates to a block and that was given on or after 7 March 2000 to the Designated Authority under:
 - (i) this Act; or
 - (ii) regulations made for the purposes of section 408 of this Act; or
 - (iii) the repealed *Petroleum (Submerged Lands) Act 1967*; or
 - (iv) regulations made for the purposes of section 122A of the repealed *Petroleum (Submerged Lands) Act 1967*.

documentary information means information contained in an applicable document.

petroleum mining sample means:

- (a) a core or cutting from, or a sample of, the seabed or subsoil;
or
 - (b) a sample of petroleum recovered; or
 - (c) a sample of fluid recovered (other than fluid petroleum);
- that has been given at any time, whether before or after the commencement of this Part, to the Designated Authority, and includes a portion of such a core, cutting or sample.

Division 2—Protection of confidentiality of information and samples

Subdivision A—Information and samples obtained by the Designated Authority

422 Protection of confidentiality of documentary information obtained by the Designated Authority

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

423 Protection of confidentiality of petroleum mining samples obtained by the Designated Authority

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

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

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

- (1) The Designated Authority may make documentary information or a petroleum mining sample available to:
- (a) a Minister; or
 - (b) a Minister of a State; or
 - (c) a Minister of the Northern Territory.
- (2) The responsible Commonwealth Minister may require the Designated Authority to make documentary information or a petroleum mining sample available to the responsible Commonwealth Minister.
- (3) The Designated Authority must comply with a requirement under subsection (2).

Note 1: For protection of the confidentiality of information obtained by a Minister under this section, see section 425.

Note 2: For protection of the confidentiality of a sample obtained by a Minister under this section, see section 426.

Subdivision B—Information and samples obtained by a Minister

425 Protection of confidentiality of information obtained by a Minister

- (1) This section restricts what a Minister may do with documentary information made available to the responsible Commonwealth Minister under section 424.
- (2) The responsible Commonwealth Minister must not:
- (a) make the information publicly known; or

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- (b) make the information available to a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory);
- unless the responsible Commonwealth Minister does so:
- (c) in accordance with regulations made for the purposes of this paragraph; or
 - (d) for the purposes of the administration of this Act or the regulations.

426 Protection of confidentiality of petroleum mining samples obtained by a Minister

- (1) This section restricts what a Minister may do with a petroleum mining sample made available to the responsible Commonwealth Minister under section 424.
- (2) The responsible Commonwealth Minister must not:
 - (a) make publicly known any details of the sample; or
 - (b) permit a person (other than a Minister, a Minister of a State or a Minister of the Northern Territory) to inspect the sample;unless the responsible Commonwealth Minister does so:
 - (c) in accordance with regulations made for the purposes of this paragraph; or
 - (d) for the purposes of the administration of this Act or the regulations.

Subdivision C—Miscellaneous

427 Fees

- (1) This section applies to regulations made for the purposes of any of the following:
 - (a) paragraph 422(2)(c);
 - (b) paragraph 423(2)(c);
 - (c) paragraph 425(2)(c);
 - (d) paragraph 426(2)(c).

- (2) The regulations may make provision for fees relating to:
 - (a) making information available to a person; or
 - (b) permitting a person to inspect a sample.

428 Review by Minister

- (1) This section applies to regulations made for the purposes of:
 - (a) paragraph 422(2)(c); or
 - (b) paragraph 423(2)(c).
- (2) The regulations may make provision for the responsible Commonwealth Minister to:
 - (a) review a decision of the Designated Authority under the regulations; and
 - (b) make a decision:
 - (i) confirming the decision reviewed; or
 - (ii) revoking the decision reviewed and substituting another decision for it.

429 Privacy Act

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

Division 3—Copyright

430 Publishing or making copies of applicable documents not an infringement of copyright

The copyright in a literary or artistic work contained in an applicable document is not infringed by anything done:

- (a) by, or with the authority of, the Designated Authority or the responsible Commonwealth Minister; and
- (b) for the purpose of the exercise of any of the powers of the Designated Authority or Minister under this Part.

**Division 4—Release of technical information given to the
Designated Authority before 7 March 2000**

**431 Release of technical information given to the Designated
Authority before 7 March 2000**

Schedule 5 has effect.

Chapter 6—Miscellaneous

Part 6.1—Reconsideration and review of decisions

432 Simplified outline

The following is a simplified outline of this Part:

- The following decisions may be reviewed by the Administrative Appeals Tribunal following a process of internal reconsideration by the responsible Commonwealth Minister:
 - (a) decisions of a delegate of the Joint Authority for the offshore area of an external Territory;
 - (b) decisions of a delegate of the Designated Authority for the offshore area of an external Territory.
- In addition, certain decisions of the responsible Commonwealth Minister relating to the release of technical information may be reviewed by the Administrative Appeals Tribunal.

433 Definitions

In this Part:

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

reviewable delegated decision means a decision that:

- (a) is made under this Act or the regulations; and
- (b) is a decision of a delegate of the responsible Commonwealth Minister; and
- (c) is made in the performance of the functions, or the exercise of the powers, of the Joint Authority, or the Designated

Authority, in relation to the offshore area of an external Territory.

reviewable Ministerial decision means:

- (a) a decision of the responsible Commonwealth Minister that:
 - (i) is made under this Act or the regulations; and
 - (ii) is not a decision of a delegate of the responsible Commonwealth Minister; and
 - (iii) is made in the performance of the functions, or the exercise of the powers, of the Joint Authority, or the Designated Authority, in relation to the offshore area of an external Territory; or
- (b) a decision of the responsible Commonwealth Minister under:
 - (i) regulations made for the purposes of paragraph 422(2)(c) or 423(2)(c), where the decision is of a kind referred to in paragraph 428(2)(b); or
 - (ii) regulations made for the purposes of paragraph 425(2)(c) or 426(2)(c); or
 - (iii) subsection 434(1) or (4); or
 - (iv) clause 6, subclause 7(1), clause 8, or subclause 9(6) or (10), of Schedule 5.

Note 1: Subparagraphs (b)(i) and (ii) relate to the release of technical information.

Note 2: Subparagraph (b)(iii) relates to the reconsideration of reviewable delegated decisions.

Note 3: Subparagraph (b)(iv) relates to the release of technical information given to the Designated Authority before 7 March 2000.

434 Reconsideration of reviewable delegated decision

Request for reconsideration

- (1) A person affected by a reviewable delegated decision who is dissatisfied with the decision may, by written notice given to the responsible Commonwealth Minister, request the responsible Commonwealth Minister to reconsider the decision. The request must be made within:
 - (a) 30 days after the day on which the decision first comes to the notice of the person; or

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- (b) such further period as the responsible Commonwealth Minister (either before or after the end of that period), by written notice given to the person, allows.
- (2) A request under subsection (1) must set out the reasons for making the request.

Acknowledgment of receipt of request

- (3) As soon as practicable after the responsible Commonwealth Minister receives the request, the responsible Commonwealth Minister must, by written notice given to the person who made the request, acknowledge receipt of the request.

Decision on reconsideration

- (4) The responsible Commonwealth Minister must, within 45 days after receiving the request, reconsider the reviewable delegated decision, and may make a decision:
- (a) in substitution for the reviewable delegated decision, whether in the same terms as the reviewable delegated decision or not; or
 - (b) revoking the reviewable delegated decision.

Notification of decision on reconsideration

- (5) If, as a result of a reconsideration under subsection (4), the responsible Commonwealth Minister makes a decision in substitution for or revoking a reviewable delegated decision, the responsible Commonwealth Minister must, by written notice given to the person who made the request under subsection (1) for the reconsideration:
- (a) inform the person of the result of the reconsideration; and
 - (b) give reasons for the decision made as the result of the reconsideration.

Notification of right to have a decision reconsidered etc.

- (6) If a person makes a reviewable delegated decision and gives to a person affected by the decision written notice of the decision, that

notice must include a statement to the effect that a person affected by the decision:

- (a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision by the responsible Commonwealth Minister in accordance with this section; and
 - (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision made on that reconsideration, make application to the Administrative Appeals Tribunal for review of that decision.
- (7) A failure to comply with subsection (6) in relation to a decision does not affect the validity of the decision.

435 Review of reviewable Ministerial decision

Applications may be made to the Administrative Appeals Tribunal for review of a reviewable Ministerial decision.

Note: For notification of decision and review rights, see section 27A of the *Administrative Appeals Tribunal Act 1975*.

Part 6.2—Liability for acts and omissions

436 Liability for acts and omissions

Scope

- (1) This section applies to the following bodies and people:
 - (a) the Joint Authority;
 - (b) a member of the Joint Authority;
 - (c) the Designated Authority;
 - (d) the Safety Authority;
 - (e) the Chief Executive Officer of the Safety Authority;
 - (f) a project inspector appointed under section 318;
 - (g) an OHS inspector appointed under Part 4.8;
 - (h) a person acting under the direction or authority of the Joint Authority or the Designated Authority;
 - (i) a person acting under the direction or authority of the Safety Authority or the Chief Executive Officer of the Safety Authority.
- (2) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been accepted, agreed or otherwise approved by or on behalf of the Joint Authority, the Designated Authority or the Safety Authority.

Extent of liability

- (3) A body or person is not liable to an action, suit or proceeding for, or in relation to, an act or matter in good faith done or omitted to be done in the exercise, or purported exercise, of any power or authority conferred by:
 - (a) this Act; or
 - (b) the regulations; or
 - (c) a direction under this Act.

Rectification of Register

- (4) This section has effect subject to section 287.

Note: Section 287 deals with rectification of the Register.

Judicial review

- (5) This section does not affect:
- (a) any rights conferred on a person by the *Administrative Decisions (Judicial Review) Act 1977* to apply to a court in relation to:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision; or
 - (b) any other rights that a person has to seek a review by a court or tribunal in relation to:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision.
- (6) An expression used in subsection (5) has the same meaning as in section 10 of the *Administrative Decisions (Judicial Review) Act 1977*.

Part 6.3—Jurisdiction of courts

437 Jurisdiction of State courts

- (1) The courts of the States are invested with federal jurisdiction in relation to matters arising under:
 - (a) this Act; and
 - (b) the regulations.
- (2) Subsection (1) does not apply to matters arising under the applied provisions.
- (3) Jurisdiction is invested under subsection (1) within the limits (other than limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

438 Jurisdiction of Territory courts

- (1) Jurisdiction is conferred on the courts of the Territories in relation to matters arising under:
 - (a) this Act; and
 - (b) the regulations.
- (2) Subsection (1) does not apply to matters arising under the applied provisions.
- (3) Jurisdiction is conferred under subsection (1) within the limits (other than limits of locality) of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

Part 6.4—Service of documents

439 Service of documents

(1) The table has effect:

Service of documents		
Item	A document required or permitted by this Act to be given to...	must be given...
1	a person other than: (a) the Designated Authority; or (b) a corporation	(a) by delivering the document to that person personally; or (b) by prepaying and posting the document as a letter addressed to that person at the person's last known place of residence or business or, if that person is carrying on business at 2 or more places, at one of those places; or (c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently at least 16 years of age; or (d) by leaving the document at the last known place of business of that person (or, if that person is carrying on business at 2 or more places, at one of those places) with some person apparently in the employment of that person and apparently at least 16 years of age.

Section 439

Service of documents

Item	A document required or permitted by this Act to be given to...	must be given...
2	the Designated Authority	(a) by prepaying and posting the document as a letter addressed to the Designated Authority at a place of business of the Designated Authority; or (b) by leaving it at a place of business of the Designated Authority with some person apparently employed in connection with the business of the Designated Authority and apparently at least 16 years of age.
3	a corporation	(a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at 2 or more places, at one of those places; or (b) by leaving it at that place, or at one of those places, with some person apparently in the employment of the corporation and apparently at least 16 years of age.

- (2) If a document is given to a person by prepaying and posting the document as a letter in accordance with an item of the table, the document is taken to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.

440 Service of documents on Joint Authority

A document required or permitted by this Act to be given to the Joint Authority is taken to have been given to the Joint Authority if it is given to:

- (a) the Designated Authority; or
- (b) a delegate of the Designated Authority.

441 Service of documents on 2 or more registered holders of a title

Scope

- (1) This section applies if there are 2 or more registered holders of a title.

Nomination of one of the registered holders

- (2) Those registered holders may, by joint written notice given to the Designated Authority, nominate one of them as being the person to whom documents may be given in any case where the documents:
 - (a) relate to the title; and
 - (b) are required or permitted by this Act to be given.
- (3) The joint written notice must be executed in an approved manner by or on behalf of each of the registered holders.

Document may be given to nominated person

- (4) If:
 - (a) a document relating to a title is required or permitted by this Act to be given to the registered holder; and
 - (b) there are 2 or more registered holders of the title; and
 - (c) a nomination of a person under subsection (2) is in force in relation to the title; and
 - (d) the document is given to the nominated person;the document is taken to have been given to each of those registered holders.

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Revocation of nomination

- (5) If:
- (a) a person has been nominated under subsection (2) in relation to a title; and
 - (b) one of the registered holders of the title, by written notice given to the Designated Authority, revokes the nomination;
- the nomination ceases to be in force.

Cessation of nomination—nominee ceases to be a registered holder

- (6) If:
- (a) a person has been nominated under subsection (2) in relation to a title; and
 - (b) the nominated person ceases to be one of the registered holders of the title;
- the nomination ceases to be in force.

Definition

- (7) In this section:

title means:

- (a) an exploration permit; or
- (b) a retention lease; or
- (c) a production licence; or
- (d) an infrastructure licence; or
- (e) a pipeline licence; or
- (f) a special prospecting authority; or
- (g) an access authority.

Part 6.5—Publication in Gazette

442 Publication in *Gazette*

Scope

- (1) This section applies if:
 - (a) an instrument or notice is required by this Act or the regulations to be published in the *Gazette*; and
 - (b) the instrument or notice has effect in relation to an offshore area of a State or Territory.

Publication in Government Gazette of the State or Territory

- (2) The instrument or notice may be published in the Government Gazette of the State or Territory and, in that event, is taken to have been published in the *Gazette*.

Part 6.6—Regulations

443 Regulations

The Governor-General may make regulations prescribing 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.

444 Regulations dealing with specific matters

- (1) The regulations may make provision for securing, regulating, controlling or restricting any or all of the matters set out in the table:

Specific matters	
Item	Matters
1	(a) the exploration for petroleum; and (b) the carrying on of operations, and the execution of works, for that purpose.
2	(a) the recovery of petroleum; and (b) the carrying on of operations, and the execution of works, for that purpose.
3	the conservation of, and the prevention of the waste of, the natural resources (whether petroleum or otherwise) of the continental shelf.
4	(a) the construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations; and (b) the carrying on of operations, and the execution of works, for any of those purposes.
5	the construction, erection, maintenance, operation or use of installations, structures, equipment or facilities.
6	the control of the flow or discharge, and the prevention of the escape, of: (a) petroleum, water or drilling fluid; or (b) a mixture of water or drilling fluid with petroleum or any other matter.

Specific matters

Item Matters

- | | |
|----|---|
| 7 | the clean-up or other remediation of the effects of the escape of petroleum. |
| 8 | the prevention of damage to petroleum-bearing strata in an area (whether in an offshore area or not) over which an exploration permit, retention lease or production licence is not in force. |
| 9 | the keeping separate of:
(a) each petroleum pool discovered in an exploration permit area, a retention lease area or a production licence area; and
(b) each source of water discovered in an exploration permit area, a retention lease area or a production licence area. |
| 10 | the prevention of water or other matter from entering a petroleum pool through wells. |
| 11 | the prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station. |
| 12 | the maintaining in good condition and repair of all structures, equipment and other property in an offshore area used or intended to be used for or in connection with exploring for, or exploiting, petroleum in the offshore area. |
| 13 | the removal from an offshore area of structures, equipment and other items of property that:
(a) have been brought into the offshore area for or in connection with exploring for, or exploiting, petroleum; and
(b) are not used, or intended to be used, in connection with exploring for, or exploiting, petroleum in the offshore area. |
-

(2) Subsection (1) does not limit section 443.

445 Regulations may provide for matters by reference to codes of practice or standards

- (1) The regulations may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) a code of practice or standard contained in an instrument:
- (a) as in force or existing at the time when the regulations take effect; or

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- (b) as in force or existing from time to time;
so long as the code of practice or standard is relevant to that matter.
- (2) To avoid doubt, subsection (1) applies to an instrument, whether issued or made in Australia or outside Australia.

446 Unconditional or conditional prohibition

The regulations may prohibit the doing of an act or thing either:

- (a) unconditionally; or
- (b) subject to conditions (including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person).

**447 Exercise of Australia's rights under international law—
continental shelf**

The regulations may, to the extent to which this Act does not do so, provide for the exercise of Australia's rights under international law in relation to:

- (a) exploring for; and
 - (b) exploiting;
- petroleum as a natural resource of the continental shelf.

**448 Exercise of Australia's rights under international law—
petroleum within territorial limits**

The regulations may, to the extent to which this Act does not do so, provide for the exercise of Australia's rights under international law in relation to:

- (a) exploring for; and
 - (b) exploiting;
- the petroleum which occurs as a natural resource of the seabed and subsoil of the submarine areas within the territorial limits of the Commonwealth and the Territories.

449 Offences

- (1) The regulations may provide for offences against the regulations.

- (2) The penalties for offences against the regulations must not exceed:
- (a) a fine of 100 penalty units; or
 - (b) a fine of 100 penalty units for each day on which the offence occurs.

Part 6.7—Transitional provisions

450 Transitional provisions

Schedule 6 has effect.

Schedule 1—Scheduled areas for the States and Territories

Note: See section 7 (for datum, see sections 22, 30 and 31).

1 Scheduled area for New South Wales

- (1) The *scheduled area* for New South Wales is so much of the pre-treaty area for New South Wales as does not consist of the excised area for New South Wales.

Note 1: For *pre-treaty area*, see subclause (2).

Note 2: For *excised area*, see subclause (3).

Note 3: For interpretation of references in other laws to areas described in this Schedule, see clause 9.

Pre-treaty area

- (2) The *pre-treaty area* for New South Wales is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the geodesic between the trigonometrical station known as Point Danger near Point Danger and a point of Latitude 27° 58' South, Longitude 154° East and runs thence north-easterly along that geodesic to the last-mentioned point:
- (a) thence north-easterly along the geodesic to a point of Latitude 27° 48' South, Longitude 154° 22' East; and
 - (b) thence easterly along the geodesic to a point of Latitude 26° 59' 05'' South, Longitude 165° 40' East; and
 - (c) thence south along the meridian of Longitude 165° 40' East to its intersection by the parallel of Latitude 34° 03' 30'' South; and
 - (d) thence south-westerly along the geodesic to a point of Latitude 34° 16' South, Longitude 165° 16' East; and
 - (e) thence south-westerly along the geodesic to a point of Latitude 37° 21' 30'' South, Longitude 164° 23' East; and
 - (f) thence south-westerly along the geodesic to a point of Latitude 37° 32' South, Longitude 164° 11' East; and
-

Clause 2

- (g) thence south-westerly along the geodesic to a point of Latitude 37° 59' South, Longitude 163° 47' East; and
- (h) thence south-westerly along the geodesic to a point of Latitude 38° 58' South, Longitude 161° 15' 30'' East; and
- (i) thence south-westerly along the geodesic to a point of Latitude 39° 12' South, Longitude 160° East; and
- (j) thence south-westerly along the geodesic to a point of Latitude 40° 40' South, Longitude 158° 53' East; and
- (k) thence north-westerly along the geodesic to a point of Latitude 37° 35' South, Longitude 150° 10' East; and
- (l) thence north-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria; and
- (m) thence generally northerly along the coastline of Australia at mean low water to the point of commencement.

Excised area

- (3) The ***excised area*** for New South Wales is the area the boundary of which commences at a point that is the intersection of the boundary of the pre-treaty area for New South Wales by the line (the ***Article 2 treaty line***) described in Article 2 of the New Zealand boundary treaty and runs:
 - (a) thence along the Article 2 treaty line to the point described in the treaty as Point ANZ 29; and
 - (b) thence south-westerly along the geodesic to the point described in paragraph (2)(i) of this clause; and
 - (c) thence generally north-easterly along the boundary of the pre-treaty area for New South Wales to the point of commencement.

2 Scheduled area for Victoria

The ***scheduled area*** for Victoria is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria and runs thence south-easterly along the geodesic to a point of Latitude 37° 35' South, Longitude 150° 10' East:

-
- (a) thence south-easterly along the geodesic to a point of Latitude 40° 40' South, Longitude 158° 53' East; and
 - (b) thence south-westerly along the geodesic to a point of Latitude 41° 30' South, Longitude 158° 13' East; and
 - (c) thence north-westerly along the geodesic to a point of Latitude 39° 12' South, Longitude 150° East; and
 - (d) thence west along the parallel of Latitude 39° 12' South to its intersection by the meridian of Longitude 142° 30' East; and
 - (e) thence south-westerly along the geodesic to a point of Latitude 39° 50' South, Longitude 142° East; and
 - (f) thence south-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29' East; and
 - (g) thence north-easterly along the geodesic to a point of Latitude 38° 40' 48'' South, Longitude 140° 40' 44'' East; and
 - (h) thence north-easterly along the geodesic to a point of Latitude 38° 35' 30'' South, Longitude 140° 44' 37'' East; and
 - (i) thence north-easterly along the geodesic to a point of Latitude 38° 26' South, Longitude 140° 53' East; and
 - (j) thence north-easterly along the geodesic to a point of Latitude 38° 15' South, Longitude 140° 57' East; and
 - (k) thence north-easterly along the geodesic to a point that is the intersection of the parallel of Latitude 38° 10' South by the meridian passing through the intersection of the coastline at mean low water by the boundary between the States of South Australia and Victoria; and
 - (l) thence north along that meridian to its intersection by the coastline at mean low water; and
 - (m) thence along the coastline of the State of Victoria at mean low water to the point of commencement.

3 Scheduled area for Queensland

The *scheduled area* for Queensland is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland and runs:

Clause 3

- (a) thence north-easterly along the geodesic to the point of Latitude 15° 55' South, Longitude 138° 30' East; and
- (b) thence north along the meridian of Longitude 138° 30' East to its intersection by the parallel of Latitude 14° 30' South; and
- (c) thence east along that parallel to its intersection by the meridian of Longitude 139° 15' East; and
- (d) thence north along that meridian to its intersection by the parallel of Latitude 11° South; and
- (e) thence north-westerly along the geodesic to the point of Latitude 10° 51' South, Longitude 139° 12' 30'' East; and
- (f) thence north-westerly along the geodesic to the point of Latitude 10° 50' South, Longitude 139° 12' East; and
- (g) thence south-easterly along the geodesic to the point of Latitude 11° 09' South, Longitude 139° 23' East; and
- (h) thence north-easterly along the geodesic to the point of Latitude 10° 59' South, Longitude 140° 00' East; and
- (i) thence north-easterly along the geodesic to the point of Latitude 9° 46' South, Longitude 142° 00' East; and
- (j) thence north-easterly along the geodesic to the point of Latitude 9° 45' 24'' South, Longitude 142° 03' 30'' East; and
- (k) thence north-easterly along the geodesic to the point of Latitude 9° 42' South, Longitude 142° 23' East; and
- (l) thence north-easterly along the geodesic to the point of Latitude 9° 40' 30'' South, Longitude 142° 51' East; and
- (m) thence north-easterly along the geodesic to the point of Latitude 9° 40' South, Longitude 143° 00' East; and
- (n) thence north-easterly along the geodesic to the point of Latitude 9° 33' South, Longitude 143° 05' East; and
- (o) thence east along the parallel of Latitude 9° 33' South, to its intersection by the meridian of Longitude 143° 20' East; and
- (p) thence north-easterly along the geodesic to the point of Latitude 9° 24' South, Longitude 143° 30' East; and
- (q) thence north-easterly along the geodesic to the point of Latitude 9° 22' South, Longitude 143° 48' East; and

- (r) thence south-easterly along the geodesic to the point of Latitude 9° 30' South, Longitude 144° 15' East; and
- (s) thence south-easterly along the geodesic to the point of Latitude 9° 51' South, Longitude 144° 44' East; and
- (t) thence south-easterly along the geodesic to the point of Latitude 12° 20' South, Longitude 146° 30' East; and
- (u) thence south-easterly along the geodesic to the point of Latitude 12° 38' 30'' South, Longitude 147° 08' 30'' East; and
- (v) thence south-easterly along the geodesic to the point of Latitude 12° 56' 23'' South, Longitude 147° 40' East; and
- (w) thence south along the meridian of Longitude 147° 40' East to its intersection by the parallel of Latitude 14° South; and
- (x) thence west along that parallel to its intersection by the meridian of Longitude 146° 55' East; and
- (y) thence south along that meridian to its intersection by the parallel of Latitude 17° 05' South; and
- (z) thence east along that parallel to its intersection by the meridian of Longitude 147° 45' East; and
- (za) thence south along that meridian to its intersection by the parallel of Latitude 18° 30' South; and
- (zb) thence east along that parallel to its intersection by the meridian of Longitude 150° 50' East; and
- (zc) thence south along that meridian to its intersection by the parallel of Latitude 20° South; and
- (zd) thence east along that parallel to its intersection by the meridian of Longitude 151° 30' East; and
- (ze) thence south along that meridian to its intersection by the parallel of Latitude 20° 25' South; and
- (zf) thence east along that parallel to its intersection by the meridian of Longitude 153° 05' East; and
- (zg) thence south along that meridian to its intersection by the parallel of Latitude 22° 50' South; and
- (zh) thence east along that parallel to its intersection by the meridian of Longitude 153° 40' East; and
- (zi) thence south along that meridian to its intersection by the parallel of Latitude 23° 15' South; and

Clause 4

- (zj) thence east along that parallel to its intersection by the meridian of Longitude 154° East; and
- (zk) thence south along that meridian to its intersection by the parallel of Latitude 23° 50' South; and
- (zl) thence east along that parallel to its intersection by the meridian of Longitude 155° 15' East; and
- (zm) thence south along that meridian to its intersection by the parallel of Latitude 25° South; and
- (zn) thence east along that parallel to its intersection by the meridian of Longitude 158° 32' 47'' East; and
- (zo) thence south-easterly along the geodesic to the point of Latitude 25° 08' 54'' South, Longitude 158° 36' 36'' East; and
- (zp) thence south-easterly along the geodesic to the point of Latitude 26° 26' 36'' South, Longitude 163° 43' 27'' East; and
- (zq) thence north-easterly along the geodesic to the point of Latitude 26° 13' 33'' South, Longitude 165° 40' East; and
- (zr) thence south along the meridian of Longitude 165° 40' East, to its intersection by the parallel of Latitude 26° 59' 05'' South; and
- (zs) thence south-westerly along the geodesic to the point of Latitude 27° 48' South, Longitude 154° 22' East; and
- (zt) thence south-westerly along the geodesic to the point of Latitude 27° 58' South, Longitude 154° East; and
- (zu) thence south-westerly along the geodesic between the last-mentioned point and the trigonometrical station known as Point Danger near Point Danger to its intersection by the coastline at mean low water; and
- (zv) thence along the coastline of the State of Queensland at mean low water to the point of commencement.

4 Scheduled area for South Australia

The *scheduled area* for South Australia is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of South Australia and Victoria and runs thence south along the meridian

through that point to its intersection by the parallel of Latitude 38° 10' South:

- (a) thence south-westerly along the geodesic to a point of Latitude 38° 15' South, Longitude 140° 57' East; and
- (b) thence south-westerly along the geodesic to a point of Latitude 38° 26' South, Longitude 140° 53' East; and
- (c) thence south-westerly along the geodesic to a point of Latitude 38° 35' 30'' South, Longitude 140° 44' 37'' East; and
- (d) thence south-westerly along the geodesic to a point of Latitude 38° 40' 48'' South, Longitude 140° 40' 44'' East; and
- (e) thence south-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29' East; and
- (f) thence west along the parallel of Latitude 44° South to its intersection by the meridian of Longitude 129° East; and
- (g) thence north along that meridian to its intersection by the parallel of Latitude 31° 45' South; and
- (h) thence northerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the States of South Australia and Western Australia; and
- (i) thence along the coastline of the State of South Australia at mean low water to the point of commencement.

5 Scheduled area for Western Australia

The *scheduled area* for Western Australia is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of South Australia and Western Australia and runs thence southerly along the geodesic to a point of Latitude 31° 45' South, Longitude 129° East:

- (a) thence south along the meridian of Longitude 129° East to its intersection by the parallel of Latitude 44° South; and
- (b) thence west along that parallel to its intersection by the meridian of Longitude 104° East; and
- (c) thence north along that meridian to its intersection by the parallel of Latitude 14° South; and

Clause 5

- (d) thence east along that parallel to its intersection by the meridian of Longitude $111^{\circ} 45'$ East; and
- (e) thence north along that meridian to its intersection by the parallel of Latitude $12^{\circ} 40'$ South; and
- (f) thence east along that parallel to its intersection by the meridian of Longitude $114^{\circ} 40'$ East; and
- (g) thence south along that meridian to its intersection by the parallel of Latitude $13^{\circ} 05' 32''$ South; and
- (h) thence east along that parallel to its intersection by the meridian of Longitude $118^{\circ} 10' 04.3''$ East; and
- (i) thence northerly along the geodesic to a point of Latitude $12^{\circ} 49' 59.8''$ South, Longitude $118^{\circ} 14' 18''$ East; and
- (j) thence northerly along the geodesic to a point of Latitude $12^{\circ} 04' 29.9''$ South, Longitude $118^{\circ} 06' 12.6''$ East; and
- (k) thence northerly along the geodesic to a point of Latitude $12^{\circ} 04' 13.8''$ South, Longitude $118^{\circ} 06' 09.8''$ East; and
- (l) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 04' 24.0''$ South, Longitude $118^{\circ} 07' 39.4''$ East; and
- (m) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 06' 26.0''$ South, Longitude $118^{\circ} 20' 40.4''$ East; and
- (n) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 07' 51''$ South, Longitude $118^{\circ} 25' 02.4''$ East; and
- (o) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 10' 11''$ South, Longitude $118^{\circ} 35' 11.4''$ East; and
- (p) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 10' 31''$ South, Longitude $118^{\circ} 37' 23.4''$ East; and
- (q) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 11' 06''$ South, Longitude $118^{\circ} 38' 55.4''$ East; and
- (r) thence south-easterly along the geodesic to a point of Latitude $12^{\circ} 13' 17''$ South, Longitude $118^{\circ} 43' 04.4''$ East; and

- (s) thence south-easterly along the geodesic to a point of Latitude 12° 16' 02'' South, Longitude 118° 49' 25.4'' East; and
- (t) thence south-easterly along the geodesic to a point of Latitude 12° 17' 59'' South, Longitude 118° 55' 07.4'' East; and
- (u) thence south-easterly along the geodesic to a point of Latitude 12° 18' 55'' South, Longitude 118° 58' 26.4'' East; and
- (v) thence south-easterly along the geodesic to a point of Latitude 12° 20' 00'' South, Longitude 119° 02' 35.4'' East; and
- (w) thence south-easterly along the geodesic to a point of Latitude 12° 20' 26'' South, Longitude 119° 04' 55.4'' East; and
- (x) thence south-easterly along the geodesic to a point of Latitude 12° 21' 56'' South, Longitude 119° 08' 58.4'' East; and
- (y) thence south-easterly along the geodesic to a point of Latitude 12° 23' 47'' South, Longitude 119° 15' 18.4'' East; and
- (z) thence south-easterly along the geodesic to a point of Latitude 12° 24' 03'' South, Longitude 119° 16' 30.4'' East; and
- (za) thence south-easterly along the geodesic to a point of Latitude 12° 25' 04'' South, Longitude 119° 20' 29.4'' East; and
- (zb) thence south-easterly along the geodesic to a point of Latitude 12° 25' 48'' South, Longitude 119° 21' 30.4'' East; and
- (zc) thence south-easterly along the geodesic to a point of Latitude 12° 29' 24'' South, Longitude 119° 27' 12.4'' East; and
- (zd) thence south-easterly along the geodesic to a point of Latitude 12° 32' 36'' South, Longitude 119° 33' 11.4'' East; and

Clause 5

- (ze) thence south-easterly along the geodesic to a point of Latitude 12° 35' 48'' South, Longitude 119° 40' 28.4'' East; and
- (zf) thence south-easterly along the geodesic to a point of Latitude 12° 40' 38'' South, Longitude 119° 50' 23.4'' East; and
- (zg) thence south-easterly along the geodesic to a point of Latitude 12° 41' 41'' South, Longitude 119° 52' 33.4'' East; and
- (zh) thence south-easterly along the geodesic to a point of Latitude 12° 41' 51'' South, Longitude 119° 52' 52.4'' East; and
- (zi) thence south-easterly along the geodesic to a point of Latitude 12° 42' 02'' South, Longitude 119° 53' 13.4'' East; and
- (zj) thence south-easterly along the geodesic to a point of Latitude 12° 43' 51'' South, Longitude 119° 56' 08.4'' East; and
- (zk) thence south-easterly along the geodesic to a point of Latitude 12° 45' 43'' South, Longitude 119° 59' 10.4'' East; and
- (zl) thence south-easterly along the geodesic to a point of Latitude 12° 45' 52'' South, Longitude 119° 59' 26.4'' East; and
- (zm) thence south-easterly along the geodesic to a point of Latitude 12° 46' 32.9'' South, Longitude 120° 00' 42.3'' East; and
- (zn) thence south along the meridian to a point of Latitude 13° 56' 36.7'' South, Longitude 120° 00' 42.3'' East; and
- (zo) thence north-easterly along the geodesic to a point of Latitude 12° 43' 13.3'' South, Longitude 121° 49' 11.3'' East; and
- (zp) thence south-easterly along the geodesic to a point of Latitude 12° 56' South, Longitude 122° 06' East; and
- (zq) thence south-easterly along the geodesic to a point of Latitude 13° 20' South, Longitude 122° 41' East; and
- (zr) thence east along the geodesic to a point of Latitude 13° 19' 30'' South, Longitude 123° 16' 45'' East; and

- (zs) thence east along the parallel of Latitude 13° 19' 30'' South to its intersection by the meridian of Longitude 124° 27' 45'' East; and
- (zt) thence north-easterly along the geodesic to a point of Latitude 13° 13' 15'' South, Longitude 124° 36' 15'' East; and
- (zu) thence north-easterly along the geodesic to a point of Latitude 12° 46' 15'' South, Longitude 124° 55' 30'' East; and
- (zv) thence north-easterly along the geodesic to a point of Latitude 11° 51' South, Longitude 125° 27' 45'' East; and
- (zw) thence north-easterly along the geodesic to a point of Latitude 11° 44' 30'' South, Longitude 125° 31' 30'' East; and
- (zx) thence north-easterly along the geodesic to a point of Latitude 10° 21' 30'' South, Longitude 126° 10' 30'' East; and
- (zy) thence north-easterly along the geodesic to a point of Latitude 10° 13' South, Longitude 126° 26' 30'' East; and
- (zz) thence north-easterly along the geodesic to a point of Latitude 10° 05' South, Longitude 126° 47' 30'' East; and
- (zza) thence south-easterly along the geodesic to a point of Latitude 11° 13' 15'' South, Longitude 127° 32' East; and
- (zzb) thence south-easterly along the geodesic to a point of Latitude 11° 48' South, Longitude 127° 53' 45'' East; and
- (zzc) thence south-easterly along the geodesic to a point of Latitude 12° 26' 30'' South, Longitude 128° 22' East; and
- (zzd) thence south-easterly along the geodesic to a point of Latitude 12° 32' 45'' South, Longitude 128° 24' East; and
- (zze) thence south-easterly along the geodesic to a point of Latitude 12° 55' 30'' South, Longitude 128° 28' East; and
- (zzf) thence south along the meridian of Longitude 128° 28' East to its intersection by the parallel of Latitude 13° 15' 30'' South; and
- (zzg) thence south-easterly along the geodesic to a point of Latitude 13° 39' 45'' South, Longitude 128° 30' 45'' East; and

Clause 6

- (zzh) thence south-easterly along the geodesic to a point of Latitude 13° 49' 45'' South, Longitude 128° 33' 15'' East; and
- (zzi) thence south-easterly along the geodesic to a point of Latitude 14° South, Longitude 128° 42' 15'' East; and
- (zzj) thence south-easterly along the geodesic to a point of Latitude 14° 19' 30'' South, Longitude 128° 53' East; and
- (zzk) thence south-easterly along the geodesic to a point of Latitude 14° 32' 30'' South, Longitude 129° 01' 15'' East; and
- (zzl) thence southerly along the geodesic to a point of Latitude 14° 37' 30'' South, Longitude 129° 01' 45'' East; and
- (zzm) thence southerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia; and
- (zzn) thence along the coastline of the State of Western Australia at mean low water to the point of commencement.

6 Scheduled area for Tasmania

- (1) The *scheduled area* for Tasmania is so much of the pre-treaty area for Tasmania as does not consist of the excised area for Tasmania.

Note 1: For *pre-treaty area*, see subclause (2).

Note 2: For *excised area*, see subclause (3).

Note 3: For interpretation of references in other laws to areas described in this Schedule, see clause 9.

Pre-treaty area

- (2) The *pre-treaty area* for Tasmania is the area the boundary of which commences at a point of Latitude 39° 12' South, Longitude 142° 30' East and runs thence east along the parallel of Latitude 39° 12' South to its intersection by the meridian of Longitude 150° East:
 - (a) thence south-easterly along the geodesic to a point of Latitude 41° 30' South, Longitude 158° 13' East; and
 - (b) thence south-westerly along the geodesic to a point of Latitude 46° South, Longitude 155° 24' East; and

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- (c) thence south-easterly along the geodesic to a point of Latitude 51° 09' South, Longitude 160° 39' East; and
 - (d) thence south-easterly along the geodesic to a point of Latitude 51° 12' South, Longitude 160° 42' East; and
 - (e) thence south-easterly along the geodesic to a point of Latitude 52° 15' South, Longitude 162° 04' East; and
 - (f) thence south-easterly along the geodesic to a point of Latitude 52° 26' South, Longitude 162° 19' East; and
 - (g) thence south-easterly along the geodesic to a point of Latitude 53° 43' South, Longitude 164° 05' East; and
 - (h) thence south-easterly along the geodesic to a point of Latitude 53° 50' South, Longitude 164° 16' East; and
 - (i) thence south-easterly along the geodesic to a point of Latitude 54° 01' South, Longitude 164° 21' East; and
 - (j) thence south-easterly along the geodesic to a point of Latitude 54° 21' South, Longitude 164° 32' East; and
 - (k) thence south-easterly along the geodesic to a point of Latitude 54° 42' South, Longitude 164° 43' East; and
 - (l) thence south along the meridian of Longitude 164° 43' East to its intersection by the parallel of Latitude 54° 43' South; and
 - (m) thence south-easterly along the geodesic to a point of Latitude 58° 30' South, Longitude 170° East; and
 - (n) thence south-westerly along the geodesic to a point of Latitude 62° 30' South, Longitude 160° East; and
 - (o) thence north-westerly along the geodesic to a point of Latitude 44° South, Longitude 136° 29' East; and
 - (p) thence north-easterly along the geodesic to a point of Latitude 39° 50' South, Longitude 142° East; and
 - (q) thence north-easterly along the geodesic to the point of commencement.

Excised area

- (3) The ***excised area*** for Tasmania is the area the boundary of which commences at the point described in paragraph (2)(b) of this clause and runs:

Clause 7

- (a) thence south-easterly along the geodesic to the point described in Article 3 of the New Zealand boundary treaty as Point ANZ 30; and
- (b) thence along the line described in Article 3 of the New Zealand boundary treaty to the point described in the treaty as Point ANZ 54; and
- (c) thence south-easterly along the geodesic to the point described in paragraph (2)(m) of this clause; and
- (d) thence generally north-westerly along the boundary of the pre-treaty area for Tasmania to the point of commencement.

7 Scheduled area for the Northern Territory

The *scheduled area* for the Northern Territory is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia and runs thence northerly along the geodesic to a point of Latitude 14° 37' 30'' South, Longitude 129° 01' 45'' East:

- (a) thence northerly along the geodesic to a point of Latitude 14° 32' 30'' South, Longitude 129° 01' 15'' East; and
- (b) thence north-westerly along the geodesic to a point of Latitude 14° 19' 30'' South, Longitude 128° 53' East; and
- (c) thence north-westerly along the geodesic to a point of Latitude 14° South, Longitude 128° 42' 15'' East; and
- (d) thence north-westerly along the geodesic to a point of Latitude 13° 49' 45'' South, Longitude 128° 33' 15'' East; and
- (e) thence north-westerly along the geodesic to a point of Latitude 13° 39' 45'' South, Longitude 128° 30' 45'' East; and
- (f) thence north-westerly along the geodesic to a point of Latitude 13° 15' 30'' South, Longitude 128° 28' East; and
- (g) thence north along the meridian of Longitude 128° 28' East to its intersection by the parallel of Latitude 12° 55' 30'' South; and
- (h) thence north-westerly along the geodesic to a point of Latitude 12° 32' 45'' South, Longitude 128° 24' East; and

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- (i) thence north-westerly along the geodesic to a point of Latitude 12° 26' 30'' South, Longitude 128° 22' East; and
 - (j) thence north-westerly along the geodesic to a point of Latitude 11° 48' South, Longitude 127° 53' 45'' East; and
 - (k) thence north-westerly along the geodesic to a point of Latitude 11° 13' 15'' South, Longitude 127° 32' East; and
 - (l) thence north-westerly along the geodesic to a point of Latitude 10° 05' South, Longitude 126° 47' 30'' East; and
 - (m) thence north-easterly along the geodesic to a point of Latitude 9° 53' 45'' South, Longitude 127° 18' 30'' East; and
 - (n) thence north-easterly along the geodesic to a point of Latitude 9° 28' South, Longitude 127° 56' East; and
 - (o) thence north-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 128° East; and
 - (p) thence easterly along the rhumb line which is on the parallel of Latitude 9° 25' South to its intersection by the meridian of Longitude 130° 10' East; and
 - (q) thence north-easterly along the rhumb line to a point of Latitude 8° 54' South, Longitude 133° 14' East; and
 - (r) thence north-easterly along the rhumb line to a point of Latitude 8° 53' South, Longitude 133° 23' East; and
 - (s) thence south-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 134° 50' East; and
 - (t) thence north-easterly along the rhumb line to a point of Latitude 9° 22' South, Longitude 135° 03' East; and
 - (u) thence north-easterly along the rhumb line to a point of Latitude 9° 17' South, Longitude 135° 13' East; and
 - (v) thence north-easterly along the rhumb line to a point of Latitude 9° 08' South, Longitude 135° 29' East; and
 - (w) thence south-easterly along the rhumb line to a point of Latitude 9° 57' South, Longitude 137° 45' East; and
 - (x) thence south-easterly along the rhumb line to a point of Latitude 10° 09' South, Longitude 138° 13' East; and
 - (y) thence south-easterly along the rhumb line to a point of Latitude 10° 22' South, Longitude 138° 35' East; and
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Clause 8

- (z) thence south-easterly along the rhumb line to a point of Latitude $10^{\circ} 24'$ South, Longitude $138^{\circ} 38'$ East; and
- (za) thence south-easterly along the rhumb line to a point of Latitude $10^{\circ} 50'$ South, Longitude $139^{\circ} 12'$ East; and
- (zb) thence south-easterly along the geodesic to a point of Latitude $10^{\circ} 51'$ South, Longitude $139^{\circ} 12' 30''$ East; and
- (zc) thence south-easterly along the geodesic to a point of Latitude 11° South, Longitude $139^{\circ} 15'$ East; and
- (zd) thence south along the meridian of Longitude $139^{\circ} 15'$ East to its intersection by the parallel of Latitude $14^{\circ} 30'$ South; and
- (ze) thence west along that parallel to its intersection by the meridian of Longitude $138^{\circ} 30'$ East; and
- (zf) thence south along that meridian to its intersection by the parallel of Latitude $15^{\circ} 55'$ South; and
- (zg) thence south-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland; and
- (zh) thence along the coastline of the Northern Territory of Australia at mean low water to the point of commencement.

8 Scheduled area for the Territory of Ashmore and Cartier Islands

The *scheduled area* for the Territory of Ashmore and Cartier Islands is the area the boundary of which commences at a point of Latitude $12^{\circ} 43' 13.3''$ South, Longitude $121^{\circ} 49' 11.3''$ East and runs thence north-easterly along the geodesic to a point of Latitude $12^{\circ} 14' 30.9''$ South, Longitude $122^{\circ} 31' 02.1''$ East:

- (a) thence northerly along the arc of a circle drawn concave to Ashmore Islands with a radius of twenty-four nautical miles to a point of Latitude $12^{\circ} 06' 49.7''$ South, Longitude $122^{\circ} 32' 19.6''$ East; and
- (b) thence generally northerly, north-easterly, easterly, and south-easterly along a series of intersecting circular arcs drawn concave to Ashmore Islands with a radius of twenty-four nautical miles and having the vertices set out in the table:

Vertices		
Item	South latitude	East longitude
1	12° 03' 17.3''	122° 33' 51.3''
2	12° 02' 10.1''	122° 34' 29.3''
3	12° 00' 46.5''	122° 35' 23.4''
4	11° 55' 51.8''	122° 39' 56''
5	11° 55' 01.4''	122° 40' 59.8''
6	11° 52' 58.5''	122° 44' 12.3''
7	11° 51' 58.4''	122° 46' 16.7''
8	11° 51' 27.5''	122° 47' 34.4''
9	11° 51' 18''	122° 48' 00.6''
10	11° 50' 53.2''	122° 49' 15.4''
11	11° 50' 05.7''	122° 50' 30''
12	11° 48' 37.2''	122° 53' 20.2''
13	11° 47' 36.1''	122° 56' 03.7''
14	11° 47' 12.5''	122° 57' 28''
15	11° 46' 49.3''	122° 59' 18.4''
16	11° 46' 36.9''	123° 00' 45.2''
17	11° 46' 30.8''	123° 05' 23.4''
18	11° 47' 30.7''	123° 10' 58.4''
19	11° 47' 44''	123° 12' 00.7''
20	11° 47' 45.4''	123° 12' 08.2''
21	11° 48' 04.4''	123° 13' 33.6''

- (c) thence south-easterly along the arc of a circle drawn concave to Ashmore Islands with a radius of twenty-four nautical miles to a point of Latitude 11° 48' 11.2'' South, Longitude 123° 14' 00'' East; and
- (d) thence north along the meridian to its intersection by the parallel of Latitude 11° 35' South; and
- (e) thence north-easterly along the rhumb line to a point of Latitude 11° 23' South, Longitude 123° 26' East; and
- (f) thence south-easterly along the rhumb line to a point of Latitude 11° 28' South, Longitude 123° 40' East; and

Clause 8

- (g) thence north-easterly along the rhumb line to a point of Latitude $11^{\circ} 26'$ South, Longitude 124° East; and
- (h) thence north-easterly along the rhumb line to a point of Latitude $11^{\circ} 25'$ South, Longitude $124^{\circ} 10'$ East; and
- (i) thence north-easterly along the rhumb line to a point of Latitude $11^{\circ} 07'$ South, Longitude $124^{\circ} 34'$ East; and
- (j) thence north-easterly along the rhumb line to a point of Latitude $11^{\circ} 01'$ South, Longitude $125^{\circ} 19'$ East; and
- (k) thence north-easterly along the rhumb line to a point of Latitude $10^{\circ} 37'$ South, Longitude $125^{\circ} 41'$ East; and
- (l) thence north-easterly along the rhumb line to a point of Latitude $10^{\circ} 28'$ South, Longitude 126° East; and
- (m) thence north-easterly along the geodesic to a point of Latitude $10^{\circ} 21' 30''$ South, Longitude $126^{\circ} 10' 30''$ East; and
- (n) thence south-westerly along the geodesic to a point of Latitude $11^{\circ} 44' 30''$ South, Longitude $125^{\circ} 31' 30''$ East; and
- (o) thence south-westerly along the geodesic to a point of Latitude $11^{\circ} 51'$ South, Longitude $125^{\circ} 27' 45''$ East; and
- (p) thence south-westerly along the geodesic to a point of Latitude $12^{\circ} 46' 15''$ South, Longitude $124^{\circ} 55' 30''$ East; and
- (q) thence south-westerly along the geodesic to a point of Latitude $13^{\circ} 13' 15''$ South, Longitude $124^{\circ} 36' 15''$ East; and
- (r) thence south-westerly along the geodesic to a point of Latitude $13^{\circ} 19' 30''$ South, Longitude $124^{\circ} 27' 45''$ East; and
- (s) thence west along the parallel of Latitude $13^{\circ} 19' 30''$ South to its intersection by the meridian of Longitude $123^{\circ} 16' 45''$ East; and
- (t) thence westerly along the geodesic to a point of Latitude $13^{\circ} 20'$ South, Longitude $122^{\circ} 41'$ East; and
- (u) thence north-westerly along the geodesic to a point of Latitude $12^{\circ} 56'$ South, Longitude $122^{\circ} 06'$ East; and

- (v) thence north-westerly along the geodesic to the point of commencement.

9 References to this Schedule in other laws

- (1) A reference in a law of the Commonwealth (other than this Act) to:
 - (a) the area described in this Schedule in relation to a State or Territory; and
 - (b) the area described in this Schedule that refers to a State or Territory; and
 - (c) the area described in this Schedule under the heading that refers to a State or Territory; and
 - (d) the area:
 - (i) off the coast of a State or Territory; and
 - (ii) that is described in this Schedule;(whether or not the State or Territory is specified in that law) is a reference to the scheduled area for that State or Territory.
- (2) A reference in a law of the Commonwealth (other than this Act) to the areas described in this Schedule is a reference to the scheduled areas for the States and Territories.
- (3) A reference in a law of the Commonwealth (other than this Act) to an area adjacent to Australia as described in this Schedule is a reference to a scheduled area for a State or Territory.

Schedule 2—Area that includes the area to be avoided

Note: See section 326 (for datum, see section 22).

1 Area that includes the area to be avoided

This Schedule applies to the area the boundary of which commences at the most easterly intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude 38° 15' South and runs thence south-easterly along the geodesic to the point of Latitude 38° 35' South, Longitude 147° 44' East:

- (a) thence south-easterly along the geodesic to the point of Latitude 38° 41' South, Longitude 148° 06' East; and
- (b) thence east along the parallel of Latitude 38° 41' South to its intersection by the meridian of Longitude 148° 13' East; and
- (c) thence north-easterly along the geodesic to the point of Latitude 38° 32' South, Longitude 148° 26' East; and
- (d) thence north-easterly along the geodesic to the point of Latitude 38° 19' South, Longitude 148° 35' East; and
- (e) thence north-westerly along the geodesic to the point of Latitude 38° 08' South, Longitude 148° 31' East; and
- (f) thence north-westerly along the geodesic to the point of Latitude 38° 05' South, Longitude 148° 24' East; and
- (g) thence north-westerly along the geodesic to the intersection of the coastline of the State of Victoria at mean low water by the parallel of Latitude 37° 58' South; and
- (h) thence along the coastline of the State of Victoria at mean low water to the point of commencement.

Schedule 3—Occupational health and safety

Note: See section 347.

Part 1—Introduction

1 Objects

The objects of this Schedule are, in relation to facilities located in Commonwealth waters:

- (a) to secure the health, safety and welfare of persons at or near those facilities; and
- (b) to protect persons at or near those facilities from risks to health and safety arising out of activities being conducted at those facilities; and
- (c) to ensure that expert advice is available on occupational health and safety matters in relation to those facilities; and
- (d) to promote an occupational environment for members of the workforce at such facilities that is adapted to their needs relating to health and safety; and
- (e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at those facilities.

2 Simplified outline

The following is a simplified outline of this Schedule:

- | |
|--|
| <ul style="list-style-type: none">• This Schedule sets up a scheme to regulate occupational health and safety matters at or near facilities located in Commonwealth waters.• Occupational health and safety duties are imposed on the following:<ol style="list-style-type: none">(a) the operator of a facility; |
|--|

Clause 2

- (b) a person in control of a part of a facility, or of any work carried out at a facility;
 - (c) an employer;
 - (d) a manufacturer of plant, or a substance, for use at a facility;
 - (e) a supplier of a facility, or of any plant or substance for use at a facility;
 - (f) a person who erects or installs a facility, or any plant at a facility;
 - (g) a person at a facility.
- A group of members of the workforce at a facility may be established as a designated work group.
 - The members of a designated work group may select a health and safety representative for that designated work group.
 - The health and safety representative may exercise certain powers for the purpose of promoting or ensuring the health and safety of the group members.
 - An OHS inspector may conduct an inspection:
 - (a) to ascertain whether a listed OHS law is being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at or near a facility.
 - The operator of a facility must report accidents and dangerous occurrences to the Safety Authority.

3 Definitions

In this Schedule, unless the contrary intention appears:

accident includes the contraction of a disease.

associated offshore place, in relation to a facility, means any offshore place near the facility where activities (including diving activities) relating to the construction, installation, operation, maintenance or decommissioning of the facility take place, but does not include:

- (a) another facility; or
- (b) a supply vessel, offtake tanker, anchor handler or tugboat; or
- (c) a vessel, or structure, that is declared by the regulations not to be an associated offshore place.

Commonwealth waters has the same meaning as in Part 4.8 of this Act.

contract includes an arrangement or understanding.

contractor has the meaning given by clause 8.

contravention, if the contravention is an offence, includes an offence against:

- (a) section 6 of the *Crimes Act 1914*; or
- (b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;

that relates to the first-mentioned offence.

dangerous occurrence means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition.

data includes:

- (a) information in any form; and
- (b) any program (or part of a program).

data held in a computer includes:

- (a) data held in any removable data storage device for the time being held in a computer; and

Clause 3

- (b) data held in a data storage device on a computer network of which the computer forms a part.

data storage device means a thing containing, or designed to contain, data for use by a computer.

designated work group means:

- (a) a group of members of the workforce at a facility that is established as a designated work group under clause 19 or 20; or
- (b) that group as varied in accordance with clause 21 or 22.

employee, in relation to an employer, means an employee of that employer.

employer means an employer who carries on an activity at a facility.

enter, when used in relation to a vessel, includes board.

facility means a facility as defined by clause 4, and:

- (a) includes a facility (as defined by clause 4) that is being constructed or installed; and
- (b) except in the definition of **associated offshore place**, includes an associated offshore place in relation to a facility (as defined by clause 4).

group member, in relation to a designated work group at a facility, means a person who is:

- (a) a member of the workforce at that facility; and
- (b) included in that designated work group.

improvement notice means an improvement notice issued under subclause 78(1).

inspection means an inspection conducted under Part 4 of this Schedule. For this purpose, an **inspection** may include an investigation or inquiry, but need not include a physical inspection of any facility, premises or other thing.

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

member of the workforce, in relation to a facility, means an individual who does work at the facility:

- (a) whether as an employee of the operator of the facility or of another person; or
- (b) whether as a contractor of the operator or of another person.

offence against a listed OHS law includes an offence against section 6 of the *Crimes Act 1914* that relates to an offence against a listed OHS law.

Note: For other ancillary offences, see section 11.6 of the *Criminal Code*.

offshore petroleum operations has the same meaning as in Part 4.8 of this Act.

OHS inspector means an OHS inspector appointed under section 390.

operator, in relation to a facility or proposed facility, has the meaning given by clause 5.

operator's representative at a facility means a person present at the facility in compliance with the obligations imposed on the operator by clause 6.

own includes own jointly or own in part.

plant includes any machinery, equipment or tool, or any component.

premises includes the following:

- (a) a structure or building;
- (b) a place (whether or not enclosed or built on);
- (c) a part of a thing referred to in paragraph (a) or (b).

prohibition notice means a prohibition notice issued under subclause 77(1).

proposed facility means a facility proposed to be constructed, installed or operated.

recovery, in relation to petroleum, includes all processes directly or indirectly associated with its recovery. This definition does not, by

Clause 3

implication, limit the meaning of the expression **recovery** when used in a provision of this Act other than this Schedule.

registered organisation means an organisation within the meaning of the *Workplace Relations Act 1996*.

regulated business premises means:

- (a) a facility; or
- (b) premises that are:
 - (i) occupied by a person who is the operator of a facility; and
 - (ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations.

regulations means regulations made for the purposes of this Schedule.

reviewing authority means the Australian Industrial Relations Commission.

work means work offshore that is directly or indirectly related to the construction, installation, operation, maintenance or decommissioning of a facility.

workforce representative means:

- (a) in relation to a person who is a member of the workforce at a facility—a registered organisation of which that person is a member, if the person is qualified to be a member of that organisation because of the work the person performs at the facility; or
- (b) in relation to a designated work group or a proposed designated work group—a registered organisation of which a person who is, or who is likely to be, in the work group is a member, if the person is qualified to be a member of that organisation because of the work the person performs, or will perform, at a facility as a member of the group.

work group employer, in relation to a designated work group at a facility, means an employer of one or more group members, but does not include the operator of the facility.

workplace, in relation to a facility, means the whole facility or any part of the facility.

4 Facilities

Vessels or structures that are facilities

- (1) A vessel or structure is taken to be a facility for the purposes of this Schedule while that vessel or structure:
 - (a) is located at a site in Commonwealth waters; and
 - (b) is being used, or prepared for use, at that site:
 - (i) for the recovery of petroleum, for the processing of petroleum, or for the storage and offloading of petroleum, or for any combination of those activities; or
 - (ii) for the provision of accommodation for persons working on another facility, whether connected by a walkway to that other facility or not; or
 - (iii) for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process; or
 - (iv) for laying pipes for petroleum, including any manufacturing of such pipes, or for doing work on an existing pipe; or
 - (v) for the erection, dismantling or decommissioning of a vessel or structure referred to in a previous subparagraph of this paragraph; or
 - (vi) for any other purpose related to offshore petroleum operations that is prescribed for the purposes of this subparagraph.
 - (2) Subclause (1) applies to a vessel or structure:
 - (a) whether it is floating or fixed; and
 - (b) whether or not it is capable of independent navigation.
 - (3) Subclause (1) has effect subject to subclauses (6) and (7).
 - (4) A vessel or structure used for a purpose referred to in subparagraph (1)(b)(i) includes:
-

Clause 4

- (a) any wells and associated plant and equipment by means of which petroleum processed or stored at the vessel or structure is recovered; and
 - (b) any pipe or system of pipes through which petroleum is conveyed from a well to the vessel or structure; and
 - (c) any secondary line associated with the vessel or structure.
- (5) For the purposes of subclause (1), a vessel or structure that is located offshore for the purpose of laying pipes as described in subparagraph (1)(b)(iv) is taken to be located at a site, despite the fact that the vessel or structure moves as the pipe laying process proceeds.

Vessels or structures that are not facilities

- (6) Despite subclause (1), a vessel or structure is taken not to be a facility for the purposes of this Schedule if the vessel or structure is:
- (a) an offtake tanker; or
 - (b) a tug or an anchor handler; or
 - (c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore; or
 - (d) a vessel or structure used for any purpose such that it is declared by the regulations not to be a facility.

Use for a particular purpose

- (7) In determining when a vessel or structure that has the potential to be used for one or more of the purposes referred to in paragraph (1)(b) is in fact being so used, the vessel or structure is taken:
- (a) to commence to be so used only at the time when it arrives at the site where it is to be so used and any activities necessary to make it operational at that site are begun; and
 - (b) to cease to be so used when operations cease, and the vessel or structure has been returned either to a navigable form or to a form in which it can be towed to another place.

Pipelines that are facilities

- (8) Each of the following is taken to be a facility for the purposes of this Schedule:
- (a) a pipeline subject to a pipeline licence;
 - (b) if a pipeline subject to a pipeline licence conveys petroleum recovered from a well without the petroleum having passed through another facility—that pipeline, together with:
 - (i) that well and associated plant and equipment; and
 - (ii) any pipe or system of pipes through which petroleum is conveyed from that well to that pipeline.
- (9) In paragraph (8)(b):
- facility* does not include a pipeline.

5 Operator of a facility or proposed facility

- (1) For the purposes of this Schedule, the *operator*, in relation to a facility or proposed facility, is the person who, under the regulations, is registered by the Safety Authority as the operator of that facility or proposed facility.
- (2) The regulations may authorise the Safety Authority to cancel the registration of a person as the operator of a facility or proposed facility.

6 Operator must ensure presence of operator's representative

- (1) The operator of a facility must ensure that, at all times when one or more individuals are present at a facility, there is also present an individual (the *operator's representative at the facility*) who has day-to-day management and control of operations at the facility.
- (2) The operator of a facility must take all reasonably practicable steps to ensure that the name of the operator's representative at the facility is displayed in a prominent place at the facility.
- (3) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1) or (2); and

Clause 7

- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty: 50 penalty units.

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

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

- (5) Subclause (1) does not imply that, if the operator is an individual, the operator's representative at the facility may not be, from time to time, the operator.

7 Health and safety of persons using an accommodation facility

For the avoidance of doubt, a reference in this Schedule to the occupational health and safety of a person includes a reference to the health and safety of a person using an accommodation facility provided for the accommodation of persons working on another facility.

8 Contractor

For the purposes of this Schedule, if an individual does work at a facility under a contract for services between:

- (a) a person (the *relevant person*); and
- (b) either:
 - (i) the individual; or
 - (ii) the employer of the individual;

the individual is taken to be a *contractor* of the relevant person.

Part 2—Occupational health and safety

Division 1—Duties relating to occupational health and safety

9 Duties of operator

General duties

- (1) The operator of a facility must take all reasonably practicable steps to ensure that:
 - (a) the facility is safe and without risk to the health of any person at or near the facility; and
 - (b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Note: See also clause 16.

Specific duties

- (2) The operator of a facility is taken to be subject, under subclause (1), to each of the following requirements:
 - (a) to take all reasonably practicable steps to provide and maintain a physical environment at the facility that is safe and without risk to health;
 - (b) to take all reasonably practicable steps to provide and maintain adequate facilities for the welfare of all members of the workforce at the facility;
 - (c) to take all reasonably practicable steps to ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health;
 - (d) to take all reasonably practicable steps to implement and maintain systems of work at the facility that are safe and without risk to health;

Clause 9

- (e) to take all reasonably practicable steps to implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility;
 - (f) to take all reasonably practicable steps to provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the health and safety of persons at the facility;
 - (g) to take all reasonably practicable steps to monitor the health and safety of all members of the workforce and keep records of that monitoring;
 - (h) to take all reasonably practicable steps to provide appropriate medical and first aid services at the facility;
 - (i) to take all reasonably practicable steps to develop, in consultation with:
 - (i) members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in those consultations—that workforce representative;a policy, relating to occupational health and safety, that:
 - (iii) will enable the operator and the members of the workforce to cooperate effectively in promoting and developing measures to ensure the occupational health and safety of persons at the facility; and
 - (iv) will provide adequate mechanisms for reviewing the effectiveness of the measures; and
 - (v) provides for the making of an agreement that complies with subclauses (5) and (6).
- (3) Subclause (2) does not limit subclause (1).

Offence

- (4) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty: 1,000 penalty units.

Agreement

- (5) The agreement referred to in subparagraph (2)(i)(v) must be between:
- (a) on the one hand—the operator; and
 - (b) on the other hand:
 - (i) the members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement—that workforce representative.
- (6) The agreement referred to in subparagraph (2)(i)(v) must provide appropriate mechanisms for continuing consultation between:
- (a) on the one hand—the operator; and
 - (b) on the other hand:
 - (i) the members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion—that workforce representative.

The agreement must provide for such other matters (if any) as are agreed between the parties to the agreement.

10 Duties of persons in control of parts of facility or particular work

General duties

- (1) A person who is in control of any part of a facility, or of any particular work carried out at a facility, must take all reasonably practicable steps to ensure that:
- (a) that part of the facility, or the place where that work is carried out, is safe and without risk to health; and
 - (b) if the person is in control of particular work—the work is carried out in a manner that is safe and without risk to health.

Clause 10

Note: See also clause 16.

Specific duties

- (2) A person who is in control of any part of a facility, or of any particular work carried out at a facility, is taken to be subject, under subclause (1), to each of the following requirements:
- (a) to take all reasonably practicable steps to ensure that the physical environment at that part of the facility, or at the place where the work is carried out, is safe and without risk to health;
 - (b) to take all reasonably practicable steps to ensure that any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health;
 - (c) to take all reasonably practicable steps to implement and maintain systems of work at that part of the facility, or in carrying out work at that place, that are safe and without risk to health;
 - (d) to take all reasonably practicable steps to ensure a means of access to, and egress from, that part of the facility or that place that is safe and without risk to health;
 - (e) to take all reasonably practicable steps to provide all members of the workforce located at that part of the facility or engaged on that work, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.
- (3) Subclause (2) does not limit subclause (1).

Offence

- (4) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty for contravention of this subclause: 1,000 penalty units.

11 Duties of employers

General duties in relation to employees

- (1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Note: See also clause 16.

Specific duties in relation to employees

- (2) An employer is taken to be subject, under subclause (1), to each of the following requirements:
- (a) to take all reasonably practicable steps to provide and maintain a working environment that is safe for employees and without risk to their health;
 - (b) to take all reasonably practicable steps to ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health;
 - (c) to take all reasonably practicable steps to implement and maintain systems of work that are safe and without risk to health;
 - (d) to take all reasonably practicable steps to provide a means of access to, and egress from, the employees' work location that is safe and without risk to health;
 - (e) to take all reasonably practicable steps to provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.
- (3) An employer is taken to be subject, under subclause (1), to each of the following requirements:
- (a) to take all reasonably practicable steps to monitor the health and safety of employees;
 - (b) to take all reasonably practicable steps to keep records of that monitoring.
- (4) Subclauses (2) and (3) do not limit subclause (1).

Offence

- (5) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1);
and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 1,000 penalty units.

Duties in relation to contractors

- (6) A person has, in relation to a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in relation to an employee of that employer, but only in relation to:
- (a) matters over which the first-mentioned person has control; or
 - (b) matters over which:
 - (i) the first-mentioned person would have had control apart from express provision to the contrary in a contract; and
 - (ii) the first-mentioned person would, in the circumstances, usually be expected to have had control.

12 Duties of manufacturers in relation to plant and substances

Duties of manufacturer of plant

- (1) A manufacturer of any plant that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps:
- (a) to ensure that the plant is so designed and constructed as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the plant; and
 - (c) to make available, in connection with the use of the plant at a facility, adequate written information about:
 - (i) the use for which it is designed and has been tested; and
 - (ii) details of its design and construction; and

- (iii) any conditions necessary to ensure that, when put to the use for which it was designed and tested, it will be safe and without risk to health.

Note: See also clause 16.

Duties of manufacturer of substance

- (2) A manufacturer of any substance that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps:
 - (a) to ensure that the substance is so manufactured as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the substance; and
 - (c) to make available, in connection with the use of the substance at a facility, adequate written information concerning:
 - (i) the use for which it is manufactured and has been tested; and
 - (ii) details of its composition; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was manufactured and tested, it will be safe and without risk to health; and
 - (iv) the first aid and medical procedures that should be followed if the substance causes injury.

Note: See also clause 16.

Offence

- (3) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1) or (2); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 200 penalty units.

Clause 13

Importer deemed to be manufacturer

- (4) For the purposes of this clause, if:
- (a) plant or a substance is imported into Australia by a person who is not its manufacturer; and
 - (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia;
- the first-mentioned person is taken to be the manufacturer of the plant or substance.

Other laws not affected

- (5) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a Territory that imposes an obligation on a manufacturer in relation to defective goods or in relation to information to be supplied in relation to goods.

13 Duties of suppliers of facilities, plant and substances

Duties of supplier

- (1) A supplier of a facility, or of any plant or substance that the supplier ought reasonably to expect will be used by members of the workforce at a facility, must take all reasonably practicable steps:
- (a) to ensure that, at the time of supply, the facility, or the plant or substance, is in such condition as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health or safety that may arise from the condition of the facility, plant or substance; and
 - (c) to make available:
 - (i) in the case of a facility—to the operator of a facility; and
 - (ii) in the case of plant or substance—to the person to whom the plant or substance is supplied;adequate written information, in connection with the use of the facility, plant or substance, as the case requires, about:

- (iii) the condition of the facility, plant or substance at the time of supply; and
- (iv) any risk to the health and safety of members of the workforce at the facility to which the condition of the facility, plant or substance may give rise unless it is properly used; and
- (v) the steps that need to be taken in order to eliminate such risk; and
- (vi) in the case of a substance—the first aid and medical procedures that should be followed if the condition of the substance causes injury to a member of the workforce at the facility.

Note: See also clause 16.

Offence

- (2) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 200 penalty units.

Financing arrangements

- (3) For the purposes of subclause (1), if a person (the ***ostensible supplier***) supplies to a person either a facility, or any plant or substance that is to be used by members of the workforce at a facility, and the ostensible supplier:
 - (a) carries on the business of financing the acquisition or the use of goods by other persons; and
 - (b) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the ***actual supplier***), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and
 - (c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely

Clause 14

for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied;
a reference in subclause (1) to a supplier is, in relation to the facility, plant or substance referred to in this subclause, to be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

Other laws not affected

- (4) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a Territory that imposes an obligation in relation to the sale or supply of goods or in relation to the information to be supplied in relation to goods.

14 Duties of persons erecting facilities or installing plant

Duties

- (1) A person who erects or installs a facility, or erects or installs any plant at a facility, must take all reasonably practicable steps to ensure that the facility or plant is not erected or installed in such a way that it is unsafe or constitutes a risk to health.

Note: See also clause 16.

Offence

- (2) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 200 penalty units.

Other laws not affected

- (3) This clause does not affect the operation of the *Trade Practices Act 1974*, or of any other law of the Commonwealth, a State or a

Territory that imposes an obligation in relation to the erection or installation of goods or the supply of services.

15 Duties of persons in relation to occupational health and safety

Duties of person at a facility

- (1) A person at a facility must, at all times, take all reasonably practicable steps:
- (a) to ensure that the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the health or safety of that person or of any other person at or near the facility; and
 - (b) in respect of any obligation imposed on the operator or on any other person by or under a listed OHS law—to cooperate with the operator or that other person to the extent necessary to enable the operator or that other person to fulfil that obligation; and
 - (c) to use equipment that is:
 - (i) supplied to the person by the operator, an employer of the person or any other person having control of work at a facility (the *equipment supplier*); and
 - (ii) necessary to protect the health and safety of the person, or of any other person at or near the facility;in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Offence

- (2) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 200 penalty units.

Clause 16

Agreements

- (3) Despite subclause (1), the choice or manner of use of equipment of the kind referred to in subparagraph (1)(c)(ii) is a matter that may be, consistently with each listed OHS law:
 - (a) agreed on between the equipment supplier and any relevant health and safety representative; or
 - (b) agreed on by a health and safety committee.
- (4) If an agreement of the kind referred to in paragraph (3)(a) or (b) provides a process for choosing equipment of a particular kind that is to be provided by the equipment supplier, action must not be taken against a person for failure to use equipment of that kind that is so provided unless the equipment has been chosen in accordance with that process.
- (5) If an agreement of the kind referred to in paragraph (3)(a) or (b) provides a process for determining the manner of use of equipment of a particular kind, action must not be taken against a person for failure to use, in the manner required by the equipment supplier, equipment of that kind that is so provided unless the manner has been determined in accordance with that process.

16 Reliance on information supplied or results of research

Clause 9, 10 or 11

- (1) For the purpose of the application of clause 9, 10 or 11 to the use of plant or a substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires, in relation to the use of the plant or substance, to the extent that:
 - (a) the person ensured, so far as practicable, that its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to health and safety in its use; and
 - (b) it was reasonable for the person to rely on that information.
- (2) Subclause (1) does not limit the generality of what constitutes reasonably practicable steps as required by clause 9, 10 or 11.

Clause 12 or 13

- (3) For the purpose of the application of clause 12 or 13 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires, in relation to carrying out research, testing and examining the facility, plant or substance, to the extent that:
- (a) the research, testing or examination has already been carried out by or on behalf of someone else; and
 - (b) it was reasonable for the person to rely on that research, testing or examination.
- (4) Subclause (3) does not limit the generality of what constitutes reasonably practicable steps as required by clause 12 or 13.

Clause 14

- (5) For the purpose of the application of clause 14 to the erection of a facility or the erection or installation of plant at a facility, a person on whom an obligation is imposed under that clause is regarded as having taken such reasonably practicable steps as that clause requires to the extent that:
- (a) the person ensured, so far as is reasonably practicable, that the erection of the facility, or the erection or installation of the plant, was:
 - (i) in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation; and
 - (ii) consistent with the health and safety of persons at the facility; and
 - (b) it was reasonable for the person to rely on that information.
- (6) Subclause (5) does not limit the generality of what constitutes reasonably practicable steps as required by clause 14.

Division 2—Regulations relating to occupational health and safety

17 Regulations relating to occupational health and safety

- (1) The regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of persons at a facility.
- (2) Subclause (1) has effect subject to this Schedule.
- (3) Regulations made for the purposes of subclause (1) may make provision for any or all of the following:
 - (a) prohibiting or restricting the performance of all work or specified work at a facility;
 - (b) prohibiting or restricting the use of all plant or specified plant at a facility;
 - (c) prohibiting or restricting the carrying out of all processes or a specified process at a facility;
 - (d) prohibiting or restricting the storage or use of all substances or specified substances at a facility;
 - (e) specifying the form in which information required to be made available under paragraph 12(1)(c) or (2)(c) or 13(1)(c) of this Schedule is to be so made available;
 - (f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or specified substances at a facility;
 - (g) providing for:
 - (i) the issue, variation, renewal, transfer, suspension and cancellation of such licences; and
 - (ii) the conditions to which the licences may be subject;
 - (h) regulating the maintenance and testing of plant used at a facility;
 - (i) regulating the labelling or marking of substances used at a facility;
 - (j) regulating the transport of specified plant or specified substances for use at a facility;

- (k) prohibiting the performance, at a facility, of specified activities or work except:
 - (i) by persons who satisfy requirements of the regulations as to qualifications, training or experience; or
 - (ii) under the supervision specified in the regulations;
 - (l) requiring specified action to avoid accidents or dangerous occurrences;
 - (m) providing for, or prohibiting, specified action in the event of accidents or dangerous occurrences;
 - (n) providing for the employment at a facility of persons to perform specified duties relating to the maintenance of occupational health and safety at the facility;
 - (o) regulating the provision and use, at a facility, of protective clothing and equipment, safety equipment and rescue equipment;
 - (p) providing for monitoring the health of members of the workforce at a facility and the conditions at the facility;
 - (q) requiring employers to keep records of matters related to the occupational health and safety of employees;
 - (r) providing for the provision of first aid equipment and facilities at facilities.
- (4) Subclause (3) does not limit subclause (1).
- (5) Regulations made for the purposes of this clause may make different provision in respect of different classes of facility.
- (6) Subclause (5) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Part 3—Workplace arrangements

Division 1—Introduction

18 Simplified outline

The following is a simplified outline of this Part:

- A group of members of the workforce at a facility may be established as a designated work group.
- The members of a designated work group may select a health and safety representative for that designated work group.
- The health and safety representative may exercise certain powers for the purpose of promoting or ensuring the health and safety of the group members.
- A health and safety committee may be established in relation to the members of the workforce at a facility.
- The main function of a health and safety committee is to assist the operator in relation to occupational health and safety matters.

Division 2—Designated work groups

Subdivision A—Establishment of designated work groups

19 Establishment of designated work groups by request

Request

- (1) A request to the operator of a facility to enter into consultations to establish designated work groups in relation to the members of the workforce at the facility may be made by:
 - (a) any member of the workforce; or
 - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator—that workforce representative.

Consultations

- (2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with:
 - (a) if any member of the workforce made a request to establish designated work groups:
 - (i) that member of the workforce; and
 - (ii) if that member requests that the operator enter into consultations with a workforce representative in relation to the member—that workforce representative; and
 - (iii) each employer (if any) of members of the workforce; and
 - (b) if a workforce representative made a request to establish designated work groups:
 - (i) if a member of the workforce requests that the operator enter into consultations with that workforce representative—that workforce representative; and
 - (ii) each employer of members of the workforce.

Establishment

- (3) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

20 Establishment of designated work groups at initiative of operator

Consultations

- (1) If, at any time, the operator of a facility considers that designated work groups should be established, the operator must enter into consultations with:
 - (a) all members of the workforce; and
 - (b) if a member of the workforce requests that the operator enter into consultations with a workforce representative in relation to the member—that workforce representative; and
 - (c) each employer (if any) of members of the workforce.

Establishment

- (2) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

Subdivision B—Variation of designated work groups

21 Variation of designated work groups by request

Request

- (1) A request to the operator of a facility to enter into consultations to vary designated work groups that have already been established in relation to the members of the workforce at the facility may be made by:
 - (a) any member of the workforce; or

- (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator—that workforce representative.

Consultations

- (2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with:
 - (a) if any member of the workforce made a request to vary designated work groups:
 - (i) that member of the workforce; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation; and
 - (b) if a workforce representative made a request to vary designated work groups:
 - (i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with a workforce representative in relation to the group—that workforce representative; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

Variation

- (3) If:
 - (a) consultations take place about the variation of designated work groups that have already been established; and
 - (b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified;then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are

affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

22 Variation of designated work groups at initiative of operator

Consultations

- (1) If the operator of a facility believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with:
 - (a) the health and safety representative of each of the designated work groups affected by the proposed variation; and
 - (b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with a workforce representative in relation to the group—that workforce representative; and
 - (c) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

Variation

- (2) If:
 - (a) consultations take place about the variation of designated work groups that have already been established; and
 - (b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified;

then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

Subdivision C—General

23 Referral of disagreement to reviewing authority

- (1) If, in the course of consultations under clause 19, 20, 21 or 22, there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a

designated work group, any party may, for the purpose of facilitating that consultation, refer the matter of disagreement to the reviewing authority.

- (2) If the matter of disagreement is referred to the reviewing authority, the parties to the disagreement must complete the consultation in accordance with the resolution of that matter by the reviewing authority.

24 Manner of grouping members of the workforce

- (1) Consultations about the establishment or variation of a designated work group must be directed principally towards the determination of the manner of grouping members of the workforce:
 - (a) that best and most conveniently enables their interests relating to occupational health and safety to be represented and safeguarded; and
 - (b) that best takes account of the need for any health and safety representative selected for that designated work group to be accessible to each group member.
- (2) The parties to the consultations must have regard, in particular, to:
 - (a) the number of members of the workforce at the facility to which the consultation relates; and
 - (b) the nature of each type of work performed by such members; and
 - (c) the number and grouping of such members who perform the same or similar types of work; and
 - (d) the workplaces where each type of work is performed; and
 - (e) the nature of any risks to health and safety at each such workplace; and
 - (f) any overtime or shift working arrangement at the facility.
- (3) The designated work groups must be established or varied in such a way that, so far as practicable, each of the members of the workforce at a facility is in a designated work group.
- (4) All the members of the workforce at a facility may be in one designated work group.

Division 3—Health and safety representatives

Subdivision A—Selection of health and safety representatives

25 Selection of health and safety representatives

- (1) One health and safety representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the health and safety representative for a designated work group unless the person is a member of the workforce included in the group.
- (3) A person is taken to have been selected as the health and safety representative for a designated work group if:
 - (a) all the members of the workforce in the group unanimously agree to the selection; or
 - (b) the person is elected as the health and safety representative of the group in accordance with clause 26.

26 Election of health and safety representatives

Nominations

- (1) If:
 - (a) there is a vacancy in the office of health and safety representative for a designated work group; and
 - (b) within a reasonable time after the vacancy occurs, a person has not been selected under paragraph 25(3)(a) of this Schedule;the operator of the facility must invite nominations from all group members for election as the health and safety representative of the group.
- (2) If the office of health and safety representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Safety Authority may direct the operator to do so.

Election—more than one candidate

- (3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.
- (4) An election conducted or arranged to be conducted under subclause (3) must be conducted in accordance with regulations made for the purposes of this subclause if this is requested by the lesser of:
 - (a) 100 members of the workforce normally in the designated work group; or
 - (b) a majority of the members of the workforce normally in the designated work group.

Election—only one candidate

- (5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.

Disqualified person cannot be a candidate

- (6) A person cannot be a candidate in the election if he or she is disqualified under clause 32.

Voting

- (7) All the members of the workforce in the designated work group are entitled to vote in the election.

Directions

- (8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Safety Authority.

27 List of health and safety representatives

The operator of a facility must:

- (a) prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising

members of the workforce performing work at the facility;
and

- (b) ensure that the list is available for inspection, at all reasonable times, by:
 - (i) the members of the workforce at the facility; and
 - (ii) OHS inspectors.

28 Members of designated work group must be notified of selection etc. of health and safety representative

The operator of a facility must:

- (a) notify members of a designated work group in relation to the facility of a vacancy in the office of health and safety representative for the designated work group within a reasonable time after the vacancy arises; and
- (b) notify those members of the name of any person selected (whether under paragraph 25(3)(a) or (b) of this Schedule) as health and safety representative for the designated work group within a reasonable time after the selection is made.

29 Term of office

- (1) A health and safety representative for a designated work group holds office:
 - (a) if, in consultations that took place under clause 19, 20, 21 or 22, the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office—for such a period; or
 - (b) in any other case—for 2 years;
beginning at the start of the day on which he or she was selected.
- (2) However, the health and safety representative is eligible to be selected for further terms of office.
- (3) Subclauses (1) and (2) have effect subject to this Part.

30 Training of health and safety representatives

- (1) A health and safety representative for a designated work group must undertake a course of training relating to occupational health and safety that is accredited by the Safety Authority for the purposes of this clause.
- (2) The operator of the facility concerned must permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to undertake the training.
- (3) If a person other than the operator is the employer of the representative, that person must permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to undertake the training.

31 Resignation etc. of health and safety representatives

When person must cease to be health and safety representative

- (1) A person ceases to be the health and safety representative for the designated work group if:
 - (a) the person resigns as the health and safety representative; or
 - (b) the person ceases to be a group member of that designated work group; or
 - (c) the person's term of office expires without the person having been selected, under clause 25, to be the health and safety representative for the designated work group for a further term; or
 - (d) the person is disqualified under clause 32.

Resignation

- (2) A person may resign as the health and safety representative for a designated work group by written notice delivered to the operator and to each work group employer.
- (3) If a person resigns as the health and safety representative for a designated work group, the person must notify the resignation to the group members.

Notification

- (4) If a person has ceased to be the health and safety representative for a designated work group because of paragraph (1)(b), the person must notify in writing:
- (a) the group members; and
 - (b) the operator and each work group employer;
- that the person has ceased to be the health and safety representative for that designated work group.

32 Disqualification of health and safety representatives

Application for disqualification

- (1) An application for the disqualification of a health and safety representative for a designated work group may be made to the Safety Authority by:
- (a) the operator; or
 - (b) a work group employer; or
 - (c) at the request of a group member of the designated work group—a workforce representative in relation to the designated work group.

Grounds for disqualification

- (2) An application under subclause (1) may be made on either or both of the following grounds:
- (a) that action taken by the health and safety representative in the exercise or purported exercise of a power under subclause 34(1) or any other provision of this Schedule was taken:
 - (i) with the intention of causing harm to the operator or work group employer or to an undertaking of the operator or work group employer; or
 - (ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the health and safety representative;
 - (b) that the health and safety representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a health and safety

representative, information acquired from the operator or work group employer.

Disqualification

- (3) If, on an application under subclause (1), the Safety Authority is satisfied that the health and safety representative has acted in a manner referred to in subclause (2), the Safety Authority may, after having regard to:
- (a) the harm (if any) that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative; and
 - (b) the past record of the representative in exercising the powers of a health and safety representative; and
 - (c) the effect (if any) on the public interest of the action of the representative; and
 - (d) such other matters as the Authority thinks relevant;
- disqualify the representative, for a specified period not exceeding 5 years, from being a health and safety representative for any designated work group.

33 Deputy health and safety representatives

- (1) One deputy health and safety representative may be selected for each designated work group for which a health and safety representative has been selected.
- (2) A deputy health and safety representative is to be selected in the same way as a health and safety representative under clause 25.
- (3) If the health and safety representative for a designated work group:
 - (a) ceases to be the health and safety representative; or
 - (b) is unable (because of absence or for any other reason) to exercise the powers of a health and safety representative;then:
 - (c) the powers may be exercised by the deputy health and safety representative (if any) for the group; and

- (d) this Schedule (other than this clause) applies in relation to the deputy health and safety representative accordingly.

Subdivision B—Powers of health and safety representatives

34 Powers of health and safety representatives

- (1) A health and safety representative for a designated work group in relation to a facility may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members:
- (a) do any or all of the following:
 - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;
 - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator's representative at the facility and to any other person having immediate control of the workplace;
 - (iii) make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace;
 - (iv) accompany an OHS inspector during any inspection at the workplace by the OHS inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);
 - (v) if there is no health and safety committee in relation to the members of the workforce at the facility—represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;
 - (vi) if a health and safety committee has been established in relation to the members of the workforce at the facility—examine any of the records of that committee; and

- (b) investigate complaints made by any group member to the health and safety representative about the health and safety of any of the members of the workforce (whether in the group or not); and
 - (c) with the consent of a group member, be present at any interview about health and safety at work between that member and:
 - (i) an OHS inspector; or
 - (ii) the operator or a person representing the operator; or
 - (iii) a work group employer or a person representing that employer; and
 - (d) obtain access to any information under the control of the operator or any work group employer:
 - (i) relating to risks to the health and safety of any group member; and
 - (ii) relating to the health and safety of any group member; and
 - (e) issue provisional improvement notices in accordance with clause 38.
- (2) Subparagraph (1)(d)(ii) has effect subject to clause 36.

35 Assistance by consultant

Assistance by consultant

- (1) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.
- (2) A health and safety representative for a designated work group may:
 - (a) be assisted by a consultant at a workplace at which work is performed; or
 - (b) provide to a consultant information that has been provided to the health and safety representative by an operator or work group employer under paragraph 34(1)(d) of this Schedule;

only if the operator or the Safety Authority has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.

Operator etc. not liable for consultant's remuneration etc.

- (3) Neither the operator nor any workplace employer becomes, because of the agreement under subclause (2) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.

Consultant may be present at interviews

- (4) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between a group member and:
- (a) an OHS inspector; or
 - (b) the operator or any work group employer or a person representing the operator or that employer;
- if, and only if, the group member consents to the presence of the consultant.

36 Information

Legal professional privilege

- (1) Neither:
- (a) the health and safety representative; nor
 - (b) if the health and safety representative is assisted by a consultant—the consultant;
- is entitled, under subparagraph 34(1)(d)(ii) of this Schedule, to have access to information in relation to which a group member is entitled to claim, and does claim, legal professional privilege.

Medical information

- (2) Neither:
- (a) the health and safety representative; nor

- (b) if the health and safety representative is assisted by a consultant—the consultant;
- is entitled, under subparagraph 34(1)(d)(ii) of this Schedule, to have access to information of a confidential medical nature relating to a person who is or was a group member unless:
- (c) the person has delivered to the operator or any work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
 - (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

37 Obligations and liabilities of health and safety representatives

This Schedule does not:

- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or
- (b) render a person liable in civil proceedings because of:
 - (i) a failure to exercise such a power; or
 - (ii) the way such a power was exercised.

38 Provisional improvement notices

Consultation

- (1) If:
 - (a) a health and safety representative for a designated work group believes, on reasonable grounds, that a person:
 - (i) is contravening a provision of a listed OHS law; or
 - (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and
 - (b) the contravention affects or may affect one or more group members;

the representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

Issue of provisional improvement notice

- (2) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional improvement notice to any or all of the persons (each of whom is in this clause called a **responsible person**) responsible for the contravention.
- (3) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
- (4) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to that responsible person:
 - (a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and
 - (b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.

Content of provisional improvement notice

- (5) The notice must:
 - (a) specify the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and
 - (b) specify a period that:
 - (i) is not less than 7 days beginning on the day after the notice is issued; and
 - (ii) is, in the representative's opinion, reasonable; within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.
- (6) The notice may specify action that the responsible person is to take during the period specified in the notice.

Extension of period

- (7) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.

Copy of provisional improvement notice

- (8) On issuing the notice, the health and safety representative must give a copy of the notice to:
- (a) if the operator is not a responsible person—the operator; and
 - (b) each work group employer other than a work group employer who is a responsible person; and
 - (c) if the supervisor is not a responsible person—the supervisor; and
 - (d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c)—that owner.

39 Effect of provisional improvement notice

Request for inspection

- (1) Within 7 days after a notice is issued under clause 38:
- (a) the responsible person; or
 - (b) any other person to whom a copy of the notice has been given under subclause 38(8);
- may make a request to the Safety Authority or to an OHS inspector that an inspection of the matter be conducted.
- (2) Upon the request being made, the operation of the notice is suspended pending the determination of the matter by an OHS inspector.

Inspection

- (3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement, and the OHS inspector conducting the inspection must:

Clause 39

- (a) confirm, vary or cancel the notice and notify the responsible person, and any person to whom a copy of the notice has been given under subclause 38(8), accordingly; and
- (b) make such decisions, and exercise such powers, under Part 4 of this Schedule, as the OHS inspector considers necessary in relation to the work.

Variation of notice

- (4) If the OHS inspector varies a notice, the notice as so varied has effect:
 - (a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation—as if the notice as so varied resumed effect on the day of the variation; and
 - (b) so far as the notice concerns new obligations imposed by virtue of the variation—as if the notice as so varied were a new notice issued on the day of the variation.

Notification etc.

- (5) If the notice is issued to a responsible person, the responsible person must:
 - (a) notify each group member who is affected by the notice of the fact of the issue of the notice; and
 - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.

When the notice ceases to have effect

- (6) The notice ceases to have effect if:
 - (a) it is cancelled by an OHS inspector or by the health and safety representative; or
 - (b) the responsible person:
 - (i) takes such action (if any) as is specified in the notice; or
 - (ii) if no action is so specified—takes the action necessary to prevent the further contravention, or likely contravention, concerned.

Compliance with notice

- (7) The responsible person:
- (a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and
 - (b) must take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.

Appeals

- (8) For the purposes of clause 81, if the OHS inspector confirms or varies the notice, the OHS inspector is taken to have decided, under clause 78, to issue an improvement notice in those terms.

Subdivision C—Duties of the operator and other employers in relation to health and safety representatives

40 Duties of the operator and other employers in relation to health and safety representatives

Duties

- (1) The operator of a facility, in relation to which a designated work group having a health and safety representative has been established, must:
- (a) on being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the group members perform work, where the changes may affect their health and safety; and
 - (b) in relation to a workplace at which some or all of the group members perform work:
 - (i) permit the representative to make such inspection of the workplace as the representative is entitled to make in accordance with subparagraph 34(1)(a)(i) of this Schedule and to accompany an OHS inspector during an inspection at the workplace by the OHS inspector; and

Clause 40

- (ii) if there is no health and safety committee in relation to the members of the workforce—on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety of group members; and
 - (c) permit the representative to be present at any interview at which the representative is entitled to be present under paragraph 34(1)(c); and
 - (d) provide to the representative access to any information to which the representative is entitled to obtain access under subparagraph 34(1)(d)(i) or (ii) of this Schedule and to which access has been requested; and
 - (e) permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to exercise the powers of a health and safety representative; and
 - (f) provide the representative with access to such facilities as are:
 - (i) prescribed for the purposes of this paragraph; or
 - (ii) necessary for the purposes of exercising the powers of a health and safety representative.
- (2) Paragraph (1)(d) has effect subject to subclauses (3) and (4).

Information

- (3) The operator must not permit a health and safety representative in relation to a designated work group to have access to information that:
- (a) is of a confidential medical nature under the control of the operator; and
 - (b) relates to a person who is or was a group member;
- unless:
- (c) the person has delivered to the employer a written authority permitting the representative to have access to the information; or
 - (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

- (4) The operator is not required to give a health and safety representative access to any information in relation to which the operator is entitled to claim, and does claim, legal professional privilege.

Employer and supervisor

- (5) The duties imposed by this clause on the operator in relation to the health and safety representative for a designated work group apply equally, to the extent that the matters to which the duties relate are within the control of a work group employer or of a supervisor of particular work, to that employer and to that supervisor.

Division 4—Health and safety committees

41 Health and safety committees

Establishment

- (1) A health and safety committee must be established in relation to the members of the workforce at a facility if:
 - (a) the number of those members normally present at the facility is not less than 50 (whether or not those members are all at work at the facility at the same time); and
 - (b) the members of the workforce are included in one or more designated work groups; and
 - (c) the operator is requested to establish the committee by the health and safety representative for the designated work group or for one of the designated work groups.

Constitution

- (2) The health and safety committee consists of:
 - (a) the number of members specified in an agreement reached between the operator and the members of the workforce; or
 - (b) if there is no such agreement—an equal number of:
 - (i) members, chosen by the members of the workforce, to represent the interests of members of the workforce; and
 - (ii) members, chosen by the operator, to represent the interests of the operator and the employers (other than the operator) of members of the workforce.
- (3) The agreement referred to in paragraph (2)(a) may:
 - (a) specify the persons who are to be members to represent the interests of the operator and employers (other than the operator) of members of the workforce; and
 - (b) provide for the way in which persons who are to be members to represent the interests of members of the workforce are to be chosen.

Selection of members

- (4) If regulations made for the purposes of this clause specify procedures for the selection of persons as members of health and safety committees, to represent the interests of members of the workforce, an agreement referred to in paragraph (2)(a) must not provide for such members to be chosen in a way inconsistent with the regulations.

Meetings

- (5) A health and safety committee must hold meetings at least once every 3 months.
- (6) The procedure at meetings of a health and safety committee must, except to the extent provided for by the regulations, be the procedure agreed upon by the committee.
- (7) A health and safety committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.

Other committees

- (8) This clause does not prevent an operator from establishing, in consultation with members of the workforce or any other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the operator.

42 Functions of health and safety committees

- (1) A health and safety committee has the following functions:
- (a) to assist the operator of the facility concerned:
 - (i) to develop and implement measures designed to protect; and
 - (ii) to review and update measures used to protect; the health and safety at work of members of the workforce;
 - (b) to facilitate cooperation between the operator of the facility, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational health and safety matters;

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- (c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to health and safety at work;
 - (d) such functions as are prescribed;
 - (e) such other functions as are agreed upon between the operator and the health and safety committee.
- (2) A health and safety committee has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (3) This Schedule does not:
- (a) impose an obligation on a person to do any act, because the person is a member of a health and safety committee, in connection with the performance of a function conferred on the committee; or
 - (b) render such a person liable in civil proceedings because of:
 - (i) a failure to do such an act; or
 - (ii) the manner in which such an act was done.

43 Duties of the operator and other employers in relation to health and safety committees

Duties

- (1) If there is a health and safety committee, the operator and any employer (other than the operator) of a member of the workforce must:
- (a) make available to the committee any information possessed by the operator or that employer relating to risks to health and safety to members of the workforce; and
 - (b) permit any member of the committee who is a member of the workforce to take such time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.
- (2) Paragraph (1)(a) has effect subject to subclauses (3) and (4).

Information

- (3) The operator or any employer (other than the operator) of a member of the workforce must not make available to a health and safety committee information of a confidential nature relating to a person who is or was a member of the workforce, unless:
 - (a) the person has authorised the information to be made available to the committee; or
 - (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (4) The operator or any employer (other than the operator) of a member of the workforce is not required to make available to a health and safety committee any information in relation to which the operator or employer is entitled to claim, and does claim, legal professional privilege.

Division 5—Emergency procedures

44 Action by health and safety representatives

Imminent and serious danger to health or safety

- (1) If a health and safety representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must:
 - (a) inform a person (a *supervisor*) supervising the group member or group members in the performance of the work of the danger; or
 - (b) if no supervisor can be contacted immediately:
 - (i) direct the group member or group members to cease, in a safe manner, to perform the work; and
 - (ii) as soon as practicable, inform a supervisor that the direction has been given.
- (2) If a supervisor is informed under paragraph (1)(a) of a danger to the health or safety of any person at or near the facility, the supervisor must take such action as he or she thinks appropriate to remove that danger, and any such action may include directing a group member or group members to cease, in a safe manner, to perform the work.
- (3) If:
 - (a) a health and safety representative has informed a supervisor under paragraph (1)(a) of a danger; and
 - (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the health or safety of any person at or near the facility unless the group member or group members cease to perform particular work;the representative must:

- (c) direct the group member or group members to cease, in a safe manner, to perform the work; and
- (d) as soon as practicable, inform the supervisor that the direction has been given.

Inspection

- (4) If:
 - (a) a health and safety representative gives a direction under paragraph (1)(b), but is unable to agree with a supervisor whom the representative has informed under that paragraph that there is a need for a direction under that paragraph; or
 - (b) a health and safety representative gives a direction under paragraph (3)(c);the representative or the supervisor may make a request to the Safety Authority or to an OHS inspector that an inspection be conducted of the work that is the subject of the direction.
- (5) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the direction, and the OHS inspector conducting the inspection must make such decisions, and exercise such powers, under Part 4 of this Schedule as the OHS inspector considers necessary in relation to the work.
- (6) This clause does not limit the power of a health and safety representative under subparagraph 34(1)(a)(iii) of this Schedule to make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace.

45 Direction to perform other work

Scope

- (1) This clause applies if:
 - (a) a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under paragraph 44(1)(b) or (3)(c); and
 - (b) the cessation of work does not continue after:
 - (i) the health and safety representative has agreed with a person supervising work at the workplace where the

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work was being performed that the cessation of work was not, or is no longer, necessary; or

- (ii) an OHS inspector has, under subclause 44(5), made a decision to the effect that the employee should perform the work.

Direction to perform other work

- (2) The employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

Division 6—Exemptions

46 Exemptions

- (1) The Safety Authority may, in accordance with the regulations, make a written order exempting a specified person from any or all of the provisions of this Part (other than this clause).

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (2) The Safety Authority must not make an order under subclause (1) unless it is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.
- (3) An order under subclause (1) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Part 4—Inspections

Division 1—Introduction

47 Simplified outline

The following is a simplified outline of this Part:

- An OHS inspector may conduct an inspection:
 - (a) to ascertain whether a listed OHS law is being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at or near a facility.
- An OHS inspector may issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health or safety of any person.
- An OHS inspector may issue an improvement notice specifying action that is to be taken to prevent contraventions of a listed OHS law.
- An OHS inspector must prepare a report about an inspection and give the report to the Safety Authority.

48 Powers, functions and duties of OHS inspectors

- (1) A person who is appointed under section 390 as an OHS inspector has the powers, functions and duties of an OHS inspector conferred or imposed by a listed OHS law.
- (2) The Safety Authority may give written directions specifying the manner in which, and the conditions subject to which, powers

conferred on OHS inspectors by a listed OHS law are to be exercised. If it does so, the powers of OHS inspectors must be exercised in accordance with those directions.

- (3) The Safety Authority may, by written notice, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular OHS inspector by a listed OHS law. If it does so, the powers of the OHS inspector are taken to have been restricted accordingly.
- (4) If a direction under subclause (2) is of general application, the direction is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (5) If a direction under subclause (2) relates to a particular case, the direction is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (6) A notice under subclause (3) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Division 2—Inspections

49 Inspections

Inspections conducted on OHS inspector's own initiative

- (1) An OHS inspector may, at any time, conduct an inspection:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at or near a facility.

Inspections conducted at the direction of the Safety Authority

- (2) The Safety Authority may direct an OHS inspector to conduct an inspection:
 - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at or near a facility;and the OHS inspector must, unless the Safety Authority revokes the direction, conduct an inspection accordingly.

Division 3—Powers of OHS inspectors in relation to the conduct of inspections

Subdivision A—General powers of entry and search

50 Powers of entry and search—facilities

Power to enter and search

- (1) An OHS inspector may, for the purposes of an inspection, at any reasonable time during the day or night:
 - (a) enter the facility to which the inspection relates and do any or all of the following:
 - (i) search the facility;
 - (ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace at the facility or any plant, substance or thing at the facility;
 - (iii) take photographs of, make video recordings of, or make sketches of, any workplace at the facility or any plant, substance or thing at the facility;
 - (iv) inspect, take extracts from, or make copies of, any documents at the facility that the OHS inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and
 - (b) inspect the seabed and subsoil in the vicinity of the facility to which the inspection relates.

Notification of entry

- (2) Immediately on entering a facility for the purposes of an inspection, an OHS inspector must take reasonable steps to notify the purpose of entering the facility to:
 - (a) the operator's representative at the facility; and
 - (b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection—that representative;

Clause 51

and must, on being requested to do so by the person referred to in paragraph (a) or (b), produce for inspection by that person:

- (c) the OHS inspector's identity card; and
- (d) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
- (e) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 48(3).

Consultation with health and safety representative

- (3) If there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the OHS inspector must give the health and safety representative a reasonable opportunity to consult on the matter the subject of the inspection.

51 Powers of entry and search—regulated business premises (other than facilities)

Power to enter and search

- (1) An OHS inspector may, for the purposes of an inspection:
 - (a) at any reasonable time, enter any regulated business premises (other than a facility) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
 - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

Notification of entry

- (2) Immediately on entering premises referred to in subclause (1), an OHS inspector must take reasonable steps to notify the purpose of the entry to the occupier of those premises, and must, on being requested to do so by the occupier, produce for inspection by the occupier:
 - (a) the OHS inspector's identity card; and

- (b) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
- (c) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 48(3).

52 Powers of entry and search—premises (other than regulated business premises)

Power to enter and search

- (1) An OHS inspector may, for the purposes of an inspection:
 - (a) enter any premises (other than regulated business premises) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and
 - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.
- (2) An OHS inspector may exercise the powers referred to in subclause (1) to enter premises only:
 - (a) if the premises are not a residence:
 - (i) in accordance with a warrant under clause 53; or
 - (ii) with the consent of the occupier of the premises; or
 - (b) if the premises are a residence—with the consent of the occupier of the premises.

Notification of entry

- (3) Immediately on entering premises referred to in subclause (1), an OHS inspector must:
 - (a) take reasonable steps to notify the purpose of the entry to the occupier of those premises; and
 - (b) take reasonable steps to produce, for inspection by the occupier, the OHS inspector's identity card; and
 - (c) on being requested to do so by the occupier, produce, for inspection by the occupier:
 - (i) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and

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Division 3 Powers of OHS inspectors in relation to the conduct of inspections

Clause 53

- (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 48(3).

Entry by warrant—copy of warrant to be made available to occupier

- (4) If:
 - (a) an OHS inspector enters premises in accordance with a warrant under clause 53; and
 - (b) the occupier of the premises is present at the premises; the OHS inspector must make a copy of the warrant available to the occupier.

Entry by consent

- (5) Before obtaining the consent of a person as mentioned in paragraph (2)(a) or (b), an OHS inspector must inform the person that:
 - (a) the person may refuse consent; and
 - (b) the consent may be withdrawn.
- (6) The consent of a person is not effective for the purposes of subclause (2) unless the consent is voluntary.

53 Warrant to enter premises (other than regulated business premises)

Application for warrant

- (1) An OHS inspector may apply to a Magistrate for a warrant authorising the OHS inspector, with such assistance as the OHS inspector thinks necessary, to exercise the powers referred to in subclause 52(1) in relation to particular premises (other than a residence).
- (2) The application must be supported by an information on oath or affirmation that sets out the grounds on which the OHS inspector is applying for the warrant.

Issue of warrant

- (3) If the Magistrate is satisfied that there are reasonable grounds for issuing the warrant, the Magistrate may issue the warrant.
- (4) A warrant issued under subclause (3) must state:
 - (a) the name of the OHS inspector; and
 - (b) whether the inspection may be carried out at any time or only during specified hours of the day; and
 - (c) the day on which the warrant ceases to have effect; and
 - (d) the purposes for which the warrant is issued.
- (5) The day specified under paragraph (4)(c) is not to be more than 7 days after the day on which the warrant is issued.
- (6) The purposes specified under paragraph (4)(d) must include the identification of the premises in relation to which the warrant is issued.

54 Obstructing or hindering OHS inspector

- (1) A person commits an offence if:
 - (a) the person engages in conduct; and
 - (b) the conduct obstructs or hinders an OHS inspector in the exercise of the OHS inspector's powers under clause 50, 51 or 52.

Penalty: 50 penalty units.

- (2) Subclause (1) does not apply if the person has a reasonable excuse.

Note 1: The defendant bears an evidential burden in relation to the matter in subclause (2)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

Note 3: The same conduct may be an offence against both subclause (1) of this clause and section 149.1 of the *Criminal Code*.

Subdivision B—Offence-related searches and seizures

55 What is evidential material?

For the purposes of this Subdivision, a thing is *evidential material* if it is:

- (a) a thing in respect of which an offence against a listed OHS law has been committed or is suspected, on reasonable grounds, to have been committed; or
- (b) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against a listed OHS law; or
- (c) a thing that there are reasonable grounds for suspecting was used, or is intended to be used, for the purposes of committing an offence against a listed OHS law.

56 Offence-related searches and seizures—OHS inspector already present at facility

Scope

- (1) This clause applies if, in connection with an inspection:
 - (a) an OHS inspector has entered a facility under clause 50; and
 - (b) the OHS inspector believes on reasonable grounds that there is at the facility any evidential material.

Power to search etc.

- (2) The OHS inspector may, for the purposes of the inspection:
 - (a) search the facility for evidential material; and
 - (b) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, at the facility and in which the OHS inspector believes on reasonable grounds there to be any evidential material; and
 - (c) examine any thing at the facility that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (d) seize any thing at the facility that the OHS inspector believes on reasonable grounds to be evidential material; and

- (e) take samples of any thing at the facility that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (f) exercise the data access powers set out in clause 58 in relation to the facility; and
 - (g) exercise the data seizure powers set out in clause 59 in relation to the facility.
- (3) An OHS inspector may exercise the powers referred to in paragraph (2)(a), (b), (c), (e) or (f) only:
- (a) with the consent of:
 - (i) the operator; or
 - (ii) the operator's representative at the facility; or
 - (b) in accordance with a warrant issued under subclause 67(1).
- (4) An OHS inspector may exercise the powers referred to in paragraph (2)(d) or (g) only in accordance with a warrant issued under subclause 67(1).

Notification of search

- (5) Before searching a facility under subclause (2), an OHS inspector must:
- (a) take reasonable steps to notify the purpose of the search to the operator's representative at the facility; and
 - (b) take reasonable steps to produce, for inspection by the operator's representative, the OHS inspector's identity card; and
 - (c) on being requested to do so by the operator's representative, produce, for inspection by the operator's representative:
 - (i) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
 - (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 48(3).

Copy of warrant to be made available to operator's representative or occupier

- (6) If:
-

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Clause 56

- (a) an OHS inspector searches a facility in accordance with a warrant issued under subclause 67(1); and
- (b) the operator's representative at the facility is present at the facility;

the OHS inspector must make a copy of the warrant available to the operator's representative.

Entry by consent

- (7) Before obtaining the consent of a person as mentioned in paragraph (3)(a), an OHS inspector must inform the person that:
 - (a) the person may refuse consent; and
 - (b) the consent may be withdrawn.
- (8) The consent of a person is not effective for the purposes of subclause (3) unless the consent is voluntary.

Evidence of commission of other offences

- (9) If:
 - (a) in the course of searching, in accordance with a warrant issued under subclause 67(1) for particular evidential material relating to an offence against a listed OHS law, an OHS inspector finds a thing that the OHS inspector believes on reasonable grounds to be:
 - (i) a thing that is evidential material relating to that offence, although not evidential material of a kind specified in the warrant; or
 - (ii) a thing that is evidential material relating to another offence against a listed OHS law; and
 - (b) the OHS inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence;
- the warrant is taken to authorise the OHS inspector to seize that thing.

57 Offence-related searches and seizures—OHS inspector not already present at facility, premises or vessel

Scope

- (1) This clause applies if, in connection with an inspection, an OHS inspector believes on reasonable grounds that:
- (a) there is at a facility any evidential material; or
 - (b) there is at any premises (other than a facility) any evidential material; or
 - (c) there is on any vessel any evidential material.

Power to enter and search etc.

- (2) The OHS inspector may, for the purposes of the inspection:
- (a) enter the facility, premises or vessel; and
 - (b) search the facility, premises or vessel for evidential material; and
 - (c) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, at the facility or premises or on the vessel and in which the OHS inspector believes on reasonable grounds there to be any evidential material; and
 - (d) examine any thing at the facility or premises or on the vessel that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (e) seize any thing at the facility or premises or on the vessel that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (f) inspect, examine, take measurements of, conduct tests on, or take samples of, any thing at the facility or premises or on the vessel that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (g) take photographs of, make video recordings of, or make sketches of the facility, premises or vessel or any thing at the facility or premises or on the vessel that the OHS inspector believes on reasonable grounds to be evidential material; and
 - (h) exercise the data access powers set out in clause 58 in relation to the facility, premises or vessel; and

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Division 3 Powers of OHS inspectors in relation to the conduct of inspections

Clause 57

- (i) exercise the data seizure powers set out in clause 59 in relation to the facility, premises or vessel.
- (3) An OHS inspector may exercise the powers referred to in paragraph (2)(a), (b), (c), (d), (f), (g) or (h) only:
 - (a) with the consent of:
 - (i) in the case of a facility—the operator’s representative at the facility or the operator of the facility; or
 - (ii) in the case of premises—the occupier of the premises; or
 - (iii) in the case of a vessel—the master of the vessel; or
 - (b) in accordance with a warrant issued under subclause 67(2) or (4).
- (4) An OHS inspector may exercise the powers referred to in paragraph (2)(e) or (i) only in accordance with a warrant issued under subclause 67(1).

Notification of entry

- (5) Immediately on entering a facility, premises or vessel under subclause (2), an OHS inspector must:
 - (a) take reasonable steps to notify the purpose of the entry to the operator’s representative at the facility, the occupier of the premises, or the master of the vessel, as the case may be; and
 - (b) take reasonable steps to produce, for inspection by the operator’s representative, the occupier, or the master, as the case may be, the OHS inspector’s identity card; and
 - (c) on being requested to do so by the operator’s representative, the occupier, or the master, produce, for inspection by the operator’s representative, the occupier or the master, as the case may be:
 - (i) a copy of the Safety Authority’s written direction (if any) to conduct the inspection; and
 - (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under subclause 48(3).

Copy of warrant to be made available to operator's representative, occupier or master

- (6) If:
- (a) an OHS inspector enters a facility, premises or vessel in accordance with a warrant issued under subclause 67(2) or (4); and
 - (b) in the case of a facility or premises—the operator's representative at the facility, or the occupier of the premises, is present at the facility or premises, as the case may be;
- the OHS inspector must make a copy of the warrant available to the operator's representative, the occupier of the premises, or the master of the vessel, as the case may be.

Entry by consent

- (7) Before obtaining the consent of a person as mentioned in paragraph (3)(a), an OHS inspector must inform the person that:
- (a) the person may refuse consent; and
 - (b) the consent may be withdrawn.
- (8) The consent of a person is not effective for the purposes of subclause (3) unless the consent is voluntary.

Evidence of commission of other offences

- (9) If:
- (a) in the course of searching, in accordance with a warrant issued under subclause 67(2) or (4) for particular evidential material relating to an offence against a listed OHS law, an OHS inspector finds a thing that the OHS inspector believes on reasonable grounds to be:
 - (i) a thing that is evidential material relating to that offence, although not evidential material of a kind specified in the warrant; or
 - (ii) a thing that is evidential material relating to another offence against a listed OHS law; and
 - (b) the OHS inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its

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Clause 58

concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence; the warrant is taken to authorise the OHS inspector to seize that thing.

58 Data access powers

Data access powers of OHS inspector

- (1) This clause sets out the data access powers that an OHS inspector may exercise under:
- (a) paragraph 56(2)(f) in relation to a facility; or
 - (b) paragraph 57(2)(h) in relation to a facility, premises or vessel.

Operation of electronic equipment

- (2) The OHS inspector may operate electronic equipment at the facility or premises or on the vessel to access data (including data not held at the facility or premises or on the vessel) if the OHS inspector believes on reasonable grounds that:
- (a) the data might constitute evidential material; and
 - (b) the equipment can be operated without damaging it.

Note: An OHS inspector can obtain an order requiring a person with knowledge of a computer or computer system to provide assistance: see clause 60.

Copying of data

- (3) If the OHS inspector believes on reasonable grounds that any data accessed by operating the electronic equipment might constitute evidential material, the OHS inspector may:
- (a) copy the data to a disk, tape or other associated device brought to the facility, premises or vessel; or
 - (b) if:
 - (i) the operator's representative at the facility; or
 - (ii) the occupier of the premises; or
 - (iii) the master of the vessel;

as the case may be, agrees in writing—copy the data to a disk, tape or other associated device at the facility or premises or on the vessel;

and take the disk, tape or device from the facility, premises or vessel.

- (4) If:
- (a) the OHS inspector takes the disk, tape or device from the facility, premises or vessel; and
 - (b) the Safety Authority is satisfied that the data is not required (or is no longer required) for:
 - (i) an inspection; or
 - (ii) the prosecution of a person;
- the Safety Authority must arrange for:
- (c) the removal of the data from any disk, tape or device in the control of the Safety Authority; and
 - (d) the destruction of any other reproduction of the data in the control of the Safety Authority.

Securing equipment

- (5) If the OHS inspector believes on reasonable grounds that:
- (a) evidential material may be accessible by operating electronic equipment at the facility or premises or on the vessel; and
 - (b) expert assistance is required to operate the equipment; and
 - (c) if the OHS inspector does not take action under this subclause, the material may be destroyed, altered or otherwise interfered with;
- the OHS inspector may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.
- (6) The OHS inspector must give notice to:
- (a) the operator's representative at the facility; or
 - (b) the occupier of the premises; or
 - (c) the master of the vessel;
- as the case may be, of the OHS inspector's intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.

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Division 3 Powers of OHS inspectors in relation to the conduct of inspections

Clause 59

- (7) The equipment may be secured:
 - (a) for a period not longer than 24 hours; or
 - (b) until the equipment has been operated by the expert;whichever happens first.
- (8) If the OHS inspector believes on reasonable grounds that the expert assistance will not be available within 24 hours, the OHS inspector may apply to a Magistrate for an extension of that period.
- (9) The OHS inspector must give notice to:
 - (a) the operator's representative at the facility; or
 - (b) the occupier of the premises; or
 - (c) the master of the vessel;as the case may be, of the OHS inspector's intention to apply for an extension, and the operator, occupier or master is entitled to be heard in relation to the application.
- (10) The provisions of this Subdivision relating to the issue of warrants apply, with such modifications as are necessary, to the issuing of an extension.

59 Data seizure powers

Data seizure powers of OHS inspector

- (1) This clause sets out the data seizure powers that an OHS inspector may exercise under:
 - (a) paragraph 56(2)(g) in relation to a facility; or
 - (b) paragraph 57(2)(i) in relation to a facility, premises or vessel.

Seizure

- (2) If:
 - (a) an OHS inspector operates electronic equipment under subclause 58(2); and
 - (b) the OHS inspector, after operating the equipment, finds that evidential material is accessible by doing so;the OHS inspector may:

- (c) seize the equipment and any disk, tape or other associated device; or
 - (d) if the material can, by using a thing at the facility or premises or on the vessel, be put in documentary form—operate the thing to put the material in that form, and seize the documents so produced.
- (3) The OHS inspector may seize equipment under paragraph (2)(c) only if:
- (a) it is not practicable to copy the data as mentioned in subclause 58(3) or to put the material in documentary form as mentioned in paragraph (2)(d) of this clause; or
 - (b) the equipment is in the possession of another person, and the possession by the other person could constitute an offence.

60 Access to computer data

Scope

- (1) This clause applies if a warrant is in force under clause 67 authorising an OHS inspector to exercise data access powers under clause 58 in relation to a facility, premises or vessel.

Application to Magistrate for access order

- (2) The OHS inspector may apply to a Magistrate for an order requiring a specified person to provide any information or assistance that is reasonable and necessary to allow the OHS inspector to do one or more of the following:
- (a) access data held in, or accessible from, a computer that is at the facility or premises or on the vessel;
 - (b) copy the data to a data storage device;
 - (c) convert the data into documentary form.

Grant of access order

- (3) The Magistrate may grant the order if the Magistrate is satisfied that:
- (a) there are reasonable grounds for suspecting that evidential material is held in, or is accessible from, the computer; and

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Clause 61

- (b) the specified person is:
 - (i) reasonably suspected of having been involved in the offence stated in the warrant; or
 - (ii) the owner or lessee of the computer; or
 - (iii) an employee of the owner or lessee of the computer; and
- (c) the specified person has relevant knowledge of:
 - (i) the computer or a computer network of which the computer forms a part; or
 - (ii) measures applied to protect data held in, or accessible from, the computer.

Offence

- (4) A person commits an offence if:
 - (a) the person is subject to an order under this clause; and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the order.

Penalty for contravention of this subclause: Imprisonment for 6 months.

61 Compensation for damage to equipment

- (1) This clause applies if:
 - (a) as a result of equipment being operated as mentioned in clause 58 or 59:
 - (i) damage is caused to the equipment; or
 - (ii) the data recorded on the equipment is damaged; or
 - (iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and
 - (b) the damage or corruption occurs because:
 - (i) insufficient care was exercised in selecting the person who was to operate the equipment; or
 - (ii) insufficient care was exercised by the person operating the equipment.
- (2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the

damage or corruption as the Commonwealth and the owner or user agree on.

- (3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court for such reasonable amount of compensation as the Court determines.
- (4) In determining the amount of compensation payable, regard is to be had to:
 - (a) if the equipment was operated at a facility—whether the operator of the facility, or the operator’s representative at the facility, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment; or
 - (b) if the equipment was operated at premises other than a facility—whether the occupier of the premises, or the occupier’s employees and agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment; or
 - (c) if the equipment was operated on a vessel—whether the master of the vessel, or the crew of the vessel, provided any appropriate warning or guidance on the operation of the equipment.
- (5) Compensation is payable out of money appropriated by the Parliament.
- (6) For the purposes of subclause (1):

damage, in relation to data, includes damage by erasure of data or addition of other data.

62 Copies of things seized to be provided

- (1) If an OHS inspector seizes, under this Subdivision:
 - (a) a document, film, computer file or other thing that can be readily copied; or

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- (b) a storage device the information in which can be readily copied;
- the OHS inspector must, if requested to do so by:
- (c) in the case of a facility—the operator’s representative at the facility; or
 - (d) in the case of premises (other than a facility)—the occupier of the premises or another person who apparently represents the occupier and who is present when the thing is seized; or
 - (e) in the case of a vessel—the master of the vessel;
- give a copy of the thing or the information to that person as soon as practicable after the seizure.
- (2) However, subclause (1) does not apply if:
- (a) the thing that has been seized was seized under subclause 58(3) or paragraph 59(2)(d); or
 - (b) the document, film, computer file, thing or information is in the possession of another person, and the possession by the other person could constitute an offence.

63 Operator’s representative, occupier or master entitled to be present during search

- (1) If a warrant in relation to a facility is being executed, the operator’s representative at the facility is entitled to observe the search being conducted.
- (2) If a warrant in relation to premises is being executed, the following person is entitled to observe the search being conducted:
 - (i) if the occupier of the premises is present at the premises—the occupier;
 - (ii) if another person who apparently represents the occupier is present at the premises—the other person.
- (3) If a warrant in relation to a vessel is being executed, the master of the vessel is entitled to observe the search being conducted.
- (4) The right to observe the search being conducted ceases if the operator’s representative, the occupier, the other person or the master, as the case may be, impedes the search.

- (5) This section does not prevent 2 or more areas of the facility, premises or vessel being searched at the same time.

64 Receipts for things seized

- (1) If an OHS inspector seizes a thing under this Subdivision, the OHS inspector must provide a receipt for the thing.
- (2) If 2 or more things are seized or moved, they may be covered in the one receipt.

65 Retention of things seized

- (1) If an OHS inspector seizes a thing under this Subdivision, the OHS inspector or the Safety Authority may retain it until:
- (a) the end of the period of 60 days after the seizure; or
 - (b) if proceedings for an offence in respect of which the thing may afford evidence are instituted within that period—the proceedings (including any appeal to a court in relation to those proceedings) are completed.
- (2) The Safety Authority may, by written instrument, authorise a thing seized under this Subdivision to be released to the owner, or to the person from whom it was seized, either:
- (a) unconditionally; or
 - (b) on such conditions as the Safety Authority thinks fit.

66 Magistrate may permit a thing seized to be retained for a further period

- (1) If an OHS inspector seizes a thing under this Subdivision, the OHS inspector or the Safety Authority may apply to a Magistrate for an order that the OHS inspector, or the Safety Authority, as the case may be, may retain the thing for a further period if:
- (a) before the end of 60 days after the seizure; or
 - (b) before the end of a period previously specified in an order of a Magistrate under this clause;
- proceedings for an offence in respect of which the thing may afford evidence have not been instituted.

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- (2) If the Magistrate is satisfied that it is necessary for an OHS inspector, or the Safety Authority, as the case may be, to continue to retain the thing:
- (a) for the purposes of an inspection; or
 - (b) to enable evidence of an offence against a listed OHS law to be secured for the purposes of a prosecution;
- the Magistrate may order that the OHS inspector or the Safety Authority may retain the thing for a period (not exceeding 3 years) specified in the order.
- (3) Before making the application, the OHS inspector, or the Safety Authority, as the case may be, must:
- (a) take reasonable steps to discover who has an interest in the retention of the thing; and
 - (b) if it is practicable to do so—notify the proposed application to each person whom the OHS inspector or the Safety Authority believes to have an interest in the retention of the thing.

67 Magistrate may issue warrant

Warrant relating to powers under clause 56

- (1) If:
- (a) an OHS inspector has entered a facility under clause 50; and
 - (b) the OHS inspector believes on reasonable grounds that there is at the facility any evidential material; and
 - (c) the OHS inspector applies to a Magistrate, by telephone, fax or other electronic means, for a search warrant under this subclause in relation to the evidential material;
- the Magistrate may issue a search warrant authorising the OHS inspector, with such assistance, and by such force, as is necessary and reasonable, to exercise the powers referred to in paragraphs 56(2)(a) to (g) of this Schedule in respect of the evidential material.

Warrant relating to powers under clause 57—general

- (2) If:

- (a) an information on oath or affirmation is laid before a Magistrate alleging that an OHS inspector believes on reasonable grounds that there is at a facility or premises or on a vessel any evidential material; and
 - (b) the information sets out those grounds;
- the Magistrate may issue a search warrant authorising the OHS inspector named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to:
- (c) enter the facility, premises or vessel; and
 - (d) exercise the powers referred to in paragraphs 57(2)(b) to (i) of this Schedule in respect of the evidential material.
- (3) If, because of circumstances of urgency, an OHS inspector thinks it necessary to do so, the OHS inspector may apply to a Magistrate for a warrant under subclause (2) by telephone, fax or other electronic means.

Warrant relating to powers under clause 57—vessels

- (4) If:
- (a) an OHS inspector has entered a facility under clause 50; and
 - (b) the OHS inspector believes on reasonable grounds that there is on a vessel any evidential material that relates to the listed OHS law covered by paragraph 348(1)(a) of this Act; and
 - (c) the OHS inspector applies to a Magistrate, by telephone, fax or other electronic means, for a search warrant under this subclause in relation to the evidential material;
- the Magistrate may issue a search warrant authorising the OHS inspector named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to:
- (d) enter the vessel; and
 - (e) exercise the powers referred to in paragraphs 57(2)(b) to (i) of this Schedule in respect of the evidential material.

68 Reasonable grounds for issuing warrant etc.

A Magistrate must not issue a warrant under clause 67 unless:

- (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further

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information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

69 Contents of warrant

- (1) A warrant issued under clause 67 must state:
- (a) the name of the OHS inspector; and
 - (b) in the case of a warrant issued under subclause 67(1)— whether the search may be carried out at any time or only during specified hours of the day; and
 - (c) in the case of a warrant issued under subclause 67(2) or (4)— whether the entry or search may be carried out at any time or only during specified hours of the day; and
 - (d) a description of the kind of things to be seized; and
 - (e) the day on which the warrant ceases to have effect; and
 - (f) the purpose for which the warrant is issued.
- (2) The day specified under paragraph (1)(e) is not to be more than 7 days after the day on which the warrant is issued.
- (3) The purpose specified under paragraph (1)(f) must include the identification of the facility, premises or vessel in relation to which the warrant is issued.

70 Provisions relating to issue of warrant by telephone etc.

Scope

- (1) This clause applies to an application for a warrant under subclause 67(1), (2) or (4) if the application is made by telephone, fax or other electronic means.

Information

- (2) Before making the application, an OHS inspector must prepare an information that:

- (a) alleges that the OHS inspector believes on reasonable grounds that there is at a facility or premises or on a vessel any evidential material; and
 - (b) sets out those grounds.
- (3) The information must be on oath or affirmation. However, the OHS inspector may, if it is necessary to do so, make the application before the information has been sworn or affirmed.

Warrant

- (4) If the Magistrate to whom an application is made is satisfied:
- (a) after having considered the terms of the information prepared under subclause (2); and
 - (b) after having received such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought;
- that there are reasonable grounds for issuing the warrant, the Magistrate must complete and sign such a search warrant.
- (5) If the Magistrate signs a warrant under subclause (4):
- (a) the Magistrate must:
 - (i) inform the OHS inspector of the terms of the warrant; and
 - (ii) inform the OHS inspector of the day on which and the time at which the warrant was signed; and
 - (iii) inform the OHS inspector of the day (not more than 7 days after the Magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
 - (iv) record on the warrant the reasons for issuing the warrant; and
 - (b) the OHS inspector must:
 - (i) complete a form of warrant in the same terms as the warrant completed and signed by the Magistrate; and
 - (ii) write on it the Magistrate's name and the day on which and the time at which the warrant was signed.

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- (6) The OHS inspector must, not later than the day after the date of expiry or execution of the warrant, whichever is the earlier, send to the Magistrate:
 - (a) the form of warrant completed by the OHS inspector; and
 - (b) the information duly sworn or affirmed in connection with the warrant.
- (7) On receiving the documents referred to in subclause (6), the Magistrate must:
 - (a) attach to them the warrant signed by the Magistrate; and
 - (b) deal with the documents in the way that the Magistrate would have dealt with the information if the application for the warrant had been made otherwise than by telephone, fax or other electronic means.
- (8) A form of warrant duly completed by an OHS inspector under subclause (5), if it is in accordance with the terms of the warrant signed by the Magistrate, is authority for a seizure or other exercise of a power that the warrant so signed authorises.

71 Proceedings involving warrant issued by telephone etc.

If:

- (a) it is material in any proceedings for a court to be satisfied that a seizure or other exercise of power was authorised in accordance with clause 70; and
- (b) a warrant signed by a Magistrate under clause 70 authorising the seizure or other exercise of power is not produced in evidence;

the court is to assume, unless the contrary is proved, that the seizure or other exercise of power was not authorised by such a warrant.

72 This Subdivision does not limit other powers

- (1) This Subdivision does not limit Subdivision A.
- (2) In particular, this Act does not prevent the concurrent exercise of powers under this Subdivision and Subdivision A.

Note Subdivision A deals with general powers of entry and search.

- (3) This Subdivision does not limit clause 75.

Note: Clause 75 deals with the power to take possession of plant, take samples of substances etc.

Subdivision C—Other powers

73 Power to require assistance

Requirement to provide assistance

- (1) An OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection, require:
- (a) the operator of a facility; or
 - (b) the person in charge of operations at a workplace in relation to a facility; or
 - (c) a member of the workforce at a facility; or
 - (d) any person representing a person referred to in paragraph (a) or (b);
- to provide the OHS inspector with reasonable assistance and facilities:
- (e) that is or are reasonably connected with the conduct of the inspection at or near the facility; or
 - (f) for the effective exercise of the OHS inspector's powers under this Schedule in connection with the conduct of the inspection at or near the facility.
- (2) The reasonable assistance referred to in subclause (1) includes, so far as the operator of the facility is concerned:
- (a) appropriate transport to or from the facility for the OHS inspector and for any equipment required by the OHS inspector, or any article of which the OHS inspector has taken possession; and
 - (b) reasonable accommodation and means of subsistence while the OHS inspector is at the facility.

Offence

- (3) A person commits an offence if:
- (a) the person is subject to a requirement under this clause; and

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- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty: Imprisonment for 6 months.

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

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (4)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

74 Power to require the answering of questions and the production of documents or articles

Requirement to answer questions

- (1) If:
- (a) an OHS inspector believes on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of an inspection; and
 - (b) the person is:
 - (i) the operator of a facility; or
 - (ii) the person in charge of operations at a workplace in relation to a facility; or
 - (iii) a member of the workforce at a facility; or
 - (iv) any person representing a person referred to in subparagraph (i) or (ii);
- the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the OHS inspector.
- (2) If, at the time when a requirement under subclause (1) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:
- (a) is in writing; and
 - (b) specifies the day on or before which the question is to be answered; and

(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

The day specified under paragraph (b) must be at least 14 days after the day on which the requirement is imposed.

Requirement to produce documents or articles

(3) If:

- (a) an OHS inspector believes on reasonable grounds that a person is capable of producing a document or article that is reasonably connected with the conduct of an inspection; and
- (b) the person is:
 - (i) the operator of a facility; or
 - (ii) the person in charge of operations at a workplace in relation to a facility; or
 - (iii) a member of the workforce at a facility; or
 - (iv) any person representing a person referred to in subparagraph (i) or (ii);

the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.

(4) If, at the time when a requirement under subclause (3) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement:

- (a) is in writing; and
- (b) specifies the day on or before which the document or article is to be produced; and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

The day specified under paragraph (b) must be at least 14 days after the day on which the requirement is imposed.

Offence

(5) A person commits an offence if:

- (a) the person is subject to a requirement under this clause; and
- (b) the person omits to do an act; and

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(c) the omission breaches the requirement.

Penalty: Imprisonment for 6 months.

(6) Subclause (5) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (6)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

False information

(7) A person commits an offence if:

- (a) the person gives information to another person; and
- (b) the person does so knowing that the information is false or misleading in a material particular; and
- (c) the information is given in compliance or purported compliance with a requirement under this clause.

Penalty: Imprisonment for 6 months.

Note: The same conduct may be an offence against both subclause (7) of this clause and section 137.1 of the *Criminal Code*.

Self-incrimination

(8) A person is not excused from answering a question or producing a document or article when required to do so under subclause (1) or (3) on the ground that the answer to the question, or the production of the document or article, may tend to incriminate the person or make the person liable to a penalty.

(9) However:

- (a) the answer given or document or article produced; or
- (b) answering the question or producing the document or article; or
- (c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or article;

is not admissible in evidence against the person:

- (d) in any civil proceedings; or

- (e) in any criminal proceedings other than:
 - (i) proceedings for an offence against this clause; or
 - (ii) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this clause.

75 Power to take possession of plant, take samples of substances etc.

Power to take possession or samples

- (1) In conducting an inspection, an OHS inspector may, to the extent that it is reasonably necessary for the purposes of inspecting, examining, taking measurements of, or conducting tests concerning, any plant, substance or thing at a facility in connection with the inspection:
 - (a) take possession of the plant, substance or thing and remove it from the facility; or
 - (b) take a sample of the substance or thing and remove that sample from the facility.

Notice

- (2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the OHS inspector must, by written notice, inform:
 - (a) the operator of the facility; and
 - (b) if the plant, substance or thing is used for the performance of work by an employer (other than the operator) of a member or members of the workforce at the facility—that employer; and
 - (c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b)—that person; and
 - (d) if there is a health and safety representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates—that representative;of the taking of possession or the taking of the sample, and the reasons for it.

Display of notice

- (3) If the OHS inspector gives the notice to the operator of the facility to which the inspection relates, the operator's representative at the facility must cause the notice to be displayed in a prominent place at the workplace from which the plant, substance or thing was removed.

Duties of OHS inspector

- (4) If the OHS inspector takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of, or conducting tests concerning, the plant, substance or thing, the OHS inspector must:
- (a) ensure that the inspection, examination, measuring or testing is conducted as soon as practicable; and
 - (b) return it to the workplace as soon as practicable afterwards.
- (5) As soon as practicable after completing any such inspection, examination, measurement or testing, the OHS inspector must give a written statement setting out the results to each person whom the OHS inspector is required to notify under subclause (2).

76 Power to direct that workplace etc. not be disturbed

Direction

- (1) If, in conducting an inspection, an OHS inspector has reasonable grounds to believe that it is reasonably necessary to give a direction in order to:
- (a) remove an immediate threat to the health or safety of any person; or
 - (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility;
- the OHS inspector may, by written notice given to the operator's representative at the facility, direct that the operator must ensure that:
- (c) a particular workplace; or
 - (d) particular plant, or a particular substance or thing;

not be disturbed for a period specified in the direction.

- (2) The period specified in the direction must be a period that the OHS inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.

Renewal of direction

- (3) The direction may be renewed by another direction in the same terms.

Display of direction

- (4) If an OHS inspector gives a notice to the operator's representative under subclause (1), the operator's representative must cause the notice to be displayed in a prominent place at the workplace:
- (a) that is to be left undisturbed; or
 - (b) where the plant, substance or thing that is to be left undisturbed is located.

Notification of direction

- (5) As soon as practicable after giving the direction, the OHS inspector must take reasonable steps to notify:
- (a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility—that person; and
 - (b) if there is a health and safety representative for a designated work group that includes a group member performing work:
 - (i) at a workplace; or
 - (ii) involving the plant, substance or thing; to which the direction relates—that representative;
- of the direction and the reasons for giving it.

Offence

- (6) A person commits an offence if:
- (a) the person is subject to a direction under subclause (1); and
 - (b) the person omits to do an act; and

(c) the omission breaches the direction.

Penalty: 250 penalty units.

Reasons

- (7) A direction under subclause (1) must be accompanied by a statement setting out the reasons for the direction.

77 Power to issue prohibition notices

Issue of prohibition notice

- (1) If, having conducted an inspection, an OHS inspector is satisfied on reasonable grounds that it is reasonably necessary to issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health or safety of any person, the OHS inspector may issue such a notice, in writing, to the operator.
- (2) The notice must be issued to the operator by giving it to the operator's representative at the facility.
- (3) The notice must:
- (a) specify the activity in respect of which, in the OHS inspector's opinion, the threat to health or safety has arisen, and set out the reasons for that opinion; and
 - (b) either:
 - (i) direct the operator to ensure that the activity is not engaged in; or
 - (ii) direct the operator to ensure that the activity is not engaged in a specified manner.
- (4) A specified manner may relate to any one or more of the following:
- (a) any workplace, or part of a workplace, at which the activity is not to be engaged in;
 - (b) any plant or substance that is not to be used in connection with the activity;
 - (c) any procedure that is not to be followed in connection with the activity.

Offence

- (5) A person commits an offence if:
- (a) the person is subject to a notice under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the notice.

Penalty: 250 penalty units.

OHS inspector to inform operator if action is not adequate

- (6) If an OHS inspector is satisfied that action taken by the operator to remove the threat to health and safety is not adequate, the OHS inspector must inform the operator accordingly.

When notice ceases to have effect

- (7) The notice ceases to have effect when an OHS inspector notifies the operator that the OHS inspector is satisfied that the operator has taken adequate action to remove the threat to health or safety.

Powers of OHS inspector

- (8) In making a decision under subclause (6), an OHS inspector may exercise such of the powers of an OHS inspector conducting an inspection as the OHS inspector considers necessary for the purposes of making the decision.

Notice may specify what is adequate action

- (9) The notice may specify action that may be taken to satisfy an OHS inspector that adequate action has been taken to remove the threat to health and safety.

Duties of operator's representative

- (10) The operator's representative at the facility must:
- (a) give a copy of the notice to each health and safety representative (if any) for any designated work group having group members performing work that is affected by the notice; and

- (b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which that work is performed.

Notification of owner

- (11) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the OHS inspector must, upon issuing the notice, give a copy of the notice to that person.

78 Power to issue improvement notices

Issue of improvement notice

- (1) If, in conducting an inspection, an OHS inspector believes on reasonable grounds that a person:
 - (a) is contravening a provision of a listed OHS law; or
 - (b) has contravened a provision of a listed OHS law and is likely to contravene that provision again;the OHS inspector may issue an improvement notice, in writing, to the person (the **responsible person**).
- (2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
- (3) If the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to that employer:
 - (a) the improvement notice may be issued to the employer by giving it to the operator's representative at the facility; and
 - (b) if the notice is so issued—the operator must ensure that a copy of the notice is given to the employer as soon as practicable afterwards.

Matters to be specified in notice

- (4) The notice must:

- (a) specify the contravention that the OHS inspector believes is occurring or is likely to occur, and set out the reasons for that belief; and
 - (b) specify a period within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.
- (5) The period specified in the notice must be reasonable.
- (6) The notice may specify action that the responsible person is to take during the period specified in the notice.

Extension of period

- (7) If the OHS inspector believes on reasonable grounds that it is appropriate to do so, the OHS inspector may, in writing and before the end of the period, extend the period specified in the notice.

Duty of responsible person

- (8) The responsible person must ensure that the notice is complied with to the extent that it relates to any matter over which the person has control.
- (9) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (8); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 100 penalty units.

Notification of operator's representative

- (10) If an improvement notice is issued to an employer (other than the operator) of members of the workforce in circumstances other than the circumstance referred to in subclause (3), the employer must immediately ensure that a copy of the notice is given to the operator's representative at the facility.

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Notification of health and safety representative etc.

- (11) If a notice is issued to the operator or to an employer (other than the operator) of members of the workforce, the operator's representative at the facility must:
- (a) give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.

Notification of employer, owner etc.

- (12) Upon issuing a notice, the OHS inspector must give a copy of the notice to:
- (a) if the notice is:
 - (i) given to a member of the workforce who is an employee; and
 - (ii) in connection with work performed by the employee; the employer of that employee; and
 - (b) if the notice relates to any workplace, plant, substance or thing that is owned by a person other than:
 - (i) a responsible person; or
 - (ii) a person who is an employer referred to in paragraph (a);that owner; and
 - (c) if the notice is issued to a person who owns any workplace, plant, substance or thing, because of which a contravention of a listed OHS law has occurred or is likely to occur:
 - (i) the operator of the facility; and
 - (ii) if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator—that employer.

79 Notices not to be tampered with or removed

Tampering with notice

- (1) A person must not tamper with any notice that has been displayed under subclause 75(3), 76(4), 77(10) or 78(11) while that notice is so displayed.

Removal of notice

- (2) If a notice has been displayed under subclause 75(3), a person must not remove the notice until the plant, substance or thing to which the notice relates is returned to the workplace from which it was removed.
- (3) If a notice has been displayed under subclause 76(4), 77(10) or 78(11), a person must not remove the notice before the notice has ceased to have effect.

Offence

- (4) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1), (2) or (3); and
 - (b) the person engages in conduct; and
 - (c) the conduct breaches the requirement.

Penalty: 50 penalty units.

- (5) Subclause (4) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (5)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

- (6) An offence against subclause (4) is an offence of strict liability.

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

Division 4—Reports on inspections

80 Reports on inspections

Report to be given to the Safety Authority

- (1) If an OHS inspector has conducted an inspection, the OHS inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Safety Authority.
- (2) The report must include:
 - (a) the OHS inspector's conclusions from conducting the inspection and the reasons for those conclusions; and
 - (b) any recommendations that the OHS inspector wishes to make arising from the inspection; and
 - (c) such other matters (if any) as are prescribed.

Copies of report to be given to operator and owner etc.

- (3) As soon as practicable after receiving the report, the Safety Authority must give a copy of the report, together with any written comments that it wishes to make:
 - (a) to the operator of the facility to which the report relates; and
 - (b) if the report relates to activities performed by an employee of another person—to that other person; or
 - (c) if the report relates to any plant, substance or thing owned by another person—to that other person.

Details of remedial action etc.

- (4) The Safety Authority may, in writing, request the operator or any other person to whom a copy of the report is given to provide to the Authority, within a reasonable period specified in the request, details of:
 - (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and

- (b) if a notice has been issued under clause 77 or 78 in relation to work being performed for the operator or that other person—any action taken, or proposed to be taken, in respect of that notice;

and the operator or that other person must comply with the request.

Copies of report etc. to be given to health and safety committee etc.

- (5) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Safety Authority on the report:
 - (a) if there is a least one health and safety committee in respect of some or all of the members of the workforce—to each such committee; and
 - (b) if there is no such committee in respect of some or all of the members of the workforce, but some or all of those members (in respect of which there is no such committee) are in at least one designated work group for which there is a health and safety representative—to each such health and safety representative.

Division 5—Appeals

81 Appeals against decisions of OHS inspectors

Appeals to the reviewing authority

- (1) If an OHS inspector, in conducting an inspection or having conducted an inspection:
 - (a) decides, under clause 39, to confirm or vary a provisional improvement notice; or
 - (b) decides, under clause 75, to take possession of plant, a substance or a thing at a workplace; or
 - (c) decides, under clause 76, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or
 - (d) decides, under clause 77, to issue a prohibition notice; or
 - (e) decides, under clause 77, that the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or
 - (f) decides, under clause 78, to issue an improvement notice;an appeal against the decision may be made, by written notice, to the reviewing authority by:
 - (g) the operator of the facility, or any employer (other than the operator), who is affected by the decision; or
 - (h) a person to whom a notice has been issued under subclause 38(2) or 78(1); or
 - (i) the health and safety representative for a designated work group having a group member affected by the decision; or
 - (j) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
 - (k) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—that workforce representative; or

- (1) a person who owns any workplace, plant, substance or thing to which the decision referred to in paragraph (a), (b), (c) or (f) relates.
- (2) If an OHS inspector, having conducted an inspection:
 - (a) decides under clause 39 to cancel a provisional improvement notice; or
 - (b) decides under clause 77 that the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued;an appeal against the decision may be made, by written notice, to the reviewing authority by:
 - (c) the health and safety representative for a designated work group having a group member affected by the decision; or
 - (d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
 - (e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—that workforce representative.

Appeal does not affect the operation of a decision

- (3) Subject to this clause, the making of an appeal against a decision referred to in subclause (1) or (2) does not affect the operation of the decision or prevent the taking of action to implement the decision, except to the extent that the reviewing authority makes an order to the contrary.

Suspension of improvement notices etc.

- (4) If the decision appealed against is a decision under clause 78, to issue an improvement notice, the operation of the decision is suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.

- (5) If the decision appealed against is a decision of an OHS inspector, under clause 39, to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.

Reviewing authority's decision on appeal

- (6) The reviewing authority may:
- (a) affirm or revoke the decision appealed against under subclause (1) or (2); and
 - (b) if it revokes the decision—substitute such other decision as it thinks appropriate.
- (7) If the decision is:
- (a) varied; or
 - (b) revoked; or
 - (c) revoked with the substitution of another decision;
- the decision is taken to have effect, and always to have had effect, accordingly.

Duty of OHS inspector to return plant, substance or thing to the workplace

- (8) If:
- (a) the decision appealed against is a decision under clause 75 to take possession of plant, a substance or a thing at a workplace; and
 - (b) the decision is not affirmed;
- the OHS inspector who made the decision must ensure that, to the extent that the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.

Part 5—General provisions

82 Notifying and reporting accidents and dangerous occurrences

Duty of operator to notify accidents and dangerous occurrences

- (1) If, at or near a facility, there is:
 - (a) an accident that causes the death of, or serious injury to, any individual; or
 - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence;the operator must, in accordance with the regulations, give the Safety Authority notice of the accident or dangerous occurrence.
- (2) Regulations made for the purposes of subclause (1) (other than regulations made for the purposes of paragraph (1)(b)) may prescribe:
 - (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given; and
 - (b) the form of such a notice.
- (3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).
- (4) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 250 penalty units.

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

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

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Duty of operator to report accidents and dangerous occurrences

- (6) If, at or near a facility, there is:
- (a) an accident that causes the death of, or serious injury to, any individual; or
 - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence;
- the operator must, in accordance with the regulations, give the Safety Authority a report about the accident or dangerous occurrence.
- (7) Regulations made for the purposes of subclause (6) (other than regulations made for the purposes of paragraph (6)(b)) may prescribe:
- (a) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given; and
 - (b) the form of such a report.
- (8) Subclause (7) does not limit regulations that may be made for the purposes of subclause (6).

Offence

- (9) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (6); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 100 penalty units.

- (10) An offence against subclause (9) is an offence of strict liability.

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

83 Records of accidents and dangerous occurrences to be kept

Duty of operator

- (1) The operator of a facility must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the operator is required by clause 82 to notify the Safety Authority.

Regulations

- (2) Regulations made for the purposes of subclause (1) may prescribe:
 - (a) the nature of the contents of a record maintained under this clause; and
 - (b) the period for which such a record must be retained.
- (3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

Offence

- (4) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 30 penalty units.

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

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

84 Codes of practice

- (1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to operators of facilities and employers (other than such operators) of members of the workforce at facilities.
- (2) A person is not liable to any civil or criminal proceedings for contravening a code of practice.

85 Use of codes of practice in criminal proceedings

Scope

- (1) This clause applies if, in any proceedings for an offence against a listed OHS law, it is alleged that a person contravened a provision of a listed OHS law in relation to which a code of practice was in effect at the time of the alleged contravention.

Admissibility

- (2) The code of practice is admissible in evidence in those proceedings.

Presumption

- (3) If the court is satisfied, in relation to any matter which it is necessary for the prosecution to prove in order to establish the contravention, that:
 - (a) any provision of the code of practice is relevant to that matter; and
 - (b) the person failed at any material time to comply with that provision of the code of practice;that matter is treated as proved unless the court is satisfied that, in respect of that matter, the person complied with that provision of a listed OHS law otherwise than by complying with the code of practice.

86 Interference etc. with equipment etc.

- (1) A person commits an offence if:
 - (a) the person engages in conduct; and
 - (b) the conduct results in the interference with, or the rendering ineffective of, any equipment or device provided for the health, safety or welfare of members of the workforce at a facility; and
 - (c) the equipment or device was protective equipment or a safety device; and

- (d) the person knew (or ought reasonably to have known) that the equipment or device was protective equipment or a safety device.

Penalty: Imprisonment for 6 months.

- (2) Subclause (1) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (2)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

87 Members of workforce not to be levied

A person commits an offence if:

- (a) the person is:
 - (i) the operator of a facility; or
 - (ii) an employer (other than the operator) of members of the workforce at a facility; and
- (b) the person levies, or permits to be levied, on any member of the workforce at the facility, any charge in relation to anything done or provided in accordance with a listed OHS law in order to ensure the health, safety or welfare of persons at or near the facility.

Penalty: 250 penalty units.

88 Employer not to dismiss etc. employees on certain grounds

- (1) An employer (whether the operator or another person) must not:
 - (a) dismiss an employee; or
 - (b) perform an act that results in injury to an employee in his or her employment; or
 - (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
 - (d) threaten to do any of those things;because the employee:

Clause 89

- (e) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work; or
- (f) has assisted or proposes to assist, by giving information or otherwise, the conduct of an inspection; or
- (g) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under paragraph 44(1)(b) or (3)(c), and the cessation or proposed cessation does not continue after:
 - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or
 - (ii) an OHS inspector has, under subclause 44(5), made a decision that has the effect that the employee should perform the work.

Offence

- (2) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1); and
 - (b) the person engages in conduct; and
 - (c) the conduct breaches the requirement.

Penalty: 250 penalty units.

- (3) In proceedings for an offence against subclause (2), if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, the defendant has the onus of establishing that the action was not taken for that reason.

Note: A defendant bears a legal burden in relation to the matter in subclause (3), see section 13.4 of the *Criminal Code*.

89 Institution of prosecutions

Safety Authority or OHS inspector may institute prosecutions

- (1) Proceedings for an offence against a listed OHS law may be instituted by the Safety Authority or by an OHS inspector.

Request to institute prosecutions

- (2) A health and safety representative for a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if:
 - (a) a period of 6 months has elapsed since the act or omission occurred; and
 - (b) the health and safety representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law; and
 - (c) proceedings in respect of the offence have not been instituted.
- (3) A workforce representative in relation to a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if:
 - (a) a period of 6 months has elapsed since the act or omission occurred; and
 - (b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law; and
 - (c) proceedings in respect of the offence have not been instituted; and
 - (d) a group member included in the group requests the workforce representative to request the Safety Authority to institute the proceedings.
- (4) A request under subclause (2) or (3) must be in writing.
- (5) The Safety Authority must, within 3 months after receiving the request, advise the health and safety representative or the workforce representative, as the case may be, whether proceedings under subclause (1) have been or will be instituted and, if not, give reasons why not.

90 Conduct of directors, employees and agents

Scope

- (1) This clause has effect for the purposes of a proceeding for an offence against a listed OHS law.

State of mind of a body corporate

- (2) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of actual or apparent authority; and
 - (b) that the director, employee or agent had the state of mind.

Conduct of a body corporate

- (3) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

State of mind of an individual

- (4) If it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by an employee or agent of the individual within the scope of actual or apparent authority; and
 - (b) that the employee or agent had the state of mind.

Conduct of an individual

- (5) Any conduct engaged in on behalf of an individual by an employee or agent of the individual within the scope of actual or apparent authority is taken to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

Limitation on imprisonment

- (6) If:
- (a) an individual is convicted of an offence; and
 - (b) he or she would not have been convicted of the offence if subclauses (4) and (5) had not been enacted;
- he or she is not liable to be punished by imprisonment for that offence.

Extended meaning of state of mind

- (7) A reference in subclause (2) or (4) to the *state of mind* of a person includes a reference to:
- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

Disapplication of Part 2.5 of the Criminal Code

- (8) Part 2.5 of the *Criminal Code* does not apply to an offence against a listed OHS law.

91 Schedule not to give rise to other liabilities etc.

This Schedule does not:

- (a) confer a right of action in any civil proceeding in respect of any contravention of a provision of a listed OHS law; or
- (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

92 Circumstances preventing compliance may be defence to prosecution

It is a defence to a prosecution for refusing or failing to do anything required by a listed OHS law if the defendant proves that it was not practicable to do that thing because of an emergency prevailing at the relevant time.

Note: A defendant bears a legal burden in relation to the matter in this clause—see section 13.4 of the *Criminal Code*.

93 Regulations—general

- (1) The regulations may prescribe:
 - (a) procedures for the selection of persons, under clause 41, as members of health and safety committees, to represent the interests of members of the workforce at a facility; and
 - (b) procedures to be followed at meetings of health and safety committees; and
 - (c) the manner in which notices are to be served under this Schedule or the regulations; and
 - (d) forms for the purposes of this Schedule or the regulations.
- (2) Subclause (1) does not limit the power to make regulations.

Exemptions

- (3) If the Minister is satisfied that:
 - (a) a power, function or duty is conferred or imposed on a person under a law of the Commonwealth or of a State or Territory; and
 - (b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule;regulations made for the purposes of this subclause may declare that this Schedule, or the provision, as the case may be, does not apply to that person, or does not apply to that person in the circumstances specified in the regulations.
- (4) Regulations made for the purposes of subclause (3) do not remain in force for longer than 5 years after they commence, but this subclause does not prevent the making of further regulations of the same substance.
- (5) In subclause (3):

this Schedule includes regulations made for the purposes of this Schedule.

Schedule 4—Production licences to which the Royalty Act applies

Note: See section 141.

Part 1—Introduction

1 Definitions

In this Schedule:

lessee's primary entitlement has the meaning given by subclause 4(3).

permittee's primary entitlement has the meaning given by subclause 2(3).

primary production licence means a production licence granted as a result of an application under any of the following provisions:

- (a) subclause 2(2) of this Schedule;
- (b) subclause 2(4) of this Schedule;
- (c) subclause 4(2) of this Schedule;
- (d) subclause 4(4) of this Schedule;
- (e) subsection 40(1) or (2) or 40B(2) or (3) of the repealed *Petroleum (Submerged Lands) Act 1967*.

secondary production licence means a production licence granted as a result of an application under either of the following provisions:

- (a) subclause 2(6) of this Schedule;
- (b) subclause 4(6) of this Schedule;
- (c) subsection 40(3) or 40B(4) of the repealed *Petroleum (Submerged Lands) Act 1967*.

Part 2—Applying for a production licence

2 Application for production licence by holder of exploration permit to which the Royalty Act applies

Scope

- (1) This clause applies to an exploration permit if the Royalty Act applies to the permit.

Note: The Royalty Act applies to a small number of North West Shelf titles.

Application for primary production licence—permittee's primary entitlement

- (2) If an exploration permit is in force over a block that constitutes, or the blocks that constitute, a location, the permittee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a production licence over the block or blocks worked out using the table:

Permittee's primary entitlement		
Item	In this case...	the permittee may apply for a production licence over...
1	9 or more blocks constitute the location concerned	5 of those blocks.
2	8 or 7 blocks constitute the location concerned	4 of those blocks.
3	6 or 5 blocks constitute the location concerned	3 of those blocks.
4	4 or 3 blocks constitute the location concerned	2 of those blocks.
5	2 blocks constitute the location concerned	one of those blocks.
6	one block constitutes the location concerned	that block.

Note: For *application period*, see clause 3.

- (3) The number of blocks worked out using the table is the *permittee's primary entitlement*.

Application for primary production licence—blocks less than the permittee's primary entitlement

- (4) If:
- (a) an exploration permit is in force over blocks that constitute a location; and
 - (b) the permittee has not made an application under subclause (2) for a production licence over the permittee's primary entitlement;

the permittee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a production licence over a number of those blocks that is less than the permittee's primary entitlement. The permittee is not entitled to make more than one application under this subclause.

Note: For *application period*, see clause 3.

Clause 2

Application for variation of production licence

- (5) If an exploration permittee is granted a production licence as a result of an application under subclause (4), the permittee may, within the application period, make an application, or a series of applications, to the Designated Authority for the variation of the licence so as to include in the licence area any or all of the blocks that:
- (a) formed part of the permittee's primary entitlement; and
 - (b) were not the subject of the application under subclause (4).

Note: For *application period*, see clause 3.

Application for secondary production licence

- (6) If:
- (a) an exploration permittee applies under subclause (2) for a production licence over the permittee's primary entitlement; or
 - (b) all of the following conditions are satisfied:
 - (i) the permittee is the holder of a production licence as a result of an application under subclause (4);
 - (ii) the licence is over some of the blocks forming the permittee's primary entitlement;
 - (iii) the permittee makes an application, or a series of applications, under subclause (5) for the variation of the licence;
 - (iv) the application, or series of applications, under subclause (5) covers the remainder of the blocks forming the permittee's primary entitlement;

the permittee may, within the application period, apply to the Designated Authority for the grant by the Joint Authority of a production licence over any of the other blocks forming part of the location concerned.

Proposals for work and expenditure

- (7) An application under this clause must be accompanied by details of the applicant's proposals for work and expenditure in relation to

the area comprised in the block or blocks specified in the application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 222 enables the Designated Authority to require the applicant to give further information.

Note 3: An application under this clause is dealt with under Division 2 of Part 2.4.

3 Application period

- (1) The *application period* for an application under clause 2 is:
- (a) the period of 2 years after the day (the *declaration day*) on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
 - (b) such longer period, not more than 4 years after the declaration day, as the Designated Authority allows.

- (2) The Designated Authority may allow a longer period under paragraph (1)(b) only on written application made by the permittee within the period of 2 years mentioned in paragraph (1)(a).

- (3) Despite subclause (1), if:

- (a) an exploration permittee has applied for a retention lease under section 117 over a block or blocks; and
- (b) a notice refusing to grant the retention lease has been given to the permittee under section 119;

the *application period* for an application made by the permittee under clause 2 for the grant of a production licence over the block or blocks is whichever of the following periods ends last:

- (c) the period that is applicable under subclause (1);
- (d) the period of 12 months after the day on which the notice was given.

Note: A failure to make an application within the application period results in revocation of the exploration permit to the extent to which it relates to the block concerned—see clause 8.

Clause 4

4 Application for production licence by holder of retention lease to which the Royalty Act applies

Scope

- (1) This clause applies to a retention lease if the Royalty Act applies to the lease.

Note: The Royalty Act applies to a small number of North West Shelf titles.

Application for primary production licence—lessee’s primary entitlement

- (2) If a retention lease is in force over one or more blocks, the lessee may apply to the Designated Authority for the grant by the Joint Authority of a production licence over the blocks worked out using the table:

Lessee’s primary entitlement		
Item	In this case...	the lessee may apply for a production licence over...
1	The lease is over 9 or more blocks	5 of those blocks.
2	The lease is over 8 or 7 blocks	4 of those blocks.
3	The lease is over 6 or 5 blocks	3 of those blocks.
4	The lease is over 4 or 3 blocks	2 of those blocks.
5	The lease is over 2 blocks	one of those blocks.
6	The lease is over one block	that block.

- (3) The number of blocks worked out using the table is the *lessee’s primary entitlement*.

Application for primary production licence—blocks less than the lessee’s primary entitlement

- (4) If:
- (a) a retention lease is in force over one or more blocks; and
 - (b) the lessee has not made an application under subclause (2) for a production licence over the lessee’s primary entitlement;

the lessee may apply to the Designated Authority for the grant by the Joint Authority of a production licence over a number of those blocks that is less than the lessee's primary entitlement. The lessee is not entitled to make more than one application under this subclause.

Application for variation of production licence

- (5) If a retention lessee is granted a production licence as a result of an application under subclause (4), the lessee may make an application, or a series of applications, to the Designated Authority for the variation of the licence so as to include in the licence area any or all of the blocks that:
- (a) formed part of the lessee's primary entitlement; and
 - (b) were not the subject of the application under subclause (4).

Application for secondary production licence

- (6) If:
- (a) a retention lessee applies under subclause (2) for a production licence over the lessee's primary entitlement; or
 - (b) all of the following conditions are satisfied:
 - (i) the lessee is the holder of a production licence as a result of an application under subclause (4);
 - (ii) the licence is over some of the blocks forming the lessee's primary entitlement;
 - (iii) the lessee makes an application, or a series of applications, under subclause (5) for the variation of the licence;
 - (iv) the application, or series of applications, under subclause (5) covers the remainder of the blocks forming the lessee's primary entitlement;

the lessee may apply to the Designated Authority for the grant by the Joint Authority of a production licence over any of the other blocks forming part of the lease.

Clause 4

Proposals for work and expenditure

- (7) An application under this clause must be accompanied by details of the applicant's proposals for work and expenditure in relation to the area comprised in the block or blocks specified in the application.

Note 1: Part 2.10 contains additional provisions about application procedures.

Note 2: Section 222 enables the Designated Authority to require the applicant to give further information.

Note 3: An application under this clause is dealt with under Division 2 of Part 2.4.

Part 3—Obtaining a production licence

5 Secondary production licence—offer document must specify rate of royalty

If an offer document under section 145 relates to an application for a secondary production licence, the offer document must specify the rate of royalty determined by the Joint Authority under subsection 6(2) of the Royalty Act.

6 Limit on grant of secondary production licence

A secondary production licence may be granted to an exploration permittee or lessee over any one or more of the blocks that constitute a location only if:

- (a) a primary production licence has been granted over a block or blocks forming part of that location; and
- (b) the aggregate of:
 - (i) the number of blocks over which the primary production licence was granted; and
 - (ii) the number of blocks included in that production licence because of variations of the licence under clause 7;is the permittee's or lessee's primary entitlement.

Part 4—Variation of licence area

7 Variation of licence area of production licence

Variation

- (1) If:
- (a) a licensee applies under subclause 2(5) or 4(5) for a variation of the production licence; and
 - (b) the Joint Authority is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum;
- the Designated Authority must, by written notice given to the licensee, vary the licence to include in the licence area the block or blocks which the Joint Authority is satisfied contains or contain petroleum.

When variation takes effect

- (2) A variation of a production licence under this clause takes effect on the day on which notice of the variation is published in the *Gazette*.

Effect of variation

- (3) On and after the day on which a variation of a production licence under this clause has effect:
- (a) the blocks included in the licence area because of the variation are, for the remainder of the term of the licence, blocks in relation to which the licence is in force; and
 - (b) if the application for variation was made under subclause 2(5)—the exploration permit that is in force over those blocks ceases to be in force over those blocks; and
 - (c) if the application for variation was made under subclause 4(5)—the retention lease that is in force over those blocks ceases to be in force over those blocks.
- (4) Paragraph (3)(a) has effect subject to Chapter 2.

Part 5—What happens if a block is not taken up

8 Revocation of exploration permit or retention lease to the extent to which it relates to a block not taken up

Permittee does not apply for a production licence

- (1) If:
- (a) an exploration permittee could apply under clause 2 in relation to a block; and
 - (b) the permittee does not, within the application period, make the application;
- then:
- (c) the exploration permit is revoked to the extent to which it relates to that block; and
 - (d) the revocation has effect at the end of the application period.

Note: For *application period*, see clause 3.

Permittee's application lapses

- (2) If all applications made by an exploration permittee under clause 2 in relation to a block have lapsed:
- (a) the exploration permit is revoked to the extent to which it relates to that block; and
 - (b) the revocation has effect:
 - (i) at the end of the application period; or
 - (ii) on the lapsing of the last of the applications;whichever is the later.

Lessee's application lapses

- (3) If all applications made by a retention lessee under clause 4 in relation to a block have lapsed:
- (a) the retention lease is revoked to the extent to which it relates to that block; and

Clause 8

- (b) the revocation has effect on the lapsing of the last of those applications.

Application for secondary production licence

- (4) Despite subclauses (1), (2) and (3), if an exploration permittee or lessee applies for a secondary production licence:
 - (a) the exploration permit or retention lease is revoked to the extent to which it relates to any blocks forming part of the location concerned that are not the subject of:
 - (i) that application; or
 - (ii) any application for a primary production licence; or
 - (iii) an application for the variation of a primary production licence; and
 - (b) the revocation has effect on the making of the application.

Schedule 5—Release of technical information given to the Designated Authority before 7 March 2000

Note: See section 431.

1 Simplified outline

The following is a simplified outline of this Schedule:

- This Schedule protects the confidentiality of information contained in certain documents given to the Designated Authority before 7 March 2000.
- The information may be disclosed only if this Schedule authorises the disclosure.
- This Schedule authorises disclosure in the following situations:
 - (a) disclosure of certain basic information given in connection with applications;
 - (b) disclosure of basic information after the authorised release day;
 - (c) disclosure of information that is in the public domain;
 - (d) disclosure of derivative information after 5 years.

2 Definitions

In this Schedule:

applicable document means:

Clause 3

- (a) an application made before 7 March 2000 to the Designated Authority under the repealed *Petroleum (Submerged Lands) Act 1967*; and
- (b) a document accompanying such an application; and
- (c) a report, return or other document that:
 - (i) relates to a block; and
 - (ii) was given before 7 March 2000 to the Designated Authority under the repealed *Petroleum (Submerged Lands) Act 1967*.

authorised release day has the meaning given by subclause 7(2).

3 Time of receipt of certain information

Drilling of a well

- (1) For the purposes of this Schedule:
 - (a) well data relating to the drilling of a well; and
 - (b) logs relating to the drilling of a well; and
 - (c) sample descriptions and other documents relating to the drilling of a well;are taken to have been given to the Designated Authority not later than one month after the drilling of the well was, in the Designated Authority's opinion, substantially completed.

Geophysical or geochemical surveys

- (2) For the purposes of this Schedule, geophysical or geochemical data relating to geophysical or geochemical surveys are taken to have been given to the Designated Authority not later than one year after the geophysical or geochemical field work was, in the Designated Authority's opinion, substantially completed.

4 Protection of the confidentiality of information

Except as provided by this Schedule or for the purposes of the administration of this Act and the regulations:

- (a) the Designated Authority; or

(b) a Minister to whom any information has been made available under subclause 5(1) or (2);

must not make publicly known, or make available to any person (other than a Minister, a Minister of a State or a Minister of the Northern Territory), any information contained in an applicable document.

5 Designated Authority may make information available to a Minister, a State Minister or a Northern Territory Minister

- (1) The Designated Authority may, at any time, make available to a Minister, a Minister of a State or a Minister of the Northern Territory any information contained in an applicable document that has been given to the Designated Authority.
- (2) The Designated Authority must, as and when required by the responsible Commonwealth Minister, make available to the responsible Commonwealth Minister any information referred to in subclause (1).

6 Disclosure of basic information given in connection with an application

The Designated Authority or the responsible Commonwealth Minister may, at any time after the grant or renewal, or refusal to grant or renew, an exploration permit, retention lease, production licence, pipeline licence, access authority or special prospecting authority:

- (a) make publicly known; or
- (b) on request by a person and, if the Designated Authority or the responsible Commonwealth Minister so requires, on payment of a fee calculated in accordance with the regulations, make available to that person;

any information contained in, or accompanying, the application for the grant or renewal, as the case may be, but not including:

- (c) information of a kind referred to in subclause 7(1) or 9(1); or
- (d) details of:

Clause 7

- (i) the technical qualifications of the applicant and of the applicant's employees; or
- (ii) the technical advice available to the applicant; or
- (iii) the financial resources available to the applicant.

7 Disclosure of basic information after authorised release day

(1) The Designated Authority or the responsible Commonwealth Minister may, at any time after the authorised release day:

- (a) make publicly known; or
- (b) on request by a person and, if the Designated Authority or the responsible Commonwealth Minister so requires, on payment of a fee calculated in accordance with the regulations, make available to that person;

any information that:

- (c) is contained in an applicable document that has been given to the Designated Authority or has been made available to the responsible Commonwealth Minister under subclause 5(1) or (2); and
- (d) relates to the seabed or subsoil, or to petroleum, in a block; and
- (e) in the opinion of the Designated Authority or the responsible Commonwealth Minister, is not a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, information contained in an applicable document that has been given to the Designated Authority or has been made available to the responsible Commonwealth Minister under subclause 5(1) or (2).

Authorised release day

(2) The table has effect:

Authorised release day		
Item	If the following conditions are satisfied...	the <i>authorised release day</i> is...
1	(a) the applicable document that contains the information was given to the Designated Authority when an exploration permit, retention lease or production licence was not in force in relation to the block concerned; (b) the information was collected for the purpose of the sale of the information on a non-exclusive basis	the day determined by the Designated Authority (the day must not be more than 5 years after the day on which the document was given to the Designated Authority).
2	(a) the applicable document that contains the information was given to the Designated Authority when an exploration permit, retention lease or production licence was not in force in relation to the block concerned; (b) item 1 does not apply	the day determined by the Designated Authority (the day must not be more than 2 years after the day on which the document was given to the Designated Authority).
3	(a) the applicable document that contains the information was given to the Designated Authority when an exploration permit, retention lease or production licence was in force in relation to the block concerned; (b) the permit, lease or licence is subsequently surrendered, cancelled or revoked (or, in the case of a licence, subsequently terminated after the commencement of this subclause) in relation to the block	the day of the surrender, cancellation, or revocation or termination, as the case may be, whether or not another exploration permit, retention lease or production licence is afterwards in force in relation to the block.
4	(a) the applicable document that contains the information was given to the Designated Authority when an exploration permit, retention lease or production licence was in force in relation to the block concerned; (b) the permit, lease or licence subsequently expires but is not renewed in relation to the block	the day of the expiry, whether or not another exploration permit, retention lease or production licence is afterwards in force in relation to the block.

Clause 7

Authorised release day		
Item	If the following conditions are satisfied...	the authorised release day is...
5	(a) a production licence is in force over the block concerned; (b) the applicable document that contains the information was given to the Designated Authority when the licence was in force over the block	the last day of the period of one year that began on the day on which the document was given to the Designated Authority.
6	(a) a production licence is in force over the block concerned; (b) an exploration permit or retention lease ceased to be in force over the block, because of section 148 of this Act or subsection 44(5) of the repealed <i>Petroleum (Submerged Lands) Act 1967</i> , on the day on which the licence came into force; (c) the applicable document that contains the information was given to the Designated Authority when the permit or lease was in force over the block	the last day of the period of one year that began on the day on which the document was given to the Designated Authority.
7	(a) an exploration permit or retention lease is in force over the block concerned; (b) the applicable document that contains the information was given to the Designated Authority when the permit or lease was in force over the block	the last day of the period of 2 years that began on the day on which the document was given to the Designated Authority.
8	(a) a retention lease is in force over the block concerned; (b) an exploration permit ceased to be in force over the block, because of section 121 of this Act or subsection 38B(7) of the repealed <i>Petroleum (Submerged Lands) Act 1967</i> , on the day on which the lease came into force; (c) the applicable document that contains the information was given to the Designated Authority when the permit was in force over the block	the last day of the period of 2 years that began on the day on which the document was given to the Designated Authority.

8 Disclosure of information that is in the public domain

If:

- (a) an applicable document was given to the Designated Authority:
 - (i) during or in relation to a period during which an exploration permit, retention lease or production licence was in force in relation to the block; or
 - (ii) during or in relation to a period during which a special prospecting authority or access authority was in force in relation to the block but during which an exploration permit, retention lease or production licence was not in force in relation to the block; and
- (b) whichever of the following is applicable:
 - (i) if the exploration permit, retention lease, production licence, special prospecting authority or access authority is in force—the permittee, lessee, licensee or holder of the special prospecting authority or access authority;
 - (ii) if the exploration permit, retention lease, production licence, special prospecting authority or access authority has ceased to be in force—the person who was the holder of the exploration permit, retention lease, production licence, special prospecting authority or access authority;

has made publicly known any information contained in the document or has consented in writing to any of that information being made publicly known;

the Designated Authority or the responsible Commonwealth Minister to whom that information has been made available under subclause 5(1) or (2) may, at any time after that information has been made publicly known or after that consent has been given:

- (c) make that information publicly known; or
- (d) on request by any other person and, if the Designated Authority or the responsible Commonwealth Minister so requires, on payment of a fee calculated in accordance with the regulations, make that information available to that other person.

Clause 9

9 Disclosure of derivative information after 5 years

- (1) The Designated Authority or the responsible Commonwealth Minister may, at any time after the end of the period of 5 years after an applicable document was given to the Designated Authority:
- (a) make publicly known; or
 - (b) on request by a person and, if the Designated Authority or the responsible Commonwealth Minister so requires, on payment of a fee calculated in accordance with the regulations, make available to that person;
- any information that:
- (c) is contained in the document; and
 - (d) relates to the seabed or subsoil, or to petroleum, in a block; and
 - (e) in the opinion of the Designated Authority or the responsible Commonwealth Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any information contained in an applicable document that has been given to the Designated Authority or has been made available to the responsible Commonwealth Minister under subclause 5(1) or (2).

This subclause has effect subject to subclause (12).

- (2) This clause applies to information contained in an applicable document that was given to the Designated Authority before or after the commencement of section 31 of the *Petroleum (Submerged Lands) Amendment Act 1985*.

Objection to the disclosure of information

- (3) Before the Designated Authority or the responsible Commonwealth Minister makes available or publicly known any information under subclause (1), the Designated Authority or the responsible Commonwealth Minister, as the case may be, must:
- (a) cause to be published in the *Gazette* a notice:
 - (i) stating that the Designated Authority or the responsible Commonwealth Minister, as the case may be, proposes

- to make the information available or publicly known;
and
- (ii) inviting interested persons to give to the Designated Authority or the responsible Commonwealth Minister, as the case may be, by such day as is specified in the notice (being a day not earlier than 45 days after the publication of the notice), a notice objecting to the whole or any part of the information being made available or publicly known; and
 - (iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known; and
- (b) if it is practicable to do so—cause a copy of the notice so published in the *Gazette* to be given to the person who provided the document containing the information.
- (4) The notice of objection must set out the reasons for making the objection.
- (5) A person is not entitled to make an objection to information being made available or publicly known except on the grounds that to do so would disclose:
- (a) a trade secret; or
 - (b) any other information the disclosure of which would, or could reasonably be expected to, adversely affect the person in relation to the lawful business, commercial or financial affairs of the person.

Decision on objection

- (6) If a person makes an objection to the Designated Authority or the responsible Commonwealth Minister in accordance with such an invitation, the Designated Authority or the responsible Commonwealth Minister must, within 45 days after the receipt of the notice of objection, consider the objection, and may:
- (a) allow it wholly; or
 - (b) allow it partly and disallow the remainder of it; or
 - (c) disallow it wholly;

Clause 9

and must cause to be given to the person written notice of the decision on the objection.

Review of decision on objection

- (7) A notice of a decision of the Designated Authority for a State or the Northern Territory on an objection must include a statement to the effect that, if the relevant person is dissatisfied with the decision of the Designated Authority on the objection, the person may, in accordance with subclause (8), request the responsible Commonwealth Minister to review the decision.
- (8) A person who:
- (a) has made an objection to the Designated Authority for a State or the Northern Territory; and
 - (b) is dissatisfied with the decision on the objection;
- may, by written notice given to the responsible Commonwealth Minister not later than 30 days after the day on which the notice of the decision referred to in subclause (6) was given to the person, request the responsible Commonwealth Minister to review the decision.
- (9) The notice of request must set out the reasons for making the request.
- (10) The responsible Commonwealth Minister must, within 45 days after the receipt of the request, review the decision, and may make a decision:
- (a) in substitution for the first-mentioned decision, whether in the same terms as the first-mentioned decision or not; or
 - (b) revoking the first-mentioned decision.
- (11) If, as a result of a review under subclause (10), the responsible Commonwealth Minister makes a decision under subclause (10) in substitution for, or revoking, a decision, the responsible Commonwealth Minister must, by written notice given to the person who made the request under subclause (8) for the review:
- (a) inform the person of the result of the review; and
 - (b) give reasons for the subclause (10) decision.

Information not to be disclosed if objection is in force

- (12) The Designated Authority or the responsible Commonwealth Minister must not make available or publicly known any information under subclause (1) if there is in force an objection made in relation to the information being made available or publicly known. However, if such an objection is in force, this Schedule does not prevent a further invitation under subclause (3) being made in relation to the information.

10 Transitional—section 118 of the repealed *Petroleum (Submerged Lands) Act 1967*

- (1) After the commencement of this clause, section 118 of the repealed *Petroleum (Submerged Lands) Act 1967* ceases to apply in relation to information contained in an applicable document.
- (2) Subclause (1) has effect despite item 142 of Schedule 1 to the *Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000*.
- (3) A reference in Schedule 6 to a *provision* of the *Petroleum (Submerged Lands) Act 1967* includes a reference to section 118 of the repealed *Petroleum (Submerged Lands) Act 1967* as that section continued to apply, before the commencement of this clause, because of item 142 of Schedule 1 to the *Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000*.

Schedule 6—Transitional provisions

Note: See section 450.

Part 1—Basic provisions

1 Definitions

In this Schedule:

corresponding provision: in determining whether a provision is a corresponding provision:

- (a) regard must be had to the substance of the provision; and
- (b) if the provision appears to have expressed the same idea in a different form of words for the purpose of using a clearer style—disregard the difference.

eligible instrument means regulations, a declaration, a determination, a direction, an agreement, a delegation, an approval, an appointment, a notice or any other instrument, but does not include an old title.

old title means:

- (a) an exploration permit under Division 2 of Part III of the *Petroleum (Submerged Lands) Act 1967*; or
- (b) a retention lease under Division 2A of Part III of the *Petroleum (Submerged Lands) Act 1967*; or
- (c) a production licence under:
 - (i) Division 3 of Part III of the *Petroleum (Submerged Lands) Act 1967*; or
 - (ii) section 148 of the *Petroleum (Submerged Lands) Act 1967*; or
- (d) an infrastructure licence under Division 3A of Part III of the *Petroleum (Submerged Lands) Act 1967*; or
- (e) a pipeline licence under Division 4 of Part III of the *Petroleum (Submerged Lands) Act 1967*; or
- (f) a special prospecting authority under section 111 of the *Petroleum (Submerged Lands) Act 1967*; or

- (g) an access authority under section 112 of the *Petroleum (Submerged Lands) Act 1967*; or
- (h) a scientific investigation consent under section 123 of the *Petroleum (Submerged Lands) Act 1967*.

2 Re-enactment of the *Petroleum (Submerged Lands) Act 1967*

This Act re-enacts the *Petroleum (Submerged Lands) Act 1967* with certain modifications.

Note: Section 15AC of the *Acts Interpretation Act 1901* provides that if an Act has expressed an idea in a particular form of words, and a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style, the ideas shall not be taken to be different merely because different forms of words were used.

3 Old titles continue in force

- (1) To avoid doubt, an old title does not lapse merely because of the repeal of the *Petroleum (Submerged Lands) Act 1967*.
- (2) An old title continues in force subject to, and in accordance with, the provisions of this Act.

Note: This Act includes provisions about the duration of titles.

4 Transitional—eligible instruments

- (1) This clause applies to an eligible instrument if:
 - (a) the eligible instrument was in force immediately before the commencement of this clause; and
 - (b) the eligible instrument was made or given under, or for the purposes of, a particular provision of the *Petroleum (Submerged Lands) Act 1967*.
- (2) The eligible instrument has effect, after the commencement of this clause, as if:
 - (a) it had been made or given under, or for the purposes of, the corresponding provision of this Act; and
 - (b) any requirement imposed by this Act or the *Legislative Instruments Act 2003* in relation to the making or giving of

Clause 5

the eligible instrument (including a requirement about the form of words) had been satisfied.

(3) If:

- (a) under the eligible instrument, a particular act or thing was required, permitted or proposed to be done within, or at the end of, a particular period; and
- (b) if the *Petroleum (Submerged Lands) Act 1967* had not been repealed, that period would have:
 - (i) begun before the commencement of this clause; and
 - (ii) ended after the commencement of this clause;

this Act and the eligible instrument have effect, after the commencement of this clause, as if the act or thing was required, permitted or proposed to be done within, or at the end of:

- (c) if that period was one month—whichever is the longer of:
 - (i) 30 days; or
 - (ii) one month; or
 - (d) if that period was 3 months—whichever is the longer of:
 - (i) 90 days; or
 - (ii) 3 months; or
 - (e) in any other case—that period;
- instead of the period that would otherwise be applicable.

5 Transitional—acts or things done before commencement

- (1) This clause applies to an act or thing (other than the grant of an old title or the making or giving of an eligible instrument) if:
 - (a) the act or thing was done before the commencement of this clause; and
 - (b) the act or thing was done under, or for the purposes of, a particular provision of the *Petroleum (Submerged Lands) Act 1967*.
- (2) The act or thing has effect, after the commencement of this clause, as if it had been done under, or for the purposes of, the corresponding provision of this Act.

6 Transitional—conditions of old titles

In a condition of an old title, the expression *the Act* includes this Act.

7 Translation of references in documents

- (1) The responsible Commonwealth Minister may, by writing, make any or all of the following declarations in relation to a specified document:
 - (a) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to the *Petroleum (Submerged Lands) Act 1967* included a reference to this Act;
 - (b) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of the *Petroleum (Submerged Lands) Act 1967* included a reference to the corresponding provision of this Act or the Royalty Act;
 - (c) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to regulations under the *Petroleum (Submerged Lands) Act 1967* included a reference to regulations under this Act;
 - (d) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of regulations under the *Petroleum (Submerged Lands) Act 1967* included a reference to the corresponding provision of regulations under this Act;
 - (e) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to an adjacent area within the meaning of the *Petroleum (Submerged Lands) Act 1967* were a reference to the corresponding offshore area within the meaning of this Act;

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- (f) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to the relinquished area within the meaning of the *Petroleum (Submerged Lands) Act 1967* were a reference to the corresponding vacated area within the meaning of this Act;
- (g) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to the *Petroleum (Submerged Lands) (Royalty) Act 1967* included a reference to the Royalty Act;
- (h) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of the *Petroleum (Submerged Lands) (Royalty) Act 1967* included a reference to the corresponding provision of the Royalty Act or Part 4.6 of this Act;
- (i) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to the *Petroleum (Submerged Lands) (Registration Fees) Act 1967* included a reference to the Registration Fees Act;
- (j) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of the *Petroleum (Submerged Lands) (Registration Fees) Act 1967* included a reference to the corresponding provision of the Registration Fees Act or Part 4.6 of this Act;
- (k) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to regulations under the *Petroleum (Submerged Lands) (Registration Fees) Act 1967* included a reference to regulations under the Registration Fees Act;
- (l) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of regulations under the *Petroleum (Submerged Lands) (Registration Fees) Act 1967* included a reference to

the corresponding provision of regulations under the Registration Fees Act;

- (m) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to the *Petroleum (Submerged Lands) Fees Act 1994* included a reference to the Annual Fees Act;
- (n) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of the *Petroleum (Submerged Lands) Fees Act 1994* included a reference to the corresponding provision of the Annual Fees Act or Part 4.6 of this Act;
- (o) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to regulations under the *Petroleum (Submerged Lands) Fees Act 1994* included a reference to regulations under the Annual Fees Act;
- (p) that the document has effect, after the commencement of this clause, as if a specified reference, or each reference other than a specified reference, in the document to a particular provision of regulations under the *Petroleum (Submerged Lands) Fees Act 1994* included a reference to the corresponding provision of regulations under the Annual Fees Act.

Note 1: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

Note 2: For specification of more than one document, or more than one reference, see paragraph 23(b) of the *Acts Interpretation Act 1901*.

- (2) A declaration under subclause (1) has effect accordingly.
- (3) A declaration under subclause (1) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
 - Note: This means that the declaration could be disallowed by either House of the Parliament.
- (4) This clause does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

Clause 8

(5) In this clause:

document includes:

- (a) an eligible instrument; and
- (b) an old title.

8 Transitional regulations

- (1) The Governor-General may make regulations in relation to transitional matters arising out of the repeal of the *Petroleum (Submerged Lands) Act 1967*.
- (2) The Governor-General may make regulations in relation to transitional matters arising out of the repeal of the *Petroleum (Submerged Lands) (Royalty) Act 1967*.
- (3) The Governor-General may make regulations in relation to transitional matters arising out of the repeal of the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.
- (4) The Governor-General may make regulations in relation to transitional matters arising out of the repeal of the *Petroleum (Submerged Lands) Fees Act 1994*.
- (5) This clause does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

Part 2—Specific provisions

9 Joint Authority

- (1) A Joint Authority for an offshore area under this Act is, for all purposes, a continuation of the Joint Authority for the corresponding adjacent area under the *Petroleum (Submerged Lands) Act 1967*.
- (2) Despite the repeal of subsections 8D(4) and (5) of the *Petroleum (Submerged Lands) Act 1967*, those subsections continue to apply, in relation to a record or document signed before the commencement of this clause, as if that repeal had not happened.

Note 1: Subsection 8D(4) of the *Petroleum (Submerged Lands) Act 1967* deals with the evidentiary effect of signed records of the decisions of a Joint Authority.

Note 2: Subsection 8D(5) of the *Petroleum (Submerged Lands) Act 1967* deals with the legal effect of documents signed, on behalf of the Joint Authority, by the Designated Authority.

10 Joint Authority for an external Territory

- (1) This clause applies to an act or thing that was done:
 - (a) by, or in relation to, the Designated Authority for an adjacent area of an external Territory under the *Petroleum (Submerged Lands) Act 1967*; and
 - (b) in, or in connection with, the performance of the functions, or the exercise of the powers, referred to in subsection 8G(1) of that Act.
- (2) The act or thing has effect, after the commencement of this clause, as if it had been done by, or in relation to, the Joint Authority for the corresponding offshore area under this Act.

11 Designated Authority

A Designated Authority for an offshore area under this Act is, for all purposes, a continuation of the Designated Authority for the

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corresponding adjacent area under the *Petroleum (Submerged Lands) Act 1967*.

12 Chief Executive Officer of the National Offshore Petroleum Safety Authority

The office of Chief Executive Officer of the National Offshore Petroleum Safety Authority under this Act is, for all purposes, a continuation of the office of Chief Executive Officer of the National Offshore Petroleum Safety Authority under the *Petroleum (Submerged Lands) Act 1967*.

13 Project inspectors

- (1) This clause applies to an appointment of a person as an inspector in respect of an adjacent area if:
 - (a) the appointment was in force immediately before the commencement of this clause; and
 - (b) the appointment was made under section 125 of the *Petroleum (Submerged Lands) Act 1967*.
- (2) The appointment has effect, after the commencement of this clause, as if it had been an appointment of the person as a project inspector under section 318 of this Act in respect of the corresponding offshore area.

14 Offshore area

The offshore area of a State or Territory under this Act corresponds to the area which, immediately before the repeal of the *Petroleum (Submerged Lands) Act 1967*, was the adjacent area in respect of that State or Territory determined in accordance with section 5A of that Act.

15 Registers

- (1) A Register for an offshore area under this Act is, for all purposes, a continuation of the Register for the corresponding adjacent area under the *Petroleum (Submerged Lands) Act 1967*.

- (2) Subsection 297(1) of this Act has effect as if the reference in that subsection to Chapter 3 of this Act included a reference to Division 5 of Part III of the *Petroleum (Submerged Lands) Act 1967*.

Note: Subsection 297(1) of this Act deals with the reception in evidence of a Register.

- (3) Despite the repeal of subsection 87(2) of the *Petroleum (Submerged Lands) Act 1967*, that subsection continues to apply, in relation to a copy or extract certified before the commencement of this clause, as if that repeal had not happened.

Note: Subsection 87(2) of the *Petroleum (Submerged Lands) Act 1967* deals with the evidentiary effect of certified copies and extracts.

- (4) Despite the repeal of subsection 87(3) of the *Petroleum (Submerged Lands) Act 1967*, that subsection continues to apply, in relation to a certificate given before the commencement of this clause, as if that repeal had not happened.

Note: Subsection 87(3) of the *Petroleum (Submerged Lands) Act 1967* is about evidentiary certificates.

16 Registration fees—transfer

- (1) This clause applies if, before the commencement of this clause:
- (a) an application for approval of a transfer of a title was made under section 78 of the *Petroleum (Submerged Lands) Act 1967*; and
 - (b) a payment was made in relation to the approval as mentioned in subsection 78(9) of that Act; and
 - (c) the Designated Authority had not entered in the Register a memorandum of the transfer.
- (2) Subsection 262(3) of this Act has effect, in relation to the approval, as if that payment had been the payment mentioned in that subsection.

17 Registration fees—dealings

- (1) This clause applies if, before the commencement of this clause:
- (a) either:

Clause 18

- (i) an application for approval of a dealing was made under section 81 of the *Petroleum (Submerged Lands) Act 1967*; or
 - (ii) a provisional application for approval of a dealing was made under section 81A of the *Petroleum (Submerged Lands) Act 1967*; and
 - (b) a payment was made in relation to the approval as mentioned in subsection 81(12) of that Act; and
 - (c) the Designated Authority had not made an entry in the Register of the approval.
- (2) Subsection 276(3) of this Act has effect, in relation to the approval, as if that payment had been the payment mentioned in that subsection.

18 Retention and inspection of documents

- (1) This clause applies if a provision of Division 5 of Part III of the *Petroleum (Submerged Lands) Act 1967* required that a particular document be:
- (a) retained by the Designated Authority; and
 - (b) made available for inspection in accordance with that Division.
- (2) The document must be:
- (a) retained by the Designated Authority; and
 - (b) made available for inspection in accordance with Chapter 3 of this Act.

19 Assessment of registration fee

Section 298 of this Act has effect as if:

- (a) each reference in that section to the Registration Fees Act included a reference to the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*; and
- (b) the reference in paragraph (2)(b) of that section to section 293 of this Act included a reference to subsection 82(1) of the *Petroleum (Submerged Lands) Act 1967*.

20 Payments by the Commonwealth to the States and the Northern Territory

- (1) Despite the repeal of subsections 129(1), (2), (2A) and (3) of the *Petroleum (Submerged Lands) Act 1967*, those subsections continue to apply, in relation to an amount received by the Commonwealth before the commencement of this clause, as if that repeal had not happened.
- (2) Despite the repeal of subsections 129(1A), (2A) and (3) of the *Petroleum (Submerged Lands) Act 1967*, those subsections continue to apply, in relation to an amount that became payable under Part III of that Act before the commencement of this clause, as if that repeal had not happened.
- (3) If, apart from this subclause, the same amount would be counted for the purposes of a provision of section 129 of the *Petroleum (Submerged Lands) Act 1967* and for the purposes of the corresponding provision of this Act, the amount is to be counted only for the purposes of one of those provisions.
- (4) Section 55 of this Act has effect, in relation to an amount received by the Commonwealth, as if:
 - (a) the reference in subparagraph (1)(a)(i) of that section to this Act included a reference to the *Petroleum (Submerged Lands) Act 1967*; and
 - (b) the reference in subparagraph (1)(a)(ii) of that section to the Annual Fees Act included a reference to the *Petroleum (Submerged Lands) Fees Act 1994*; and
 - (c) the reference in subparagraph (1)(a)(iii) of that section to the Registration Fees Act included a reference to the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.

21 Adjustment to period required or allowed for doing an act or thing etc.

30 days

- (1) If:

Clause 21

- (a) under a particular provision of the *Petroleum (Submerged Lands) Act 1967*, a particular act or thing was required or permitted to be done within a period of one month; and
 - (b) if that Act had not been repealed, the period of one month would have:
 - (i) begun before the commencement of this clause; and
 - (ii) ended after the commencement of this clause; and
 - (c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 30 days; and
 - (d) the period of one month is longer than the period of 30 days; this Act has effect as if the act or thing was required or permitted to be done within the period of one month instead of within the period of 30 days.
- (2) If:
- (a) under a particular provision of the *Petroleum (Submerged Lands) Act 1967*, the Joint Authority or the Designated Authority was required to give not less than one month's notice of something; and
 - (b) the Joint Authority or the Designated Authority gave notice before the commencement of this clause; and
 - (c) if that Act had not been repealed, the period of one month would have:
 - (i) begun before the commencement of this clause; and
 - (ii) ended after the commencement of this clause; and
 - (d) under the corresponding provision of this Act, the Joint Authority or the Designated Authority is required to give at least 30 days notice of that thing; and
 - (e) the period of one month is longer than the period of 30 days; this Act has effect as if the Joint Authority or the Designated Authority had been required to give at least one month's notice of that thing instead of at least 30 days notice.

90 days

- (3) If:

- (a) under a particular provision of the *Petroleum (Submerged Lands) Act 1967*, a particular act or thing was required or permitted to be done within a period of 3 months; and
 - (b) if that Act had not been repealed, the period of 3 months would have:
 - (i) begun before the commencement of this clause; and
 - (ii) ended after the commencement of this clause; and
 - (c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 90 days; and
 - (d) the period of 3 months is longer than the period of 90 days;
- this Act has effect as if the act or thing was required or permitted to be done within the period of 3 months instead of within the period of 90 days.

180 days

- (4) If:
 - (a) under a particular provision of the *Petroleum (Submerged Lands) Act 1967*, a particular act or thing was required or permitted to be done within a period of 6 months; and
 - (b) if that Act had not been repealed, the period of 6 months would have:
 - (i) begun before the commencement of this clause; and
 - (ii) ended after the commencement of this clause; and
 - (c) under the corresponding provision of this Act, the act or thing is required or permitted to be done within 180 days;
- this Act has effect as if the act or thing was required or permitted to be done within the period of 6 months instead of within the period of 180 days.

22 Old titles—continuation in force beyond date of expiry

- (1) This clause applies if, immediately before the commencement of this clause, an old title was being continued in force beyond its date of expiry subject to, and in accordance with, a particular provision of the *Petroleum (Submerged Lands) Act 1967*.
- (2) The old title continues in force subject to, and in accordance with, the corresponding provision of this Act.

Clause 23

Note: For example, see subsection 32(8) of the *Petroleum (Submerged Lands) Act 1967* and subsection 97(5) of this Act.

23 Renewal of exploration permits

- (1) The reference in item 1 of the table in subsection 100(2) of this Act to subsection 82(1) of this Act includes a reference to subsection 20(1) of the *Petroleum (Submerged Lands) Act 1967*.

Note: Item 1 is about invitations to apply for the grant of an exploration permit.

- (2) Sections 103 and 104 of this Act have effect, in relation to an application for the renewal of an exploration permit that is an old title, as if:
- (a) each reference in those sections to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
 - (b) each reference in those sections to regulations under this Act included a reference to regulations under the *Petroleum (Submerged Lands) Act 1967*.

24 Renewal of retention leases

Sections 130 and 131 of this Act have effect, in relation to an application for the renewal of a retention lease that is an old title, as if:

- (a) each reference in those sections (other than subsection 131(8)) to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
- (b) each reference in those sections to regulations under this Act included a reference to the regulations under the *Petroleum (Submerged Lands) Act 1967*.

25 Grant of production licences over individual blocks

Section 155 of this Act has effect as if a production licence granted as a result of an application under section 51 of the *Petroleum (Submerged Lands) Act 1967* had been granted under section 155 of this Act.

26 Renewal of fixed-term production licences

Sections 157 and 158 of this Act have effect, in relation to an application for the renewal of a fixed-term production licence that is an old title, as if:

- (a) each reference in those sections to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
- (b) each reference in those sections to regulations under this Act included a reference to the regulations under the *Petroleum (Submerged Lands) Act 1967*.

27 Grant of pipeline licences

Sections 187 and 188 of this Act have effect, in relation to an application for the grant of a pipeline licence in a case where the applicant is the licensee of a production licence that is an old title, as if:

- (a) each reference in those sections to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
- (b) each reference in those sections to regulations under this Act included a reference to the regulations under the *Petroleum (Submerged Lands) Act 1967*.

28 Requirement to provide further information in connection with application for title

Section 222 of this Act has effect as if a requirement under any of the following provisions of the *Petroleum (Submerged Lands) Act 1967* were a requirement under subsection 222(2) of this Act:

- (a) subsection 21(4);
- (b) subsection 22A(6);
- (c) subsection 23(5);
- (d) subsection 38A(3);
- (e) subsection 38BB(3);
- (f) subsection 38F(4);
- (g) subsection 41(2);

Clause 29

- (h) subsection 47(7);
- (i) subsection 59B(3);
- (j) subsection 59K(3);
- (k) subsection 64(4);
- (l) subsection 71(3).

29 Revocation of exploration permits, retention leases, production licences and access authorities

- (1) If an exploration permit or retention lease was wholly determined under the *Petroleum (Submerged Lands) Act 1967*, this Act has effect as if the permit or lease had been wholly revoked.
- (2) If an exploration permit or retention lease was partly determined to a particular extent under the *Petroleum (Submerged Lands) Act 1967*, this Act has effect as if the permit or lease had been partly revoked to that extent.
- (3) If a production licence was determined under the *Petroleum (Submerged Lands) Act 1967*, this Act has effect as if the licence had been revoked.
- (4) If a retention lease was cancelled under section 38E of the *Petroleum (Submerged Lands) Act 1967*, this Act has effect as if the lease had been revoked.
- (5) If an access authority was cancelled under the *Petroleum (Submerged Lands) Act 1967*, this Act has effect as if the authority had been revoked.

30 Surrender of title

Section 233 of this Act has effect, in relation to the surrender of an old title, as if:

- (a) the reference in subparagraph (3)(a)(i) of that section to this Act included a reference to the *Petroleum (Submerged Lands) Act 1967*; and
- (b) the reference in subparagraph (3)(a)(ii) of that section to the Royalty Act included a reference to the *Petroleum (Submerged Lands) (Royalty) Act 1967*; and

- (c) the reference in subparagraph (3)(a)(iii) of that section to the Annual Fees Act included a reference to the *Petroleum (Submerged Lands) Fees Act 1994*; and
- (d) each reference in paragraphs (3)(b) and (5)(a) of that section to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
- (e) each reference in paragraphs (3)(b) and (5)(a) of that section to regulations under this Act included a reference to regulations under the *Petroleum (Submerged Lands) Act 1967*.

31 Cancellation of old titles

Sections 237 and 240 of this Act have effect, in relation to the cancellation of an old title, as if:

- (a) each reference in those sections to Chapter 2, Chapter 3, Chapter 4 or Part 5.1 of this Act included a reference to Part III of the *Petroleum (Submerged Lands) Act 1967*; and
- (b) each reference in those sections to regulations under this Act included a reference to regulations under the *Petroleum (Submerged Lands) Act 1967*; and
- (c) each reference in those sections to this Act included a reference to the *Petroleum (Submerged Lands) Act 1967*; and
- (d) each reference in those sections to the Royalty Act included a reference to the *Petroleum (Submerged Lands) (Royalty) Act 1967*; and
- (e) each reference in those sections to the Annual Fees Act included a reference to the *Petroleum (Submerged Lands) Fees Act 1994*.

32 Commencement of works or operations

- (1) This clause applies if, immediately before the commencement of this clause, an instrument under subsection 96(2) of the *Petroleum (Submerged Lands) Act 1967* was in force in relation to:
 - (a) an exploration permit; or
 - (b) a retention lease; or

Clause 33

- (c) an infrastructure licence; or
 - (d) a pipeline licence.
- (2) The instrument ceases to be in force at the commencement of this clause.
- (3) Subsection 300(2) of this Act has effect, in relation to the permit, lease or licence, as if the period specified in the instrument under paragraph 96(2)(b) of the *Petroleum (Submerged Lands) Act 1967* had been allowed by the Designated Authority under paragraph 300(2)(b) of this Act.

33 Deduction of debts from proceeds of sale of property

Subsection 314(2) of this Act has effect as if:

- (a) the reference in that subsection to this Act included a reference to the *Petroleum (Submerged Lands) Act 1967*; and
- (b) the reference in that subsection to the Royalty Act included a reference to the *Petroleum (Submerged Lands) (Royalty) Act 1967*; and
- (c) the reference in that subsection to the Annual Fees Act included a reference to the *Petroleum (Submerged Lands) Fees Act 1994*.

34 Authorised persons

- (1) This clause applies if, immediately before the commencement of this clause, an authorisation under subsection 140A(4) of the *Petroleum (Submerged Lands) Act 1967* was in force in relation to a person or a person included in a class of persons.
- (2) This Act has effect as if the Designated Authority had made a declaration under subsection 328(2) of this Act in relation to that person, or a person included in that class of persons, as the case requires.

35 Release of regulatory information

Section 419 of this Act has effect as if the reference in that section to this Act included a reference to the *Petroleum (Submerged Lands) Act 1967*.

36 Release of technical information—deemed time of receipt of certain information and samples

Drilling of a well

- (1) For the purposes of Part 5.3 of this Act:
 - (a) cores and cuttings relating to the drilling of a well; and
 - (b) well data relating to the drilling of a well; and
 - (c) logs relating to the drilling of a well; and
 - (d) sample descriptions and other documents relating to the drilling of a well;are taken to have been given to the Designated Authority not later than 30 days after the drilling of the well was, in the Designated Authority's opinion, substantially completed.
- (2) Subsection (1) does not apply in relation to the drilling of a well unless the drilling of the well was, in the Designated Authority's opinion, substantially completed before 4 June 2004.

Geophysical or geochemical surveys

- (3) For the purposes of Part 5.3 of this Act, geophysical or geochemical data relating to geophysical or geochemical surveys are taken to have been given to the Designated Authority not later than one year after the geophysical or geochemical field work was, in the Designated Authority's opinion, substantially completed.
- (4) Subsection (3) does not apply in relation to a geophysical or geochemical survey unless the geophysical or geochemical field work was, in the Designated Authority's opinion, substantially completed before 4 June 2004.

37 Liability for acts and omissions

Despite the repeal of section 140AA of the *Petroleum (Submerged Lands) Act 1967*, that section continues to apply, in relation to an act or matter done or omitted to be done before the commencement of this clause, as if that repeal had not happened.

38 Reconsideration and review of decisions

Sections 434 and 435 of this Act have effect as if:

- (a) each reference in those sections to a reviewable delegated decision included a reference to a relevant decision within the meaning of section 152 of the *Petroleum (Submerged Lands) Act 1967*; and
- (b) each reference in those sections to a reviewable Ministerial decision included a reference to a reviewable decision within the meaning of section 152 of the *Petroleum (Submerged Lands) Act 1967*.

39 Meaning of *petroleum* in the *Petroleum (Submerged Lands) Act 1967*

Disregard the definition of *petroleum* in section 6 of this Act in determining the meaning that the expression *petroleum* has or had in the *Petroleum (Submerged Lands) Act 1967*.

40 OHS inspections

Clause 49 of Schedule 3 has effect, after the commencement of this clause, as if the following paragraphs were inserted after each of paragraphs (1)(c) and (2)(c) of that clause:

- (d) to ascertain whether the requirements of, or any requirements properly made under:
 - (i) Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* (as in force before the commencement of this paragraph); or
 - (ii) the regulations (within the meaning of Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* as in force before 1 January 2005); or

- (iii) regulations set out in or prescribed for the purposes of subsection 140H(2) of the repealed *Petroleum (Submerged Lands) Act 1967* as in force during the period that began on 1 January 2005 and ended immediately before the commencement of this paragraph;
were being complied with before the commencement of this paragraph; or
- (e) concerning a contravention, or possible contravention, before the commencement of this paragraph, of:
 - (i) Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* (as in force before the commencement of this paragraph); or
 - (ii) the regulations (within the meaning of Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* as in force before 1 January 2005); or
 - (iii) regulations set out in or prescribed for the purposes of subsection 140H(2) of the repealed *Petroleum (Submerged Lands) Act 1967* as in force during the period that began on 1 January 2005 and ended immediately before the commencement of this paragraph; or
- (f) concerning an accident or dangerous occurrence that has happened, before the commencement of this paragraph, in the performing of work (within the meaning of Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* as in force before the commencement of this paragraph).

41 OHS prosecutions

Clause 89 of Schedule 3 has effect, after the commencement of this clause, as if each reference in that clause to a listed OHS law included a reference to:

- (a) Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967* as in force before the commencement of this clause;
and
- (b) the regulations within the meaning of that Schedule as in force before 1 January 2005.

42 Disqualification of health and safety representatives

Subclause 32(2) of Schedule 3 to this Act has effect as if:

- (a) the reference in that subclause to subclause 34(1) of that Schedule included a reference to the corresponding provision of Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967*; and
- (b) the reference in that subclause to Schedule 3 to this Act included a reference to Schedule 7 to the repealed *Petroleum (Submerged Lands) Act 1967*.

*[Minister's second reading speech made in—
House of Representatives on 23 June 2005
Senate on 5 September 2005]*

(98/05)