



Western Australia

# **Petroleum and Geothermal Energy Resources Act 1967**

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Western Australia

## Petroleum and Geothermal Energy Resources Act 1967

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Western Australia

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## **Petroleum and Geothermal Energy Resources Act 1967**

**An Act relating to the exploration for, and the exploitation of,  
petroleum resources, geothermal energy resources, and certain other  
resources, within certain lands of the State; to repeal the *Petroleum  
Act 1936*, and for incidental and other purposes.**

*[Long title amended by No. 35 of 2007 s. 4.]*

## Part I — Preliminary

### 1. Short title

This Act may be cited as the *Petroleum and Geothermal Energy Resources Act 1967*<sup>1</sup>.

[Section 1 amended by No. 35 of 2007 s. 5.]

### 2. Commencement

This Act or any provision thereof shall come into operation on such date or such dates as are respectively fixed by proclamation<sup>1</sup>.

### 3. Repeal

The *Petroleum Act 1936* is repealed.

[4. Repealed by No. 12 of 1990 s. 4.]

### 5. Terms used in this Act

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

“**access authority**” means —

- (a) a petroleum access authority; or
- (b) a geothermal access authority;

“**application for a primary licence**” means an application for the grant or variation of a petroleum production licence under section 50(1) or (2) or 50A(1) or (2) and “**primary licence**” means a licence granted on such an application;

“**application for a secondary licence**” means an application under section 50(3) or 50A(3) and “**secondary licence**” means a licence granted on such an application;

“**approved**” means approved by the Minister;

“**approved development plan**”, in relation to a geothermal production licence, means the geothermal energy recovery development plan approved under section 62A that applies to the licence and includes that plan as varied under section 62B;

“**block**” means a block constituted as provided by section 27 or 135;

“**construct**” includes “place” and “**construction**” has a corresponding meaning;

“**Crown land**” means all land in the State —

*[(a) deleted]*

(b) which has not been lawfully granted or contracted to be granted in fee simple; or

(c) which is not held under lease for any purpose except under —

(i) a pastoral lease within the meaning of the *Land Administration Act 1997*, or a lease otherwise granted for grazing purposes only;

(ii) a lease for timber purposes; or

(iii) a lease for the use and benefit of the Aboriginal inhabitants,

and includes —

(d) any land reserved, declared or otherwise dedicated under the *Land Administration Act 1997* or any other written law;

(e) without limiting paragraph (d), State forests and timber reserves within the meaning of the *Conservation and Land Management Act 1984*;

*[(f), (g) deleted]*

and

(h) all land between —

(i) high and low-water mark on the sea shore and on the margin of tidal rivers; and

(ii) low-water mark referred to in subparagraph (i) and the inner limit of the territorial sea of Australia;

“**document**” includes any map, book, record or writing;

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**“drilling reservation”** means —

- (a) a petroleum drilling reservation; or
- (b) a geothermal drilling reservation;

**“geothermal access authority”** means a geothermal access authority under Part III;

**“geothermal drilling reservation”** means a geothermal drilling reservation referred to in section 43D(2);

**“geothermal energy”** means thermal energy that results from natural geological processes and is contained in geothermal energy resources;

**“geothermal energy resources”** means subsurface rock or other subterranean substances that contain geothermal energy and, where the context so requires, includes the geothermal energy contained in those resources;

**“geothermal exploration permit”** means a permit issued under section 38(2);

**“geothermal lease area”** means the area constituted by the blocks that are the subject of a geothermal retention lease;

**“geothermal lessee”** means the registered holder of a geothermal retention lease;

**“geothermal licensee”** means the registered holder of a geothermal production licence;

**“geothermal permit area”** means the area constituted by the blocks that are the subject of a geothermal exploration permit;

**“geothermal permittee”** means the registered holder of a geothermal exploration permit;

**“geothermal production licence”** means a geothermal production licence under Part III;

**“geothermal resources area”** means a discrete area that contains geothermal energy resources;

**“geothermal retention lease”** means a geothermal retention lease under Part III;

- “geothermal special prospecting authority”** means a geothermal special prospecting authority under Part III;
- “good oil-field practice”** means all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum, or in the operations for the recovery of petroleum, as the case may be;
- “graticular section”** means a section referred to in section 27;
- “holder of a drilling reservation”** means the registered holder of a drilling reservation;
- “inspector”** means a person appointed under section 118;
- “lease”** means —
- (a) a petroleum retention lease; or
  - (b) a geothermal retention lease;
- “lease area”** means the area constituted by the blocks that are the subject of a lease;
- “lessee”** means the registered holder of a lease;
- “licence”** means —
- (a) a petroleum production licence; or
  - (b) a geothermal production licence;
- “licence area”** means the area constituted by the blocks that are the subject of a licence;
- “licensee”** means the registered holder of a licence;
- “location”** means a block or blocks in respect of which a declaration under section 47 is in force;
- “oil shale”** includes naturally occurring hydrocarbons that are or may be contained in rocks from which they cannot be recovered otherwise than by mining those rocks as oil shale;
- “partly cancelled”** means — in relation to a permit, drilling reservation or licence — cancelled as to one or more but not all of the blocks the subject of the permit, drilling reservation or licence;

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**“partly determined”**, in relation to a permit, drilling reservation or lease, means determined as to one or more but not all of the blocks the subject of the permit, drilling reservation or lease;

**“permit”** means —

- (a) a petroleum exploration permit; or
- (b) a geothermal exploration permit;

**“permit area”** means —

- (a) a petroleum permit area; or
- (b) a geothermal permit area;

**“permittee”** means the registered holder of a permit;

**“petroleum”** means —

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

and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir, but excludes oil shale;

**“petroleum access authority”** means a petroleum access authority under Part III;

**“petroleum drilling reservation”** means a petroleum drilling reservation referred to in section 43D(1);

**“petroleum exploration permit”** means a permit issued under section 38(1);

**“petroleum lease area”** means the area constituted by the blocks that are the subject of a petroleum retention lease;

**“petroleum lessee”** means the registered holder of a petroleum retention lease;

**“petroleum licensee”** means the registered holder of a petroleum production licence;

**“petroleum permit area”** means the area constituted by the blocks that are the subject of a petroleum exploration permit;

**“petroleum permittee”** means the registered holder of a petroleum exploration permit;

**“petroleum pool”** means a naturally occurring discrete accumulation of petroleum;

**“petroleum production licence”** means a petroleum production licence under Part III;

**“petroleum retention lease”** means a petroleum retention lease under Part III;

**“petroleum special prospecting authority”** means a petroleum special prospecting authority under Part III;

**“primary entitlement”** means —

- (a) in relation to a permittee, the number of blocks —
  - (i) forming part of a location in the permit area in respect of which that permittee may make an application under section 50(1); or
  - (ii) forming a location in the permit area in respect of which that permittee may make an application under section 50(1a);

and

- (b) in relation to a lessee, the number of blocks in the lease area in respect of which that lessee may make an application under section 50A(1) or (1a);

**“private land”** means any land which has been or may hereafter be alienated from the Crown for any estate of freehold, or is or may hereafter be the subject of any conditional purchase agreement, or of any lease or

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concession with or without the right of acquiring the fee simple thereof, other than —

- (a) a pastoral lease within the meaning of the *Land Administration Act 1997*, or a lease otherwise granted for grazing purposes only;
- (b) a lease for timber purposes; or
- (c) a lease for the use and benefit of the Aboriginal inhabitants;

**“recovery”**, of geothermal energy, includes the recovery of any geothermal energy resources necessary to recover geothermal energy;

**“Register”** means the Register kept by the Minister in pursuance of Division 4 of Part III;

**“registered holder”**, in relation to a permit, drilling reservation, lease, licence, special prospecting authority or access authority, means the person whose name is for the time being shown in the Register as being the holder of the permit, drilling reservation, lease, licence, special prospecting authority or access authority;

**“regulations”** means regulations made under section 153;

**“royalty period”**, in relation to a permit, drilling reservation or licence, means —

- (a) the period from and including the date from which the permit, drilling reservation or licence has effect to the end of the month of the year during which that date occurs; and
- (b) each month thereafter;

**“royalty value”** has the meaning applicable under section 144A(1) or (2);

**“special prospecting authority”** means —

- (a) a petroleum special prospecting authority; or
- (b) a geothermal special prospecting authority;

**“the relinquished area”** means —

- (a) in relation to a permit, drilling reservation, lease or licence that has expired — the area constituted by the blocks in respect of which the permit, drilling reservation, lease or licence was in force but has not been renewed;
- (b) in relation to a permit, drilling reservation, or lease that has been wholly determined or partly determined — the area constituted by the blocks as to which the permit, drilling reservation or lease was so determined;
- (c) in relation to a permit, drilling reservation or licence that has been wholly cancelled or partly cancelled — the area constituted by the blocks as to which the permit, drilling reservation or licence was so cancelled;
- (ca) in relation to a lease that has been wholly cancelled — the area constituted by the blocks in respect of which the lease was in force; and
- (d) in relation to a special prospecting authority or access authority that has been surrendered or cancelled or has expired — the area constituted by the blocks in respect of which that authority was in force;

**“vessel”** means a vessel used in navigation, other than air navigation, and includes a barge or other vessel;

**“well”** means a hole in the Earth’s crust made by drilling, boring or any other means in connection with exploration for petroleum or geothermal energy resources or operations for the recovery of petroleum or geothermal energy, but does not include a seismic shot hole;

**“wholly cancelled”**, in relation to a permit, drilling reservation, lease or licence, means cancelled as to all the blocks the subject of the permit, drilling reservation, lease or licence;

**“wholly determined”**, in relation to a permit, drilling reservation or lease, means determined as to all the blocks the subject of the permit, drilling reservation or lease.

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

- (5a) In this Act a reference to the extension of a drilling reservation in relation to the blocks specified in the drilling reservation is a reference to the grant of a drilling reservation in respect of those blocks to commence on the day after the date of expiration of the first-mentioned drilling reservation or on the day after the date of expiration of the previous extension, if any, of the first-mentioned drilling reservation.
- (6) In this Act, a reference to a permit, drilling reservation, lease, licence or access authority is a reference to the permit, drilling reservation, lease, licence or access authority as varied for the time being under this Act.
- (7) Notwithstanding anything in subsection (1), the Minister for the time being charged with the administration of the *Mining Act 1978* may, in the event of a dispute whether a particular substance is or is not oil shale, decide whether that substance is or is not oil shale for the purposes of this Act and the *Mining Act 1978* and his decision in the matter shall be final.
- (8) The power conferred by this Act to make, grant or issue any instrument shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to repeal, rescind, revoke, amend or vary any such instrument.

*[Section 5 amended by No. 69 of 1981 s. 31; No. 12 of 1990 s. 5; No. 78 of 1990 s. 4; No. 11 of 1994 s. 4; No. 28 of 1994 s. 5; No. 31 of 1997 s. 141; No. 17 of 1999 s. 21; No. 35 of 2007 s. 6.]*

## **Part II — General**

### **6. Act to be construed subject to legislative powers of the State**

This Act shall be read and construed subject to the limits of the legislative powers of the State and so as not to exceed those powers, to the intent that, where any enactment thereof, but for this section, would be construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

### **7. Application of Act**

- (1) This Act applies to all natural persons, whether Australian citizens or not, and whether resident in the State or not, and to all corporations, whether incorporated or carrying on business in the State or not.
- (2) The conferral by or under this Act or by any permit, drilling reservation, lease, licence, special prospecting authority or access authority of rights over any land to which Part III of the *Aboriginal Affairs Planning Authority Act 1972* applies does not prevent or in any way affect the application of section 31 of that Act to any person exercising those rights.
- (3) The taking or use of any water for the purposes of any operations carried out under the authority of a permit, drilling reservation, access authority, special prospecting authority, lease or licence is subject to the *Rights in Water and Irrigation Act 1914*.
- (4) This Act does not apply to operations for the recovery of geothermal energy —
  - (a) that are carried out for the purposes of a small scale ground source heat pump used at or near the source of the geothermal energy; or
  - (b) that involve small scale recovery of geothermal energy not for a commercial purpose; or
  - (c) that are of a kind prescribed by the regulations.

- (5) Without limiting subsection (4)(b), the regulations may specify whether the small scale recovery of geothermal energy in prescribed circumstances or for a prescribed reason is or is not for a commercial purpose.

*[Section 7 amended by No. 107 of 1982 s. 6; No. 12 of 1990 s. 6; No. 78 of 1990 s. 7; No. 35 of 2007 s. 7.]*

**7A. Petroleum pool or geothermal resources area extending into 2 licence areas**

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

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- (4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee or the Minister.
- (5) Where a petroleum pool or geothermal resources area is partly in a licence area and partly in another area in which the licensee has authority under another written law or a law of another State to explore for, or recover, petroleum, or to explore for geothermal energy resources or recover geothermal energy, and petroleum or geothermal energy is recovered from that pool or geothermal resources area through a well or wells in the licence area, the other area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum or geothermal energy so recovered as may reasonably be treated as being derived from the licence area, having regard to the nature and probable extent of the pool or geothermal resources area, and that proportion shall be determined in accordance with subsection (6).
- (6) The proportion to be determined for the purposes of subsection (5) may be determined —
- (a) in the case of a licensee having authority under another written law, by agreement between —
- (i) that licensee;
- (ii) the Minister; and
- (iii) if the other written law is administered by a Minister of the Crown other than the Minister, that Minister of the Crown,
- or, in the absence of agreement, may be determined by the Supreme Court on the application of that licensee, the Minister, or the Minister of the Crown (if any) referred to in subparagraph (iii); or
- (b) in the case of a licensee having authority under a law of another State, by agreement between —
- (i) that licensee;

- (ii) the Minister; and
- (iii) the State Minister administering the law of the other State,

or, in the absence of agreement, may be determined by the Supreme Court on the application of that licensee, the Minister or the State Minister referred to in subparagraph (iii).

(7) Where —

- (a) a petroleum pool or geothermal resources area is partly in a licence area and partly in another area, whether in the State or not, in respect of which another person has authority, whether under this Act or another written law or under the law of another State, to explore for or recover petroleum, or to explore for geothermal energy resources or recover geothermal energy; and
- (b) a unit development agreement in accordance with section 69 is in force between the licensee and that other person; and
- (c) petroleum or geothermal energy is recovered from that pool or geothermal resources area through a well or wells in the licence area, the other area or both,

there shall be deemed to have been recovered in the licence area such proportion of all petroleum or geothermal energy so recovered as is specified in, or determined in accordance with, the agreement referred to in paragraph (b).

(8) In this section —

- (a) a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee or a permit area and a lease area;
- (b) a reference to a State shall be read as including a reference to the Northern Territory; and
- (c) a reference to the Supreme Court of a State shall be read as a reference to the Supreme Court of the State, or of

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one of the States, in which the petroleum pool or geothermal resources area is wholly or partly situated.

*[Section 7A inserted by No. 12 of 1990 s. 7; amended by No. 35 of 2007 s. 8.]*

**8.            Position on the Earth's surface**

- (1) Where, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position is to be determined by reference to the prescribed Australian datum.
- (2) A datum may be prescribed for all or some of the purposes referred to in subsection (1), and different datums may be prescribed for different purposes.
- (3) Regulations that prescribe a datum for a purpose referred to in subsection (1), or amend that datum or prescribe another datum to replace that datum, may make any transitional or savings provisions that are necessary or convenient to be made —
  - (a) in relation to permits, drilling reservations, leases, licences, special prospecting authorities or access authorities granted before the regulations take effect;
  - (b) in relation to applications for permits, drilling reservations, leases, licences, special prospecting authorities or access authorities pending when the regulations take effect; or
  - (c) for any other purpose.
- (4) Regulations referred to in subsection (3) may modify or otherwise affect the operation of this Act.

*[Section 8 inserted by No. 54 of 2000 s. 7(2).]*

**9.            Petroleum declared to be property of the Crown**

Notwithstanding anything to the contrary contained in any Act, or in any grant, lease, or other instrument of title, whether made

or issued before or after the commencement of this Act, all petroleum, geothermal energy resources and geothermal energy on or below the surface of all land within this State, whether alienated in fee simple or not so alienated from the Crown, are and shall be deemed always to have been the property of the Crown.

*[Section 9 amended by No. 35 of 2007 s. 9.]*

**10. Reservations in Crown grants and leases**

Every —

- (a) Crown grant and lease under any Act relating to Crown land issued before the coming into operation of this Act shall be deemed to have contained; and
- (b) Crown grant, transfer of Crown land in fee simple, and lease under any Act relating to Crown land issued on or after the coming into operation of this Act shall contain, or if not containing those reservations, be deemed to contain,

a reservation of all petroleum, geothermal energy resources and geothermal energy on or below the surface of the land comprised therein, and also a reservation of the right of access, subject to and in accordance with the provisions hereinafter contained, for the purpose of searching for and for the operations of obtaining petroleum, geothermal energy resources and geothermal energy in any part of the land.

*[Section 10 amended by No. 31 of 1997 s. 76(1); No. 35 of 2007 s. 10.]*

**11. Power to obtain petroleum**

- (1) The Minister may by his officers, agents, or workmen search for petroleum or geothermal energy resources, and conduct all operations deemed necessary for or incidental to searching for, obtaining, refining, or disposing of petroleum, geothermal energy resources or geothermal energy produced in Western

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Australia; and, for such purposes, may enter upon and occupy, either temporarily or permanently —

- (a) any vacant Crown land; or
  - (b) any other land.
- (2) Where any of the powers conferred by subsection (1) has been exercised in relation to land referred to in paragraph (b) of that subsection, compensation is payable to the occupier of the land and to any person having an estate or interest therein for any interference with the use of the land by the occupier, with operations carried on thereon or for any damage to or interference with any improvement on the land.
- (3) Any claim for payment of compensation under this section shall be made, dealt with, and determined under and in accordance with the provisions of Part 10 of the *Land Administration Act 1997*, as if it were a claim for compensation made originally under that Act.

*[Section 11 amended by No. 31 of 1997 s. 76(2); No. 35 of 2007 s. 11.]*

**11A. Property rights in recovered petroleum and geothermal energy**

- (1) Subject to this Act and to any rights of other persons, on the recovery of any petroleum by a petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee or petroleum licensee in the permit area, drilling reservation, lease area or licence area, the petroleum becomes the property of the petroleum permittee, holder of the petroleum drilling reservation, petroleum lessee or petroleum licensee.
- (2) Subject to this Act and to any rights of other persons, on the recovery of any geothermal energy by a geothermal permittee, holder of a geothermal drilling reservation, geothermal lessee or geothermal licensee in the permit area, drilling reservation, lease area or licence area, the geothermal energy becomes the property of the geothermal permittee, holder of the geothermal drilling reservation, geothermal lessee or geothermal licensee.

- (3) Nothing in subsection (2) operates to confer rights in relation to any water by means of which geothermal energy is transferred from geothermal energy resources for the purposes of its recovery.

*[Section 11A inserted by No. 35 of 2007 s. 12(1).]*

**12. Land may be resumed**

- (1) The Minister administering the *Land Administration Act 1997* may from time to time, under and subject to Part 9 of the *Land Administration Act 1997*, take on behalf of the Crown any land which in his opinion ought to be taken for the purposes of this Act, and for the purpose of any such proposed taking may cause the land to be inspected, surveyed, explored, and reported upon by such officers and workmen as he directs, all of whom may thereupon enter upon the land and carry out all necessary operations.
- (2) The Minister administering the *Land Administration Act 1997* may from time to time under and subject to Part 9 of the *Land Administration Act 1997*, and at the request of a person interested in land taken or intended to be taken under subsection (1), take on behalf of the Crown any land which is being or is intended to be used in conjunction with the land so taken or so intended to be taken.
- (3) Upon any such taking the owner shall be entitled to compensation, and the amount of such compensation shall be determined in the manner prescribed by Part 10 of the *Land Administration Act 1997*.
- (4) Whenever it is proved to the satisfaction of the State Administrative Tribunal that damage has been sustained by a claimant by reason of the severance of the land resumed from other adjoining land of the claimant, the Tribunal may order that such adjoining land or some portion thereof shall also be resumed.

*[Section 12 amended by No. 31 of 1997 s. 76(3)-(5), 142 and 143; No. 55 of 2004 s. 916.]*

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**13.        Governor to have right of pre-emption of petroleum in emergency**

(1) Upon the Governor proclaiming a state of national or State emergency, the Governor shall have the right of pre-emption of all petroleum produced by a licensee and of all the products of such petroleum; and in the event of the Governor exercising such right, the licensee concerned shall take all reasonable steps to facilitate the delivery of the petroleum or products thereof, as the Governor may direct.

(2) No licensee shall sell or otherwise dispose of petroleum produced by him or the products thereof, without the written consent of the Minister.

Penalty: \$10 000.

(3) Any sale or other disposition of petroleum or the products thereof made in contravention of subsection (2) shall, as against the Governor when exercising the right conferred by subsection (1), be null and void.

(4) The price to be paid for petroleum or products thereof purchased by the Governor pursuant to the right of pre-emption conferred by subsection (1) shall, failing mutual agreement between the Minister and the vendor, be determined by arbitration under the provisions of the *Commercial Arbitration Act 1985*.

*[Section 13 amended by No. 12 of 1990 s. 8.]*

**14.        Land comprised in a permit, drilling reservation, lease or licence may be entered for certain purposes**

(1) Subject to the approval and consent in writing of the Minister, any person may enter upon any land comprised in any permit, drilling reservation, lease or licence and do any of the following things: —

(a) erect poles and posts thereon, and carry overhead across or along such land electric lines, and from time to time repair, alter, or remove such poles, posts, or lines;

- (b) make or construct any tramways thereon, and from time to time repair, alter, or remove the same;
  - (c) construct any road, race or drain, or lay water-pipes under, over, across, or through such land;
  - (d) any act or thing for or relating to a public purpose or the exercise of any right granted pursuant to law; and
  - (e) for carrying out any of the said purposes, break or otherwise disturb the surface and soil of such land.
- (2) If the permittee, holder of the drilling reservation, lessee or licensee suffers any estimable damage by reason of the exercise by any person of any of the powers mentioned in subsection (1), that person shall be liable to compensate the permittee, holder of the drilling reservation, lessee or licensee, as the case requires, in respect of the damage so caused.
- (3) In default of agreement between the parties concerned, the permittee, holder of the drilling reservation, lessee or licensee may make application to the Magistrates Court at the place nearest to the place at which the land is situated in the prescribed manner to fix the amount of compensation to be paid.  
*[Section 14 amended by No. 12 of 1990 s. 9; No. 78 of 1990 s. 7; No. 59 of 2004 s. 141.]*

**15. Authority conferred by permit, drilling reservation, lease or licence**

- (1) Subject to this Act and to any condition referred to in section 91B(2), but notwithstanding the provisions of any other Act or law, the authority conferred by section 38, 43D, 48C or 62 upon a permittee, holder of a drilling reservation, lessee or licensee is, by virtue of this Act, exercisable on any land within the permit area, drilling reservation, lease area or licence area, as the case may be, whether Crown land or private land or partly Crown land and partly private.
- [(2) repealed]*  
*[Section 15 amended by No. 12 of 1990 s. 10; No. 78 of 1990 s. 7; No. 31 of 1997 s. 141; No. 17 of 1999 s. 22(1) and (2).]*

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**15A.      Consent of Minister required for entry on reserves for purposes of exploration etc.**

- (1) A permittee, holder of a drilling reservation, access authority or special prospecting authority, lessee or licensee shall not enter upon any land that is —
- (a) comprised in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of which he is the holder; and
  - (b) reserved, declared or otherwise dedicated under the *Land Administration Act 1997* or any other written law,
- for the purpose of —
- (c) exploring for petroleum or geothermal energy resources; or
  - (d) carrying out operations for the recovery of petroleum or geothermal energy,
- unless the consent in writing of the Minister has been first obtained.
- (2) Consent may be given for the purposes of subsection (1) subject to the inclusion in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of such conditions as the Minister thinks fit and specifies in the consent.
- (3) Before giving consent for the purposes of subsection (1), the Minister shall consult with the responsible Minister and obtain that Minister's recommendations on the conditions, if any, which should be included in the permit, drilling reservation, access authority, special prospecting authority, lease or licence.
- (4) Without limiting subsection (2), the Minister may specify in the consent conditions for the purpose of ensuring, so far as is practicable, that any operations carried out on the land under the authority of the permit, drilling reservation, access authority, special prospecting authority, lease or licence are carried out in such a manner as to minimise the risk of damage to any native fauna or flora on the land.

- (5) The responsible Minister for the purposes of subsection (3) is the Minister responsible for the administration of the land or the written law under which the land is reserved, declared or dedicated, and if any question arises as to who is the responsible Minister under subsection (3), the question is to be determined by the Governor whose decision is final.
- (6) Nothing in this section limits or otherwise affects the operation of sections 13A(3) and 13B(9) of the *Conservation and Land Management Act 1984*.

*[Section 15A inserted by No. 17 of 1999 s. 23(1); amended by No. 35 of 2007 s. 13.]*

**16. Consent of owner or trustees required in certain cases for exploration etc.**

- (1) A permittee, holder of a drilling reservation, access authority or special prospecting authority, lessee or licensee shall not enter upon any land to which this section applies for the purpose of —
  - (a) exploring for petroleum or geothermal energy resources; or
  - (b) carrying out operations for the recovery of petroleum or geothermal energy,

unless the consent in writing of the owner or trustees, as the case may be, of the land has been first obtained.

- (1a) This section applies to land that is comprised in the permit, drilling reservation, access authority, special prospecting authority, lease or licence and is —
  - (a) private land not exceeding 2 000 square metres in extent;
  - (b) used as a cemetery or burial place; or
  - (c) less than 150 metres in lateral distance from any cemetery or burial place, reservoir or any substantial improvement.

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- (2) For the purposes of this section —
- (a) **“reservoir”** includes any natural or artificial storage or accumulation of water, spring, dam, bore, and artesian well; and
  - (b) the Minister is the sole judge of whether any improvement is substantial.

*[Section 16 amended by No. 94 of 1972 s. 4; No. 12 of 1990 s. 11; No. 78 of 1990 s. 7; No. 73 of 1994 s. 4; No. 14 of 1996 s. 4; No. 17 of 1999 s. 24; No. 35 of 2007 s. 14.]*

**17. Compensation to owners and occupiers of private land**

- (1) A permittee, holder of a drilling reservation, lessee or licensee may agree with the owner and occupier respectively of any private land comprised in the permit, drilling reservation, lease or licence as to the amount of compensation to be paid for the right to occupy the land.
- (2) Subject to subsections (3) and (5), the compensation to be made to the owner and occupier shall be compensation for being deprived of the possession of the surface or any part of the surface of the private land, and for damage to the surface of the whole or any part thereof, and to any improvements thereon, which may arise from the carrying on of operations thereon or thereunder, and for the severance of such land from other land of the owner or occupier, and for rights-of-way and for all consequential damages.
- (3) In assessing the amount of compensation no allowance shall be made to the owner or occupier for any gold, minerals, petroleum, geothermal energy resources or geothermal energy known or supposed to be on or under the land.
- (4) If within such time as may be prescribed the parties are unable to agree upon the amount of compensation to be paid, either party may apply to the Magistrates Court at the place nearest to where the land is situated to fix the amount of compensation.
- (5) In determining the amount of compensation, the Court shall take into consideration the amount of any compensation which the

owner and occupier or either of them have or has already received in respect of the damage for which compensation is being assessed, and shall deduct the amount already so received from the amount which they would otherwise be entitled to for such damage.

*[Section 17 amended by No. 12 of 1990 s. 12; No. 78 of 1990 s. 7; No. 59 of 2004 s. 141; No. 35 of 2007 s. 15.]*

**18. Owner of private land in vicinity of permit area, drilling reservation, lease area or licence area may be entitled to compensation**

If any private land or improvement thereon adjoining or in the vicinity of the land comprised in any permit, drilling reservation, lease or licence is injured or depreciated in value by any operations carried on by or on behalf of the permittee, holder of the drilling reservation, lessee or licensee or by reason of the occupation of any portion of the surface, or the enjoyment by the permittee, holder of the drilling reservation, lessee or licensee of any right-of-way, the owner and occupier of the private land or improvements thereon shall severally be entitled to compensation for all loss and damage thereby sustained, and the amount of compensation shall be ascertained in the same manner as is provided in section 17.

*[Section 18 amended by No. 12 of 1990 s. 13; No. 78 of 1990 s. 7.]*

**19. Compensation for further damage**

If while in occupation of any land comprised in a permit, drilling reservation, lease or licence the permittee, holder of the drilling reservation, lessee or licensee, as the case requires, causes any damage to the surface of any private land comprised within the boundaries of the land the subject of the permit, drilling reservation, lease or licence belonging either to the same or any other owner, or to any improvement on any such private land, not being damage already assessed under the provisions of this Part, the owner and occupier of the private land or

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improvement shall severally be entitled to compensation for the damage sustained by each of them, and the amount of such compensation shall be ascertained in accordance with the provisions of section 17.

*[Section 19 amended by No. 12 of 1990 s. 14; No. 78 of 1990 s. 7.]*

**20. Holder of permit, drilling reservation, lease or licence not to commence operations on private land until compensation tendered or agreed upon**

(1) A permittee, holder of a drilling reservation, lessee or licensee shall not commence any operations on private land unless or until he has paid or tendered to the owner and to the occupier of the land the amount of compensation, if any, which he is required to pay under and as ascertained in accordance with this Act or he has made an agreement in writing with the owner or occupier as to the amount, times and mode of payment of the compensation, if any.

(2) Where the owner is dead or cannot be found any payment of compensation may be made to the Minister in trust for the owner.

*[Section 20 amended by No. 12 of 1990 s. 15; No. 78 of 1990 s. 7.]*

**21. Compensation payable to lessee of pastoral lease, lease for timber purposes or lease for use and benefit of Aboriginal inhabitants for damage to improvements and consequential damage**

(1) If a permittee, holder of a drilling reservation, lessee or licensee has by himself, his agent or his employee in the exercise or purported exercise of any of the powers conferred by or under this Act or by reason of any operation conducted or other action taken by him or any of them caused damage to any improvements on land leased by way of —

(a) a pastoral lease within the meaning of the *Land Administration Act 1997*, or a lease otherwise granted for grazing purposes only;

- (b) a lease for timber purposes; or
- (c) a lease for the use and benefit of the Aboriginal inhabitants,

he is liable, subject to section 24, to pay compensation to the person to whom that land is so leased (in this section and in section 22 called “**the compensable lessee**” or “**a compensable lessee**”, as the case requires) for that damage and for any damage which the compensable lessee may, in the opinion of the Magistrates Court, suffer as a consequence of the damage to those improvements.

- (2) A person liable to pay compensation to a compensable lessee under the provisions of this section may agree with the compensable lessee as to the amount of compensation including compensation for consequential damage.
- (3) If an agreement is not made under subsection (2), the compensable lessee may commence an action for compensation before the Magistrates Court at the place nearest to the place at which the land is situated, or the person liable to pay compensation may so commence an action claiming a declaration as to the amount of compensation payable.

*[Section 21 amended by No. 12 of 1990 s. 16; No. 78 of 1990 s. 7; No. 31 of 1997 s. 141; No. 59 of 2004 s. 141.]*

## **22. Determination of partial compensation**

In an action under section 21, if the Court considers it impracticable or inexpedient to assess the amount of compensation to be paid in full satisfaction for the damage sustained by the compensable lessee to the improvements and consequential damage, the Court may on the application of a party or of its own motion give judgment or make a declaration as to the compensation payable in respect of any specified period and in respect of the whole or part of the total claim or compensation.

*[Section 22 amended by No. 12 of 1990 s. 17.]*

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**23.        Security for compensation**

The Court before whom proceedings in relation to compensation have been commenced may, at any stage of those proceedings, make an order against the person concerned in them and from whom compensation is sought, from commencing or, as the case may be, continuing any operations under this Act until he has given such security as the Court thinks fit for payment of any compensation for which he may be or become liable.

**24.        Matters for which compensation not payable**

- (1) Except where and then only to the extent agreed to by the parties or authorised by the Court compensation is not payable under the provisions of this Act to the lessee of land leased by way of a pastoral lease within the meaning of the *Land Administration Act 1997*, a lease otherwise granted for grazing purposes only, a lease for timber purposes or a lease for the use and benefit of the Aboriginal inhabitants (in this subsection called the “**affected lessee**”) —
  - (a) for deprivation of the possession of the surface of the land or any part of the surface;
  - (b) for damage to the surface of the land;
  - (c) where the affected lessee is deprived of the possession of the surface of any land, for severance of the land from any other land of the affected lessee; and
  - (d) for surface rights of way and easements.
- (2) Compensation is not payable for any gold, minerals, petroleum, geothermal energy resources or geothermal energy known or supposed to be on or under the land.

*[Section 24 amended by No. 12 of 1990 s. 18; No. 31 of 1997 s. 141; No. 35 of 2007 s. 16.]*

**24A. Liability for payment of compensation to native title holders**

- (1) If compensation is payable to native title holders for or in respect of the grant of an authorisation, the person liable to pay the compensation is —
  - (a) if an amount is to be paid and held in trust, the applicant for the grant of, or the holder of, the authorisation at the time the amount is required to be paid; or
  - (b) otherwise, the applicant for the grant of, or the holder of, the authorisation at the time a determination of compensation is made.
- (2) If, at the relevant time, there is no holder of the authorisation because the authorisation has been surrendered or cancelled or has expired, a reference in subsection (1) to the holder of the authorisation is a reference to the holder of the authorisation immediately before its surrender, cancellation or expiry.
- (3) In this section —

**“authorisation”** means a permit, drilling reservation, lease, licence, special prospecting authority or access authority;  
**“native title holders”** has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

*[Section 24A inserted by No. 61 of 1998 s. 17.]*

**25. Delegation**

- (1) The Minister may —
  - (a) delegate all or any of his powers and functions under this Act or the regulations (except this power of delegation); and
  - (b) vary or revoke a delegation given by him.
- (2) A power or function delegated by the Minister may be exercised or performed by the delegate —
  - (a) in accordance with the instrument of delegation; and

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- (b) if the exercise of the power or the performance of the function is dependent upon the opinion, belief or state of mind of the Minister in relation to a matter — upon the opinion, belief or state of mind of the delegate in relation to that matter.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of the function by the Minister.
- (4) A copy of each instrument making, varying or revoking a delegation under this section shall be published in the *Gazette*.

**Part III — Mining for petroleum, geothermal energy resources and geothermal energy**

*[Heading inserted by No. 35 of 2007 s. 17.]*

**Division 1 — Preliminary**

**26. Term used in this Part**

In this Part “**the State**” means all that part of the State of Western Australia that is not comprised in the “adjacent area” as defined in the *Petroleum (Submerged Lands) Act 1982*.

*[Section 26 amended by No. 90 of 1987 s. 4.]*

**27. Graticulation of Earth’s surface and constitution of blocks**

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

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- (3) In this Act —
- (a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section; and
  - (b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes, or parts only of which constitute, a block.
- (4) Without limiting subsection (2) of section 8, a datum is to be prescribed by regulations referred to in that section for the purposes of the determination of the position on the surface of the Earth of a graticular section or a block (including a block constituted as provided by section 135).

*[Section 27 amended by No. 54 of 2000 s. 7(3).]*

**28. Reservation of blocks**

- (1) The Minister may, by instrument published in the *Gazette*, declare that a block specified in the instrument (not being a block in respect of which a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease or petroleum production licence is in force) shall not be the subject of a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority.
- (1a) The Minister may, by instrument published in the *Gazette*, declare that a block specified in the instrument (not being a block in respect of which a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease or geothermal production licence is in force) shall not be the subject of a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease, geothermal production licence, geothermal special prospecting authority or geothermal access authority.

- (2) While a declaration under subsection (1) remains in force in respect of a block, a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority shall not be granted in respect of that block.
- (3) While a declaration under subsection (1a) remains in force in respect of a block, a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease, geothermal production licence, geothermal special prospecting authority or geothermal access authority shall not be granted in respect of that block.

*[Section 28 amended by No. 12 of 1990 s. 19; No. 78 of 1990 s. 7; No. 35 of 2007 s. 18.]*

**28A. Issue of permits etc. in marine reserves**

- (1) Before granting, renewing or extending a permit, drilling reservation, access authority, special prospecting authority, lease or licence in respect of any marine reserve, the Minister shall first notify the Minister for the time being charged with the administration of the *Conservation and Land Management Act 1984*.

*[(2) repealed]*

- (3) In this section —

“**marine reserve**” means a marine nature reserve, marine park or marine management area within the meaning of the *Conservation and Land Management Act 1984*.

*[Section 28A inserted by No. 5 of 1997 s. 43; amended by No. 17 of 1999 s. 22(3).]*

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*[Heading inserted by No. 78 of 1990 s. 5.]*

**29. Exploration for petroleum**

- (1) A person shall not explore for petroleum in the State except —
- (a) under and in accordance with a petroleum exploration permit or a petroleum drilling reservation; or
  - (b) as otherwise permitted by this Act.

Penalty: \$50 000 or imprisonment for 5 years, or both.

- (2) A person shall not explore for geothermal energy resources in the State except —
- (a) under and in accordance with a geothermal exploration permit or a geothermal drilling reservation; or
  - (b) as otherwise permitted by this Act.

Penalty: \$50 000 or imprisonment for 5 years, or both.

- (3) In this section —
- “explore for”**, in relation to petroleum or geothermal energy resources, includes to conduct any geophysical survey the data from which are intended for use in the search for petroleum or geothermal energy resources.

*[Section 29 inserted by No. 12 of 1990 s. 20; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 6; No. 35 of 2007 s. 19.]*

**30. Advertisement of blocks**

- (1) The Minister may, by instrument published in the *Gazette*—
- (a) invite applications for the grant of a permit in respect of the block or blocks specified in the instrument; and
  - (b) specify a period within which applications may be made.
- (2) The Minister may, for reasons that he thinks sufficient, in an instrument under subsection (1), direct that subsection (2) or (3)

of section 31 does not apply, or that both of those subsections do not apply, to or in relation to the applications.

*[Section 30 amended by No. 12 of 1990 s. 21.]*

**31. Application for permit**

- (1) An application under section 30 or 105(3)(a)(ii) —
  - (a) shall be in accordance with an approved form; and
  - (b) shall be made in an approved manner; and
  - (c) shall be in respect of not more than —
    - (i) 400 blocks, if the application relates to the exploration for petroleum; or
    - (ii) 160 blocks, if the application relates to the exploration for geothermal energy resources;and
  - (d) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and
    - (ii) the technical qualifications of the applicant and of his employees; and
    - (iii) the technical advice available to the applicant; and
    - (iv) the financial resources available to the applicant; and
  - (e) may set out any other matters that the applicant wishes the Minister to consider; and
  - (f) shall be accompanied by the prescribed fee.
- (2) The number of blocks specified in the application —
  - (a) if 16 blocks or more are available — shall not be less than 16; or
  - (b) if less than 16 blocks are available — shall be the number available.

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- (3) The blocks specified in the application shall be blocks that are constituted by graticular sections that —
- (a) constitute a single area; and
  - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

*[Section 31 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 22; No. 28 of 1994 s. 7; No. 35 of 2007 s. 20.]*

**32. Grant or refusal of permit in relation to application**

- (1) Where an application has been made under section 30 or 105(3)(a)(ii), the Minister may —
- (a) by instrument in writing served on the applicant inform the applicant that the Minister is prepared to grant to the applicant a permit in respect of the block or blocks specified in the instrument; or
  - (b) refuse to grant a permit to the applicant.
- (2) An instrument under subsection (1) shall contain —
- (a) a summary of the conditions subject to which the permit is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the permit.
- (3) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him, or within such further period, not exceeding one month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by instrument in

writing served on the Minister, request the Minister to grant to the applicant the permit referred to in the first-mentioned instrument.

- (4) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to the applicant a petroleum exploration permit or a geothermal exploration permit, as the case requires, in respect of the block or blocks specified in the instrument.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period.

*[Section 32 amended by No. 28 of 1994 s. 8; No. 35 of 2007 s. 21.]*

**33. Application for permit in respect of surrendered etc. blocks**

- (1) Where —
- (a) a petroleum retention lease is surrendered, cancelled or determined as to a block or blocks; or
  - (aa) a petroleum production licence is surrendered or cancelled as to a block or blocks; or
  - (b) a petroleum exploration permit is surrendered, cancelled or determined as to a block or blocks and, at the time of the surrender, cancellation or determination, the block was, or was included in, or the blocks were, or were included in, a location; or
  - (c) a petroleum pool from which petroleum has been recovered is within or extends to a block which is, or to blocks which are, not the subject of a permit, drilling reservation, lease or licence,

the Minister may, at any subsequent time, by instrument published in the *Gazette*, invite applications for the grant of a petroleum exploration permit in respect of that block or such of

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those blocks as are specified in the instrument and specify a period within which applications may be made.

(2) If —

- (a) a geothermal retention lease is surrendered, cancelled or determined as to a block or blocks; or
- (b) a geothermal production licence is surrendered or cancelled as to a block or blocks; or
- (c) a geothermal exploration permit is surrendered, cancelled or determined as to a block or blocks and, at the time of the surrender, cancellation or determination, the block was, or was included in, or the blocks were, or were included in, a location; or
- (d) a geothermal resources area from which geothermal energy has been recovered is within or extends to a block which is not, or to blocks which are not, the subject of a permit, drilling reservation, lease or licence,

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

[(3) *repealed*]

(4) An application under this section —

- (a) shall be in accordance with an approved form;
- (b) shall be made in an approved manner;
- (c) shall be accompanied by the particulars referred to in section 31(1)(d);
- (d) shall specify an amount that the applicant is prepared to pay to the Minister, in addition to the fee referred to in section 34(1)(a), in respect of the grant of a permit to him on the application; and
- (e) may set out any other matters that the applicant wishes the Minister to consider.

- (5) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

*[Section 33 amended by No. 12 of 1990 s. 23; No. 28 of 1994 s. 9; No. 35 of 2007 s. 22.]*

**34. Application fee etc.**

- (1) An application under section 33 shall be accompanied by —
- (a) the prescribed fee; and
  - (b) a deposit of 10% of the amount specified in the application under subsection (4)(d) of that section.
- (2) Where a permit is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.
- (3) Where an applicant on whom there has been served an instrument under section 35 does not request the Minister, in accordance with section 36, to grant to him the permit referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

*[Section 34 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 24.]*

**35. Consideration of application**

- (1) Where, at the expiration of the period specified in an instrument under section 33(1) or (2), only one application has been made under that subsection in respect of the block or blocks specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to him a permit in respect of that block or those blocks.
- (2) Where, at the expiration of the period specified in an instrument under section 33(1) or (2), 2 or more applications have been made under that subsection in respect of the block or blocks

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specified in the instrument, the Minister may reject any or all of the applications and, if he does not reject all of the applications, may —

- (a) if only one application remains unrejected — by instrument in writing served on the applicant; or
- (b) if 2 or more applications remain unrejected — by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified as the amount that he is prepared to pay in respect of the grant of a permit to him an amount that is not less than the amount specified by any other applicant whose application has not been rejected,

inform him that he is prepared to grant to him a permit in respect of that block or those blocks.

*[(3), (4) repealed]*

- (5) An instrument under this section shall contain —
  - (a) a summary of the conditions to which the permit is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not —
    - (i) make a request under section 36(1); and
    - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an agreement under section 103 in respect of that balance.

*[Section 35 amended by No. 12 of 1990 s. 25; No. 28 of 1994 s. 10; No. 35 of 2007 s. 23.]*

**36. Request by applicant for grant of permit in respect of advertised block**

- (1) An applicant on whom there has been served an instrument under section 35 may, within a period of 3 months after the date of service of the instrument on him, or within such further

period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows —

- (a) by instrument in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned instrument; and
  - (b) pay the balance of the amount to be paid in respect of the grant of the permit to him or enter into an agreement under section 103 in respect of that balance.
- (2) Where an applicant on whom there has been served an instrument under section 35 —
- (a) has not made a request under subsection (1); or
  - (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to him or entered into an agreement under section 103 in respect of that balance,

within the period applicable under subsection (1), the application lapses upon the expiration of that period.

- (3) Where the application of an applicant on whom there has been served an instrument under section 35(2) lapses as provided by subsection (2), section 35(2) applies in respect of the application or applications, if any, then remaining unrejected.

*[Section 36 amended by No. 28 of 1994 s. 11.]*

### **37. Grant of permit on request**

Where a person on whom there has been served an instrument under section 35 —

- (a) has made a request under subsection (1) of section 36; and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to him or has entered into an agreement under section 103 in respect of that balance,

within the period applicable under that subsection, the Minister shall grant to that person a petroleum exploration permit or a

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geothermal exploration permit, as the case requires, in respect of the block or blocks specified in the instrument.

*[Section 37 amended by No. 28 of 1994 s. 12; No. 35 of 2007 s. 24.]*

**37A. Permit for 2 or more blocks may be divided into 2 or more permits**

- (1) Where a permit (in this section called “**the original permit**”) is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the permittee may make an application to the Minister for the grant to him of 2 or more petroleum exploration permits (if the original permit is a petroleum exploration permit) or 2 or more geothermal exploration permits (if the original permit is a geothermal exploration permit) in respect of the blocks the subject of the original permit in exchange for the original permit.
- (2) An application under subsection (1) —
  - (a) shall be made in the approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the number of permits required;
  - (d) shall specify the block or blocks the subject of the original permit in respect of which each permit is sought;
  - (e) shall be accompanied by the prescribed fee;
  - (f) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the areas comprised in the block or blocks the subject of the original permit; and
  - (g) shall set out the reasons why the applicant is applying under this section, and any other matters that the applicant wishes the Minister to consider in relation to the application.

- (3) Where an application has been made under subsection (1) the Minister may —
- (a) grant to the permittee the permits in accordance with the application; or
  - (b) refuse to grant to the permittee the permits requested.
- (4) A permit granted on an application under this section —
- (a) remains in force, subject to this Part, for the remainder of the term of the original permit;
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original permit was subject, and any other conditions that the Minister thinks fit and specifies in the permit in respect of the information referred to in subsection (2)(f);
  - (c) shall be granted subject to any directions under this Act previously given to the holder of the original permit in respect of the permit area of the original permit; and
  - (d) shall be granted subject to any instruments and agreements in respect of the original permit a memorial of which is entered in the Register under section 70, insofar as such instruments and agreements apply to the permit, (or any such instruments and agreements which are in effect at the time that an application is granted under this section but in respect of which a memorial is not yet entered under that section).
- (5) Where permits are granted on an application under this section —
- (a) the original permit is, by force of this subsection, determined; and
  - (b) the determination has effect on and from the day on which those permits come into force.

*[Section 37A inserted by No. 28 of 1994 s. 13; amended by No. 35 of 2007 s. 25.]*

**38. Rights conferred by permit**

- (1) A petroleum exploration permit, while it remains in force, authorises the permittee, subject to this Act and the regulations and in accordance with the conditions to which the permit is subject, to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the permit area.
- (2) A geothermal exploration permit, while it remains in force, authorises the permittee, subject to this Act and in accordance with the conditions to which the permit is subject —
  - (a) to explore for geothermal energy resources in the permit area; and
  - (b) to recover geothermal energy in the permit area for the purpose of establishing the nature and probable extent of a discovery of geothermal energy resources; and
  - (c) to carry on such operations and execute such works in the permit area as are necessary for those purposes.

*[Section 38 amended by No. 35 of 2007 s. 26.]*

**39. Term of permit**

Subject to this Part, a permit remains in force —

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

*[Section 39 amended by No. 12 of 1990 s. 26; No. 28 of 1994 s. 14.]*

**40. Application for renewal of permit**

- (1) Subject to section 41, a permittee may, from time to time, make an application to the Minister for the renewal of the permit in respect of such of the blocks the subject of the permit as are specified in the application.
- (2) An application for the renewal of the permit —
  - (a) shall be in accordance with an approved form;
  - (b) subject to subsection (3), shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and
  - (c) shall be accompanied by the prescribed fee.
- (3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of the permit less than 3 months before, but not in any case after, the date of expiration of the permit.

*[Section 40 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 27.]*

**41. Application for renewal of permit to be in respect of reduced area**

- (1) Subject to subsection (2a), the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows —
  - (a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder, half of that number; or
  - (b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder, half of that last-mentioned number.
- (2) A block that is, or is included in, a location and in respect of which a permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1).

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- (2a) An application for the renewal of a permit may include, in addition to the blocks referred to in subsection (1), a block that is, or is included in, a location and in respect to which the permit is in force, or 2 or more such blocks.
- (3) The blocks specified in an application for the renewal of a permit shall be blocks that are constituted by or are within graticular sections that —
- (a) constitute a single area or a number of discrete areas; and
  - (b) are such that each graticular section in the area, or in each area, has a side in common with at least one other graticular section in that area.
- (4) Where the number of blocks in respect of which an application for the renewal of a permit may be made is 16 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 16 blocks.
- (5) Where the maximum number of blocks in respect of which an application for the renewal of a permit may be made in accordance with this section is less than 16, the Minister may, by instrument in writing served on the permittee —
- (a) inform the permittee that the number of blocks in respect of which the application may be made is such number, not exceeding 16, as is specified in the instrument; and
  - (b) give such directions as he thinks fit concerning the blocks in respect of which the application may be made.
- (6) The Minister may, for reasons that he thinks sufficient —
- (a) direct that subsections (3) and (4) do not apply to or in relation to a proposed application for the renewal of a permit; and
  - (b) give such directions as he thinks fit concerning the blocks in respect of which that application may be made.

*[Section 41 amended by No. 12 of 1990 s. 28; No. 28 of 1994 s. 15.]*

**42. Grant or refusal of renewal of permit**

- (1) Where an application has been made under section 40 for the renewal of a permit, the Minister —
- (a) shall, if the conditions to which the permit is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
  - (b) may, if —
    - (i) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and the regulations has not been complied with; and
    - (ii) the Minister is nevertheless satisfied that special circumstances exist that justify the granting of the renewal of the permit,

by instrument in writing served on the person who is then the permittee inform the person that the Minister is prepared to grant to the permittee the renewal of the permit.

- (2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to subsection (3), by instrument in writing served on the person who is then the permittee, refuse to grant to that person the renewal of the permit.
- (3) The Minister shall not refuse to grant the renewal of the permit unless —
- (a) he has, by instrument in writing served on the permittee, given not less than one month's notice of his intention to refuse to grant the renewal of the permit;
  - (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit;

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- (c) he has, in the instrument —
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;and
  - (d) he has taken into account any matters so submitted to him on or before the specified date by the permittee or by a person on whom a copy of the first-mentioned instrument has been served.
- (4) An instrument referred to in subsection (1) shall contain —
- (a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5).
- (5) A permittee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him, by instrument in writing served on the Minister, request the Minister to grant to the permittee the renewal of the permit.
- (6) Where a permittee on whom there has been served an instrument under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Minister shall grant to him the renewal of the permit.
- (7) Where a permittee on whom there has been served an instrument under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that period.

- (8) Where —
- (a) an application for the renewal of a permit has been made; and
  - (b) the permit expires —
    - (i) before the Minister grants, or refuses to grant, the renewal of the permit; or
    - (ii) before the application lapses as provided by subsection (7),
- the permit shall be deemed to continue in force in all respects —
- (c) until the Minister grants, or refuses to grant, the renewal of the permit; or
  - (d) until the application so lapses,
- whichever first happens.

*[Section 42 amended by No. 28 of 1994 s. 16.]*

**43. Conditions of permit**

- (1) A permit may be granted subject to such conditions as the Minister thinks fit and specifies in the permit.
- (2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the permittee in or in relation to the permit area during the term of the permit, or amounts to be expended by the permittee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the permittee to comply with directions given in accordance with the permit concerning those matters.

*[Section 43 amended by No. 12 of 1990 s. 29.]*

**43A. Advertisement of blocks for drilling reservations**

- (1) The Minister may, by instrument published in the *Gazette* —
  - (a) invite applications for the grant of a drilling reservation in respect of the block or blocks specified in the instrument; and

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- (b) specify the period within which applications may be made.
- (2) Applications for the grant of a petroleum drilling reservation shall not be invited under subsection (1) over any area that is included in an existing petroleum exploration permit or an application for a petroleum exploration permit, petroleum drilling reservation, petroleum lease or petroleum production licence.
- (2a) Applications for the grant of a geothermal drilling reservation shall not be invited under subsection (1) over any area that is included in an existing geothermal exploration permit or an application for a geothermal exploration permit, geothermal drilling reservation, geothermal lease or geothermal production licence.
- (3) The Minister may, for reasons that the Minister thinks sufficient, in an instrument published under subsection (1), direct that no application fee is payable with respect to the applications.

*[Section 43A inserted by No. 78 of 1990 s. 6; amended by No. 28 of 1994 s. 17; No. 35 of 2007 s. 27.]*

**43B. Application for drilling reservation**

- (1) An application under section 43A or 105(3)(a)(ii) —
  - (a) shall be in accordance with an approved form; and
  - (b) shall be made in an approved manner; and
  - (c) shall be in respect to a block or blocks containing potential sites of petroleum deposits or geothermal energy resources, as the case requires; and
  - (d) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for the drilling of a well or wells and other work in respect of the block or blocks specified in the application; and

- (ii) the technical qualifications of the applicant and of the employees of the applicant; and
  - (iii) the technical advice available to the applicant; and
  - (iv) a statement as to the size and configuration of the potential petroleum deposit or geothermal energy resources, as the case requires and a geological prognosis of the well; and
  - (v) a statement of the approximate time of the completion of the well; and
  - (vi) the financial resources available to the applicant; and
- (e) may set out any other matters that the applicant wishes the Minister to consider; and
  - (f) subject to section 43A(3), shall be accompanied by the prescribed fee.
- (2) The number of blocks specified in the application shall be not less than one.
- (3) If more than one block is available the blocks specified in the application shall be blocks that are constituted by graticular section that —
- (a) constitute a single area; and
  - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

*[Section 43B inserted by No. 78 of 1990 s. 6; amended by No. 28 of 1994 s. 18; No. 35 of 2007 s. 28.]*

**43C. Grant or refusal in relation to applications for drilling reservations**

- (1) Where an application has been made under section 43B or 105(3)(a)(ii), the Minister may —
  - (a) by instrument in writing served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a drilling reservation in respect of the block or blocks specified in the instrument; or
  - (b) refuse to grant a drilling reservation to the applicant.
- (2) An instrument under subsection (1) shall contain —
  - (a) a summary of the conditions subject to which the drilling reservation is granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the drilling reservation.
- (3) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of the service of the instrument on the applicant, or within such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the expiration of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the drilling reservation referred to in the first-mentioned instrument.
- (4) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to the applicant a drilling reservation in respect of the block or blocks specified in the instrument.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under

subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period.

*[Section 43C inserted by No. 78 of 1990 s. 6; amended by No. 28 of 1994 s. 19.]*

**43D. Rights conferred by drilling reservation**

- (1) A petroleum drilling reservation, while it remains in force, authorises the holder of the drilling reservation, subject to this Act and the regulations and in accordance with the conditions to which the drilling reservation is subject, to drill for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the drilling reservation area.
- (2) A geothermal drilling reservation, while it remains in force, authorises the holder of the drilling reservation, subject to this Act and in accordance with the conditions to which the drilling reservation is subject —
  - (a) to drill for geothermal energy resources in the drilling reservation area; and
  - (b) to recover geothermal energy in the drilling reservation area for the purpose of establishing the nature and probable extent of a discovery of geothermal energy resources; and
  - (c) to carry on such operations and execute such works in the drilling reservation area as are necessary for those purposes.

*[Section 43D inserted by No. 78 of 1990 s. 6; amended by No. 35 of 2007 s. 29.]*

**43E. Term of drilling reservation**

- (1) A drilling reservation is effective from the day on which the drilling reservation is granted or such later date as is specified by the Minister.
- (2) Subject to section 43F, a drilling reservation is effective for such period, not exceeding 3 years, as is specified by the

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Minister commencing from the day from which it is effective under subsection (1).

*[Section 43E inserted by No. 78 of 1990 s. 6; amended by No. 17 of 1999 s. 25.]*

**43F. Extension of term of drilling reservation**

- (1) The holder of a drilling reservation may, before the expiry of the drilling reservation, apply to the Minister for the extension of the period for which the drilling reservation is effective.
- (2) An extension of the period for which a drilling reservation is effective shall not be granted unless the holder of the drilling reservation has drilled or is in the course of drilling a well to the depth specified in the instrument issued under section 43C in relation to the grant of the drilling reservation and has submitted a report to the Minister in relation to the well.
- (2a) An extension of the period for which a drilling reservation is effective shall not be granted if that period has previously been extended under this section.
- (3) An application under subsection (1) shall be accompanied by —
  - [(a) deleted]*
  - (b) a statement of each type of work carried out on the drilling reservation;
  - (c) a statement of the reasons for the extension of the drilling reservation; and
  - (d) the prescribed fee.
- (4) For the purposes of this section no account shall be taken of any delay arising from any assignment of interests in the drilling reservation.
- (5) Subject to subsections (2) and (2a), where —
  - (a) an application has been made under subsection (1); and

- (b) the conditions to which the drilling reservation is, or has from time to time been, subject, and the provisions of this Part and the regulations, have been complied with,

the Minister shall grant an extension of a drilling reservation for a period of 12 months commencing from the expiration of the period for which the drilling reservation is effective.

- (6) Where —
- (a) under subsection (1) an application for an extension of the period for which a drilling reservation is effective has been made; and
- (b) the period for which the drilling reservation is effective expires before the Minister grants, or refuses to grant, the extension referred to in paragraph (a),

the drilling reservation shall be deemed to continue in force in all respects until the Minister grants, or refuses to grant, the extension applied for.

*[Section 43F inserted by No. 78 of 1990 s. 6; amended by No. 28 of 1994 s. 20; No. 17 of 1999 s. 26(1)-(4).]*

**44. Discovery of petroleum to be notified etc.**

- (1) Where petroleum is discovered in a petroleum permit area or petroleum drilling reservation, as the case may be, the permittee or the holder of the drilling reservation, as the case requires —
- (a) shall forthwith inform the Minister of the discovery; and
- (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (1a) If geothermal energy resources are discovered in a geothermal permit area or geothermal drilling reservation, the permittee or the holder of the drilling reservation, as the case requires —
- (a) shall forthwith inform the Minister of the discovery; and

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- (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (1b) If —
  - (a) petroleum is discovered in a geothermal permit area or geothermal drilling reservation; or
  - (b) geothermal energy resources are discovered in a petroleum permit area or petroleum drilling reservation,the permittee or the holder of the drilling reservation, as the case requires, shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (2) Where petroleum is discovered in a petroleum permit area or petroleum drilling reservation, the Minister may, from time to time, by instrument in writing served on the permittee or holder of the drilling reservation, as the case requires, direct the permittee or holder of the drilling reservation, as the case may be, to furnish to him, within the period specified in the instrument, particulars in writing of any one or more of the following —
  - (a) the chemical composition and physical properties of the petroleum;
  - (b) the nature of the strata in which the petroleum occurs;
  - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.
- (2a) If geothermal energy resources are discovered in a geothermal permit area or geothermal drilling reservation, the Minister may, from time to time, by instrument in writing served on the permittee or holder of the drilling reservation, as the case requires, direct the permittee or holder of the drilling reservation to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following —
  - (a) the properties of the geothermal energy resources;

- (b) the nature of the strata in which the geothermal energy resources occur;
  - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.
- (3) A person to whom a direction is given under subsection (2) or (2a) shall comply with the direction.

Penalty: \$10 000.

*[Section 44 amended by No. 12 of 1990 s. 30; No. 78 of 1990 s. 7; No. 35 of 2007 s. 30.]*

**45. Direction by Minister on discovery of petroleum**

- (1) Where petroleum is discovered in a petroleum permit area or petroleum drilling reservation, the Minister may, by instrument in writing served on the permittee or holder of the drilling reservation, as the case requires, direct the permittee or holder of the drilling reservation to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the permit area or drilling reservation, in such part of that petroleum pool as is within the permit area or drilling reservation.
- (1a) If geothermal energy resources are discovered in a geothermal permit area or geothermal drilling reservation, the Minister may, by instrument in writing served on the permittee or holder of the drilling reservation, as the case requires, direct the permittee or holder of the drilling reservation to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the properties of those geothermal energy resources and to determine the quantity of geothermal energy resources in the geothermal resources area to which the discovery relates or, if part only of that geothermal resources area is within the permit

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area or drilling reservation, in such part of that geothermal resources area as is within the permit area or drilling reservation.

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

Penalty: \$10 000.

*[Section 45 amended by No. 12 of 1990 s. 31; No. 78 of 1990 s. 7; No. 35 of 2007 s. 31.]*

**46. Nomination of blocks as location**

- (1) Where a petroleum pool is identified in a petroleum permit area or petroleum drilling reservation, the permittee or the holder of the drilling reservation, as the case requires, may nominate the block in which the pool is situated, or the blocks (being blocks within the permit area or drilling reservation) to which the pool extends, for declaration as a location.
- (1a) If a geothermal resources area is identified in a geothermal permit area or geothermal drilling reservation, the permittee or the holder of the drilling reservation, as the case requires, may nominate the block in which the geothermal resources area is situated, or the blocks (being blocks within the permit area or drilling reservation) to which the geothermal resources area extends, for declaration as a location.
- (2) Where 2 or more petroleum pools are identified in a petroleum permit area or petroleum drilling reservation, the permittee or holder of the drilling reservation, as the case requires, may, instead of making a nomination under subsection (1) in relation to each pool, nominate all of the blocks to which the pools extend, or to which any 2 or more of the pools extend, for declaration as a single location.
- (3) A nomination may not be made under subsection (2) or (2a) unless, in the case of each of the pools or geothermal resources areas to which the nomination relates, at least one of the blocks to which the pool or geothermal resources area extends

immediately adjoins a block to which the other, or another, of those pools or geothermal resources areas extends.

- (4) A nomination by a permittee or holder of a drilling reservation shall be in writing and served on the Minister.
- (5) A nomination may not be made by a permittee or holder of a drilling reservation unless the permittee or holder of the drilling reservation, as the case requires, or another person has, whether within or outside the permit area or drilling reservation, recovered petroleum from the petroleum pool, or geothermal energy from the geothermal resources area, to which the nomination relates or, if the nomination relates to more than one pool or geothermal resources area, from each of those pools or geothermal resources areas.
- (6) Where —
  - (a) the Minister is of the opinion that a permittee or a holder of a drilling reservation is entitled to nominate a block or blocks under subsection (1), (1a), (2) or (2a); and
  - (b) the permittee or a holder of the drilling reservation, as the case requires, has not done so,

the Minister may require the permittee or the holder of the drilling reservation, as the case requires, to exercise his or her right to nominate the block or blocks within 3 months after the date of the making of the requirement.

- (7) A requirement by the Minister under subsection (6) shall be by written notice served on the permittee or holder of the drilling reservation, as the case requires.
- (8) On written request by a permittee or holder of a drilling reservation within the period fixed by subsection (6), the Minister may extend the time for compliance with a requirement under that subsection by not more than 3 months.
- (9) If a permittee or the holder of a drilling reservation, as the case requires, fails to comply with a requirement under subsection (6), the Minister may, by written notice served on the

permittee or the holder of the drilling reservation, nominate the block or blocks for declaration as a location.

*[Section 46 inserted by No. 12 of 1990 s. 32; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 32.]*

**47. Declaration of location**

(1) Where —

- (a) a permittee or holder of a drilling reservation has made a nomination under section 46; and
- (b) the Minister is of the opinion that the permittee or the holder of the drilling reservation, as the case requires, is entitled under that section to nominate the block or blocks specified in the nomination,

the Minister shall, by notice published in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.

(2) Where the Minister has made a nomination under section 46(9), the Minister shall, by notice published in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.

(3) The Minister may, at the request of the permittee or the holder of the drilling reservation, as the case requires, revoke a declaration.

(4) The Minister may vary a declaration that relates to petroleum by —

- (a) adding to the location a block in the permit area or drilling reservation, as the case requires, to which, in the opinion of the Minister, a petroleum pool within the location extends; or
- (b) deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.

- (4a) The Minister may vary a declaration that relates to geothermal energy resources by —
- (a) adding to the location a block in the permit area or drilling reservation, as the case requires, to which, in the opinion of the Minister, a geothermal resources area within the location extends; or
  - (b) deleting from the location a block to which, in the opinion of the Minister, no geothermal resources area within the location extends.
- (5) The Minister may not vary a declaration unless —
- (a) the Minister has caused to be served on the permittee or the holder of the drilling reservation, as the case requires, notice in writing of the proposed variation, identifying the block to be added to, or deleted from, the location;
  - (b) the period of 30 days after the date of service of the notice has expired; and
  - (c) the Minister has considered any matters submitted to him by the permittee or the holder of the drilling reservation, as the case requires, in relation to the proposed variation.
- (6) Subsection (5) does not apply where a variation is made at the request of the permittee or the holder of the drilling reservation, as the case requires.

*[Section 47 inserted by No. 12 of 1990 s. 32; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 33.]*

**48. Immediately adjoining blocks**

For the purposes of section 46, 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.

*[Section 48 amended by No. 12 of 1990 s. 33.]*

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*[Heading inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 34.]*

**48A. Application by permittee or holder of drilling reservation for lease**

- (1) A permittee whose petroleum exploration permit is in force, or, the holder of a drilling reservation whose petroleum drilling reservation is in force, in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a petroleum retention lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (1a) A permittee whose geothermal exploration permit is in force, or the holder of a drilling reservation whose geothermal drilling reservation is in force, in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a geothermal retention lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (2) An application under subsection (1) or (1a) —
  - (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and
    - (ii) the commercial viability of the recovery of petroleum or geothermal energy, as the case requires, from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum or geothermal energy from that area;

- (d) may set out any other matters that the applicant wishes to be considered; and
  - (e) shall be accompanied by the prescribed fee.
- (3) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the application.
- (4) The application period in respect of an application under this section by a permittee or the holder of a drilling reservation is —
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
  - (b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application in writing by the permittee or the holder of the drilling reservation, as the case requires, served on the Minister before the end of the first-mentioned period of 2 years, allows.

*[Section 48A inserted by No. 12 of 1990 s. 34; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 35.]*

**48B. Grant or refusal of lease in relation to application**

- (1) Where —
- (a) an application has been made under section 48A;
  - (b) the applicant has furnished any further information as and when required by the Minister under section 48A(3); and
  - (c) the Minister is satisfied that recovery of petroleum or geothermal energy, as the case requires, from the area comprised in the blocks specified in the application —
    - (i) is not, at the time of the application, commercially viable; and

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

the Minister shall, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to the applicant a petroleum retention lease or geothermal retention lease, as the case requires, in respect of the block or blocks specified in the application.

- (2) Where an application has been made under section 48A and —
- (a) the applicant has not furnished any further information as and when required by the Minister under section 48A(3); or
  - (b) the Minister is not satisfied as to the matters referred to in subsection (1)(c) in relation to the blocks specified in the application,

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

- (3) An instrument under subsection (1) shall contain —
- (a) a summary of the conditions subject to which the lease is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.
- (4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the end of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the lease.
- (5) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4),

the Minister shall grant to the applicant a petroleum retention lease or geothermal retention lease, as the case requires, in respect of the block or blocks specified in the instrument.

- (6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.
- (7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit or drilling reservation, as the case requires, in respect of the block or blocks ceases to be in force in respect of those blocks.

*[Section 48B inserted by No. 12 of 1990 s. 34; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 21; No. 35 of 2007 s. 36.]*

**48BA. Application of sections 48A and 48B where permit is transferred**

Where —

- (a) after an application has been made under section 48A(1) in relation to a block or blocks in respect of which a permit is in force; and
- (b) before a decision has been made by the Minister under section 48B(1) or (2) in relation to the application,

a transfer of the permit is registered under section 72, sections 48A and 48B have effect, after the time of the transfer, as if any reference in those sections to the applicant were a reference to the transferee.

*[Section 48BA inserted by No. 28 of 1994 s. 22.]*

**48C. Rights conferred by lease**

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

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- (2) A geothermal lease, while it remains in force, authorises the lessee, subject to this Act and in accordance with the conditions to which the lease is subject —
- (a) to explore for geothermal energy resources in the lease area; and
  - (b) to recover geothermal energy in the lease area for the purpose of establishing the nature and probable extent of a discovery of geothermal energy resources; and
  - (c) to carry on such operations and execute such works in the lease area as are necessary for those purposes.

*[Section 48C inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 37.]*

**48D. Term of lease**

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

*[Section 48D inserted by No. 12 of 1990 s. 34.]*

**48E. Notice of intention to cancel lease**

- (1) Where —
- (a) a lessee has been given a notice of the kind referred to in section 48H(3) during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice;
  - (b) the lessee has not made an application for the renewal of the lease; and
  - (c) after consideration of the results of the re-evaluation referred to in paragraph (a) and such other matters as the Minister thinks fit, the Minister is of the opinion that recovery of petroleum from the petroleum lease area or

geothermal energy from the geothermal lease area, as the case requires, is commercially viable,

the Minister may serve on the lessee and on such other persons as the Minister thinks appropriate an instrument in writing —

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

(2) Where —

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

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

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

- (a) in a case to which paragraph (b) does not apply, at the end of the period of 12 months commencing on the date of service of the instrument of cancellation; or
- (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph (a), when the Minister grants, or refuses to

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grant, the licence or when the application lapses, whichever first happens.

- (4) Where a lease is cancelled under subsection (2), the lease shall be deemed to continue in force in all respects until the cancellation has effect in accordance with subsection (3).

*[Section 48E inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 38.]*

**48F. Application for renewal of lease**

- (1) A lessee may, from time to time, make an application to the Minister for the renewal of the lease.
- (2) An application for the renewal of a lease —
- (a) shall be in accordance with an approved form;
  - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force;
  - (c) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for work and expenditure in respect of the lease area; and
    - (ii) the commercial viability of recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area, as the case requires, at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area;
- and
- (d) shall be accompanied by the prescribed fee.
- (3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.

- (4) Where an application has been made for the renewal of a lease, the Minister may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

*[Section 48F inserted by No. 12 of 1990 s. 34; amended by No. 28 of 1994 s. 23; No. 35 of 2007 s. 39.]*

**48G. Grant or refusal of renewal of lease**

- (1) Where —
- (a) an application for the renewal of a lease has been made under section 48F;
  - (b) any further information required by the Minister under subsection (4) of section 48F has been furnished in accordance with that subsection; and
  - (c) the Minister is satisfied that recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area, as the case requires —
    - (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 Minister —

- (d) shall, if the conditions to which the lease is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
- (e) may if —
  - (i) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and

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- (ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the lease,

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

- (2) Subject to subsection (3), where an application for the renewal of a lease has been made under section 48F and —
  - (a) any further information required by the Minister under subsection (4) of section 48F has not been furnished in accordance with that subsection;
  - (b) the Minister is not satisfied as to the matters referred to in subsection (1)(c); or
  - (c) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with and the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the lease,

the Minister shall, by instrument in writing served on the person who is then the lessee, refuse to grant the renewal of the lease.

- (3) The Minister shall not refuse to grant the renewal of the lease unless —
  - (a) he has, by instrument in writing served on the lessee, given not less than one month's notice of his intention to refuse to grant the renewal of the lease;
  - (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit;
  - (c) he has, in the instrument —
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the lessee or a person on whom a copy of the instrument is

served may, by instrument in writing served on the Minister, submit any matters that the lessee wishes to be considered;

and

- (d) he has taken into account any matters so submitted on or before the specified date by the lessee or by a person on whom a copy of the first-mentioned instrument has been served.
- (4) An instrument referred to in subsection (1) shall contain —
- (a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6).
- (5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1)(c)(i), contain a statement to the effect that the lessee may, within the period of 12 months after the date of service of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.
- (6) A lessee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the lessee, by instrument in writing served on the Minister, request the Minister to grant the lessee the renewal of the lease.
- (7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.
- (8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period.

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- (9) Where —
- (a) an application for the renewal of a lease has been made; and
  - (b) the lease expires —
    - (i) before the Minister grants, or refuses to grant, the renewal of the lease; or
    - (ii) before the application lapses as provided by subsection (8),
- the lease shall be deemed to continue in force in all respects —
- (c) until the Minister grants, or refuses to grant, the renewal of the lease; or
  - (d) until the application so lapses,
- whichever first happens.
- (10) Where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1)(c)(i), the lease shall be deemed to continue in force in all respects —
- (a) in a case to which paragraph (b) does not apply, until 12 months after the date of service of the instrument under subsection (2); or
  - (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph (a), until the Minister grants, or refuses to grant, the licence or until the application lapses, whichever first happens.

*[Section 48G inserted by No. 12 of 1990 s. 34; amended by No. 28 of 1994 s. 24; No. 35 of 2007 s. 40.]*

**48H. Conditions of lease**

- (1) A lease may be granted subject to such conditions as the Minister thinks fit and are specified in the lease.

- (2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the lessee in or in relation to the lease area during the term of the lease, or amounts to be expended by the lessee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the lessee to comply with directions given in accordance with the lease concerning those matters.
- (3) A lease shall be deemed to contain a condition that the lessee will, within the period of 3 months after the receipt of a written notice from the Minister requesting the lessee to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first-mentioned period, allows, re-evaluate the commercial viability of, as the case requires, the recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area (otherwise than by drilling of wells) and inform the Minister in writing of the results of the re-evaluation.
- (4) Where a lessee has complied with 2 notices of the kind referred to in subsection (3) during the term of the lease, the Minister shall not give to the lessee during that term a further notice of that kind.

*[Section 48H inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 41.]*

**48J. Discovery of petroleum to be notified**

- (1) Where petroleum is discovered in a petroleum lease area or geothermal energy resources are discovered in a geothermal lease area, the lessee —
- (a) shall forthwith inform the Minister of the discovery; and
  - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

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(1a) If —

- (a) petroleum is discovered in a geothermal lease area; or
- (b) geothermal energy resources are discovered in a petroleum lease area,

the lessee shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

(2) Where petroleum is discovered in a petroleum lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following —

- (a) the chemical composition and physical properties of the petroleum;
- (b) the nature of the subsoil in which the petroleum occurs;
- (c) any other matters relating to the discovery that are specified by the Minister in the instrument.

(2a) If geothermal energy resources are discovered in a geothermal lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following —

- (a) the properties of the geothermal energy resources;
- (b) the nature of the strata in which the geothermal energy resources occur;
- (c) any other matters relating to the discovery that are specified by the Minister in the instrument.

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

Penalty: \$10 000.

*[Section 48J inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 42.]*

**48K. Directions by Minister on discovery of petroleum**

- (1) Where petroleum is discovered in a petroleum lease area, the Minister may, by instrument in writing served on the lessee, direct the lessee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the lease area, in such part of that petroleum pool as is within the lease area.
- (1a) If geothermal energy resources are discovered in a geothermal lease area, the Minister may, by instrument in writing served on the lessee, direct the lessee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the properties of the geothermal energy resources and to determine the quantity of geothermal energy resources in the geothermal resources area to which the discovery relates or, if part only of that geothermal resources area is within the lease area, in such part of that geothermal resources area as is within the lease area.
- (2) A person to whom a direction is given under subsection (1) or (1a) shall comply with the direction.

Penalty: \$10 000.

*[Section 48K inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 43.]*

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*[Heading amended by No. 35 of 2007 s. 44.]*

**49. Recovery of petroleum in State**

- (1) A person shall not carry on operations for the recovery of petroleum in the State except —
  - (a) under and in accordance with a petroleum production licence; or

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(b) as otherwise permitted by this Act.

Penalty: \$50 000 or imprisonment for 5 years, or both.

(2) A person shall not carry on operations for the recovery of geothermal energy in the State except —

(a) under and in accordance with a geothermal production licence; or

(b) as otherwise permitted by this Act.

Penalty: \$50 000 or imprisonment for 5 years, or both.

*[Section 49 inserted by No. 12 of 1990 s. 35; amended by No. 35 of 2007 s. 45.]*

**50. Application by permittee for licence**

(1) A permittee whose petroleum exploration permit is in force, or, the holder of a drilling reservation whose petroleum drilling reservation is in force, in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a petroleum production licence —

(a) where 9 or more blocks constitute the location concerned — in respect of 5 of those blocks;

(b) where 8 or 7 blocks constitute the location concerned — in respect of 4 of those blocks;

(c) where 6 or 5 blocks constitute the location concerned — in respect of 3 of those blocks;

(d) where 4 or 3 blocks constitute the location concerned — in respect of 2 of those blocks;

(e) where 2 blocks constitute the location concerned — in respect of one of those blocks; or

(f) where one block constitutes the location concerned — in respect of that block.

(1a) A permittee whose geothermal exploration permit is in force, or the holder of a drilling reservation whose geothermal drilling reservation is in force, in respect of a block that constitutes, or

the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a geothermal production licence in respect of the block that constitutes, or the blocks that constitute, the location.

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

of applications under that subsection, is his primary entitlement,

the permittee or the holder of the drilling reservation, as the case requires, may, within the application period, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the location concerned.

- (4) Subject to subsection (5), the application period in respect of an application under this section by a permittee or the holder of a drilling reservation is —
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
  - (b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application by the permittee or the holder of the drilling reservation, as the case requires, in writing, served on the Minister before the expiration of the first-mentioned period of 2 years, allows.
- (5) Where —
- (a) a permittee or the holder of a drilling reservation applies for the grant by the Minister of a licence in respect of a block or blocks in respect of which the permittee or the holder of the drilling reservation, as the case requires, has applied for a lease under section 48A; and
  - (b) an instrument refusing to grant the lease is served on the permittee or the holder of the drilling reservation, as the case requires, under section 48B(2),

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

- (c) the period that is applicable under subsection (4);

- (d) the period of 12 months after the day of service of the instrument.

*[Section 50 amended by No. 12 of 1990 s. 36; No. 78 of 1990 s. 7; No. 28 of 1994 s. 25; No. 35 of 2007 s. 46.]*

**50A. Application by lessee for licence**

- (1) A lessee whose petroleum lease is in force may make an application to the Minister for the grant of a petroleum production licence —
- (a) where the lease is in respect of 9 or more blocks, in respect of 5 of those blocks;
  - (b) where the lease is in respect of 8 or 7 blocks, in respect of 4 of those blocks;
  - (c) where the lease is in respect of 6 or 5 blocks, in respect of 3 of those blocks;
  - (d) where the lease is in respect of 4 or 3 blocks, in respect of 2 of those blocks;
  - (e) where the lease is in respect of 2 blocks, in respect of one of those blocks; or
  - (f) where the lease is in respect of one block, in respect of that block.
- (1a) A lessee whose geothermal lease is in force may make an application to the Minister for the grant of a geothermal production licence —
- (a) where the lease is in respect of 2 or more blocks, in respect of all of those blocks; or
  - (b) where the lease is in respect of one block, in respect of that block.
- (2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (1) or (1a) in respect of the lessee's primary entitlement, make an application to the Minister for the grant of a licence in respect of a number of blocks that is less than the lessee's primary entitlement.

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- (3) Where a petroleum lessee makes an application under subsection (1) in respect of the lessee's primary entitlement, the lessee may, at any time while the lease concerned is in force, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the lease.

*[Section 50A inserted by No. 12 of 1990 s. 37; amended by No. 35 of 2007 s. 47.]*

**51. Application for licence**

- (1) An application under section 50 or 50A —
- (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application;
  - (d) may set out any other matters that the applicant wishes the Minister to consider; and
  - (e) shall, in the case of an application for the grant of a licence, be accompanied by the prescribed fee.
- (2) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period specified in the instrument, further information in writing in connection with his application.

*[Section 51 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 38.]*

**52. Determination of rate of royalty**

- (1) Where an application is made for a primary licence, the Minister shall determine a rate or rates at which royalty is to be payable in respect of petroleum recovered under the licence, being a rate that is, or rates each of which is, not less than 5% nor more than 10% of the royalty value of that petroleum.
- (2) Where the Minister determines, pursuant to subsection (1), more than one rate at which royalty is to be payable in respect of

petroleum recovered under a licence, he shall also determine the period for which each rate so determined is to have effect.

- (3) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum recovered whether under the secondary licence, or, subject to section 142(6), under the primary licence, being a rate that is not less than 10% nor more than 12½% of the royalty value of that petroleum.
- (4) The Minister shall not make a determination under this section unless he has given to the applicant an opportunity to confer with him concerning the matter or matters to be the subject of the determination.

*[Section 52 amended by No. 11 of 1994 s. 5.]*

**53. Notification as to grant of licence**

- (1) Where an application for the grant of a licence has been made under section 50 or 50A and the applicant has furnished any further information as and when required by the Minister under section 51(2), the Minister, by instrument in writing served on the applicant shall inform the applicant that he is prepared to grant to him a licence in respect of the blocks specified in the application.
- (2) An instrument under subsection (1) shall —
- (a) contain a summary of the conditions subject to which the licence is to be granted;
  - (b) in respect of an application for the grant of a petroleum production licence — specify the rate or rates, and the periods related thereto, if any, of royalty determined by the Minister in pursuance of section 52(1), (2) or (3); and

- (c) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 54(1) in respect of the grant of the licence.

*[Section 53 amended by No. 12 of 1990 s. 39; No. 28 of 1994 s. 26; No. 35 of 2007 s. 48.]*

**54. Grant of licence**

- (1) An applicant on whom there has been served an instrument under section 53(1) may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by instrument in writing served on the Minister, request the Minister to grant to him the licence referred to in the first-mentioned instrument.
- (2) Where an applicant on whom there has been served an instrument under section 53(1) has made a request under subsection (1) within the period applicable under subsection (1), the Minister shall grant to the applicant a petroleum production licence or geothermal production licence, as the case requires, in respect of the blocks specified in the application.
- (3) A secondary licence shall not be granted to a permittee, the holder of the drilling reservation or lessee in respect of any one or more of the blocks that constitute a location unless —
- (a) a primary licence has been granted in respect of a block or blocks forming part of that location; and
  - (b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 55, is the primary entitlement of the permittee, holder of the drilling reservation or lessee, as the case requires.
- (4) Where an applicant on whom there has been served an instrument under section 53(1) has not made a request under

subsection (1) within the period applicable under subsection (1), the application lapses upon the expiration of that period.

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

*[Section 54 amended by No. 12 of 1990 s. 40; No. 78 of 1990 s. 7; No. 28 of 1994 s. 27; No. 35 of 2007 s. 49.]*

**54A. Application of sections 51 to 54 where permit etc. transferred**

Where —

- (a) after an application has been made —
- (i) under section 50 for the grant of a licence in respect of a block or blocks in respect of which a permit or drilling reservation is in force; or
  - (ii) under section 50A for the grant of a licence in respect of a block or blocks in respect of which a lease is in force;

and

- (b) before a decision has been made by the Minister under section 53(1) in relation to the application,

a transfer of the permit, drilling reservation or lease, as the case may be, is registered under section 72, then, after the time of the transfer sections 51 to 54 have effect in relation to the application as if any reference in those sections to the applicant were a reference to the transferee.

*[Section 54A inserted by No. 28 of 1994 s. 28.]*

**55. Variation of licence area**

- (1) Where an application is made under section 50(2) for a variation of a licence, the Minister shall, by instrument in writing served on the licensee, vary the licence to include in the licence area the blocks specified in the application.

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

*[Section 55 amended by No. 12 of 1990 s. 41.]*

**56. Determination of permit as to blocks not taken up by licensee**

- (1) Subject to subsection (2), where —
- (a) a permittee or the holder of a drilling reservation, as the case requires, who may make an application under section 50 in respect of a block does not, within the application period, make the application; or
  - (b) all applications made by a permittee or the holder of a drilling reservation, as the case requires, under that section in respect of a block have lapsed,
- the permit or drilling reservation is determined as to that block and the determination has effect —
- (c) in a case referred to in paragraph (a) — upon the expiration of the application period; and
  - (d) in a case referred to in paragraph (b) —
    - (i) upon the expiration of the application period; or
    - (ii) upon the lapsing of the last of the applications referred to in that paragraph,

whichever is the later.

- (1a) Subject to subsection (2), where all applications made by a lessee under section 50A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.

- (2) Where a permittee, the holder of a drilling reservation or lessee makes an application for a secondary licence —
- (a) the permit, drilling reservation or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
  - (b) the determination has effect upon the making of the application.
- (3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit, drilling reservation or lease, the Minister shall, by instrument published in the *Gazette* —
- (a) in a case where that block or those blocks constitutes or constitute that location, revoke the declaration made under section 47 in respect of that location; or
  - (b) in a case where that block or those blocks forms or form part of that location, revoke the declaration made under section 47 in respect of that location to the extent that it relates to that block or those blocks.
- (4) Subsection (3) does not apply in relation to a block —
- (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or
  - (b) in respect of which a lease or licence is in force.
- (5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 47 to the extent that it relates to the block or blocks that is or are not within the lease area.
- (6) Where —
- (a) the Minister refuses to grant a lease in respect of 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 Minister is not satisfied as to the matter referred to in section 48B(1)(c)(ii),

the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 47 in respect of that location.

*[Section 56 amended by No. 12 of 1990 s. 42; No. 78 of 1990 s. 7.]*

**57. Application for petroleum production licence in respect of surrendered etc. blocks**

(1) Where —

- (a) a petroleum production licence is surrendered or cancelled as to a block;
- (b) a petroleum exploration permit, petroleum drilling reservation or petroleum retention lease is surrendered, cancelled or determined as to a block —
  - (i) that, at the time of the surrender, cancellation or determination, was, or was included in, a location; and
  - (ii) in which, in the opinion of the Minister, there is petroleum;

or

- (ba) a petroleum pool from which petrol has been recovered is within or extends to a block which is not the subject of a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease or petroleum production licence,

the Minister may by instrument published in the *Gazette* —

- (c) invite applications for the grant of a petroleum production licence in respect of that block; and
- (d) specify a period within which applications may be made.

(1a) If —

- (a) a geothermal production licence is surrendered or cancelled as to a block; or
- (b) a geothermal exploration permit, geothermal drilling reservation or geothermal retention lease is surrendered, cancelled or determined as to a block —
  - (i) that, at the time of the surrender, cancellation or determination, was, or was included in, a location; and
  - (ii) in which, in the opinion of the Minister, there are geothermal energy resources;

or

- (c) a geothermal resources area from which geothermal energy has been recovered is within or extends to a block which is not the subject of a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease or geothermal production licence,

the Minister may by instrument published in the *Gazette* —

- (d) invite applications for the grant of a geothermal production licence in respect of that block; and
- (e) specify a period within which applications may be made.

(2) The Minister shall, in an instrument under subsection (1), state —

- (a) that an applicant is required to specify an amount that he would be prepared to pay in respect of the grant of a petroleum production licence to him on his application; or
- (b) that an applicant is required to specify a rate of royalty that he would be prepared to pay, if a petroleum production licence were granted to him on his application, in respect of petroleum recovered under the licence, being a rate that exceeds 10% of the royalty value of that petroleum.

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- (3) Where the Minister, in an instrument under subsection (1), states that an applicant is required to specify a rate of royalty as mentioned in subsection (2)(b), the Minister may, in that instrument, state that an applicant on whose application he is prepared to grant a petroleum production licence will also be required to pay to him, in respect of the grant of the licence to the applicant, the amount specified in that behalf in that instrument.
- (4) The Minister shall, in an instrument under subsection (1a), state that an applicant is required to specify an amount that the applicant would be prepared to pay in respect of the grant of a geothermal production licence to the applicant on the application.
- [(5) repealed]*
- (6) An application under this section —
- (a) shall be in accordance with an approved form; and
  - (b) shall be made in an approved manner; and
  - (c) shall be accompanied by the particulars referred to in section 51(1)(c); and
  - (d) in the case of an application under subsection (1), shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount, or the rate of royalty, that the applicant would be prepared to pay; and
  - (e) in the case of an application under subsection (1a), shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount that the applicant would be prepared to pay; and
  - (f) may set out any other matters that the applicant wishes the Minister to consider.
- (7) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period

specified in the instrument, further information in connection with his application.

*[Section 57 amended by No. 12 of 1990 s. 43; No. 78 of 1990 s. 7; No. 11 of 1994 s. 5; No. 28 of 1994 s. 29; No. 35 of 2007 s. 50.]*

**58. Application fee etc.**

- (1) An application under section 57 shall be accompanied by —
  - (a) the prescribed fee; and
  - (b) a deposit —
    - (i) if the applicant has specified an amount that he would be prepared to pay in respect of the grant of a licence to him on the application — of 10% of that amount; or
    - (ii) if the Minister has, in the instrument by which applications were invited, stated an amount that the applicant will be required to pay in respect of the grant of a licence — of 10% of that amount.
- (2) Where a licence is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.
- (3) Where an applicant on whom there has been served an instrument under subsection (1) of section 59 does not request the Minister, under subsection (6) of that section, to grant to him the licence referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

*[Section 58 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 44. (Error in reprint: Gazette 26 Feb 1993 p. 1362.)]*

**59. Request by applicant for grant of licence**

- (1) Where, at the expiration of the period specified in an instrument under subsection (1) or (1a) of section 57, only one application has been made under that subsection in respect of the block specified

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in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform him that he is prepared to grant to him a licence in respect of that block.

- (2) Where, at the expiration of the period specified in an instrument under subsection (1) or (1a) of section 57, 2 or more applications have been made under that subsection in respect of the block specified in the instrument, the Minister may reject any or all of the applications and, if he does not reject all of the applications, may —
- (a) if only one application remains unrejected — by instrument in writing served on the applicant; or
  - (b) if 2 or more applications remain unrejected — by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified in his application an amount, or, if applicable, a rate of royalty, that he would be prepared to pay that is not less than the amount, or, if applicable, the rate of royalty, specified in the application of any other applicant whose application has not been rejected,

inform him that he is prepared to grant to him a licence in respect of that block and that he will be required to pay the amount specified in the application, royalty at the rate specified in the application, or royalty at the rate specified in the application and the amount specified in the instrument under section 57(1), as the case requires.

*[(3), (4) repealed]*

- (5) An instrument under any of the preceding provisions of this section shall contain —
- (a) a summary of the conditions subject to which the licence is to be granted;
  - (b) a statement of the balance of the amount, if any, that the applicant will be required to pay in respect of the grant of the licence to him; and

- (c) a statement to the effect that the application will lapse —
  - (i) if the applicant does not make a request under subsection (6); or
  - (ii) in a case where the instrument contains a statement referred to in paragraph (b) — if the applicant does not pay the balance of the amount referred to in that statement or enter into an agreement under section 103 in respect of that balance.
  
- (6) An applicant on whom there has been served an instrument under any of the preceding provisions of this section may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows —
  - (a) by instrument in writing served on the Minister, request the Minister to grant to him the licence; and
  - (b) if the first-mentioned instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to him — pay that balance or enter into an agreement under section 103 in respect of that balance.
  
- (7) Where an applicant on whom there has been served an instrument under subsection (1) or (2) —
  - (a) has not made a request under subsection (6); or
  - (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him — has not paid the balance or entered into an agreement under section 103 in respect of that balance,

within the period applicable under subsection (6), the application lapses upon the expiration of that period.

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- (8) Where the application of an applicant on whom there has been served an instrument under subsection (2) lapses as provided by subsection (7), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

*[Section 59 amended by No. 12 of 1990 s. 45; No. 28 of 1994 s. 30; No. 35 of 2007 s. 51.]*

**60. Grant of licence on request**

Where an applicant on whom there has been served an instrument under section 59 —

- (a) has made a request under subsection (6) of that section; and
- (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him — has paid that balance or entered into an agreement under section 103 in respect of that balance,

within the period applicable under section 59(6), the Minister shall grant to him a petroleum production licence or geothermal production licence, as the case requires, in respect of the block specified in the instrument.

*[Section 60 amended by No. 28 of 1994 s. 31; No. 35 of 2007 s. 52.]*

**61. Licence for 2 or more blocks may be divided into 2 or more licences**

- (1) Where a licence (in this section called “**the original licence**”) is in force in respect of 2 or more blocks (not being blocks that form or form part of a location), the licensee may make an application to the Minister for the grant to him of —
- (a) if the original licence is a petroleum production licence — 2 or more petroleum production licences; or

- (b) if the original licence is a geothermal production licence — 2 or more geothermal production licences, in respect of the blocks the subject of the original licence in exchange for the original licence.
- (2) An application under subsection (1) —
- (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the number of licences required;
  - (d) shall specify the block or blocks the subject of the original licence in respect of which each licence is sought; and
  - (e) shall be accompanied by the prescribed fee.
- [(3) repealed]*
- (4) Where a licensee has made an application under this section the Minister shall grant to the licensee petroleum production licences or geothermal production licences, as the case requires, in accordance with the application.
- (5) A licence granted on an application under this section —
- (a) remains in force, subject to this Part, but notwithstanding section 63, for the remainder of the term of the original licence;
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject;
  - (c) shall be granted subject to any directions under this Act previously given to the holder of the original licence in respect of the licence area of the original licence; and
  - (d) shall be granted subject to any instruments and agreements in respect of the original licence a memorial of which is entered in the Register under section 70, insofar as such instruments and agreements apply to the licence, (or any such instruments and agreements which

are in effect at the time that an application is granted under this section but in respect of which a memorial is not yet entered under that section).

- (6) Where licences are granted on an application under this section —
- (a) the original licence is, by force of this subsection, determined; and
  - (b) the determination has effect on and from the day on which those licences come into force.

*[Section 61 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 46; No. 28 of 1994 s. 32; No. 35 of 2007 s. 53.]*

**62. Rights conferred by licence**

- (1) A petroleum production licence, while it remains in force, authorises the licensee, subject to this Act and the regulations and in accordance with the conditions to which the licence is subject —
- (a) to recover petroleum in the licence area and to recover petroleum from the licence area in another area to which he has lawful access for that purpose;
  - (b) to explore for petroleum in the licence area; and
  - (c) to carry on such operations and execute such works in the licence area as are necessary for those purposes.
- (2) A geothermal production licence, while it remains in force, authorises the licensee, subject to this Act and in accordance with the conditions to which the licence is subject —
- (a) to recover geothermal energy in the licence area and to recover geothermal energy from the licence area in another area to which the licensee has lawful access for that purpose; and
  - (b) to explore for geothermal energy resources in the licence area; and

- (c) to carry on such operations and execute such works in the licence area as are necessary for those purposes.

*[Section 62 amended by No. 12 of 1990 s. 47; No. 35 of 2007 s. 54.]*

**62A. Geothermal energy recovery development plans**

- (1) A geothermal licensee is to submit to the Minister for approval a geothermal energy recovery development plan, or a geothermal energy recovery development plan as varied under subsection (2), that sets out the information required by the regulations in relation to how geothermal energy is proposed to be recovered under the licence.
- (2) Before approving a geothermal energy recovery development plan submitted under subsection (1), the Minister may, by instrument in writing served on the geothermal licensee, direct the licensee to vary the development plan, as specified in the instrument, for the purpose of securing the more effective recovery of geothermal energy under the licence.
- (3) The Minister is not to give a direction under subsection (2) unless the Minister has given to the geothermal licensee an opportunity to confer with the Minister concerning the proposed direction.
- (4) The Minister may approve a geothermal energy recovery development plan submitted under subsection (1).

*[Section 62A inserted by No. 35 of 2007 s. 55.]*

**62B. Variation of approved development plans**

- (1) The Minister may, by instrument in writing served on a geothermal licensee, direct the licensee to vary the approved development plan that applies to the geothermal production licence, as specified in the instrument, for the purpose of securing the more effective recovery of geothermal energy under the licence.

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- (2) The Minister is not to give a direction under subsection (1) unless the Minister has given to the geothermal licensee an opportunity to confer with the Minister concerning the proposed direction.
- (3) On the written application of the geothermal licensee, the Minister may approve a variation of the approved development plan.
- (4) An approved development plan that is varied under this section has effect as so varied.

*[Section 62B inserted by No. 35 of 2007 s. 55.]*

**63. Term of licence**

Subject to this Part, a licence remains in force —

- (a) in the case of a licence granted otherwise than by way of renewal of a licence, for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day;
- (b) in the case of a licence granted by way of the first renewal of a licence, for the period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day; and
- (c) in the case of a licence granted by way of the renewal, other than the first renewal, of a licence, for such period, not exceeding 21 years, as the Minister determines and is specified in the licence, commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day.

*[Section 63 inserted by No. 12 of 1990 s. 48.]*

**64. Application for renewal of licence**

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

*[Section 64 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 49.]*

**65. Grant or refusal of renewal of licence**

- (1) Where —
  - (a) an application for the renewal of a licence has been made under section 64; and
  - (b) the conditions to which the licence is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with,the Minister —
  - (c) shall, if the application is in respect of the first renewal of the licence; or

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- (d) may, if the application is in respect of a renewal other than the first renewal of the licence,

by instrument in writing served on the person who is then the licensee inform the person that the Minister is prepared to grant to the person the renewal of the licence.

- (2) Where —

- (a) an application for the renewal of a licence has been made under section 64; and
- (b) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, but the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the licence,

the Minister may, by instrument in writing served on the person who is then the licensee, inform the person that the Minister is prepared to grant to the person the renewal of the licence.

- (3) If any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4), by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- (4) The Minister shall not under subsection (3) refuse to grant the renewal of a licence unless —
- (a) he has, by instrument in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the renewal of the licence;
- (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit;

- (c) he has, in the instrument —
    - (i) given particulars of the reasons for the intention; and
    - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;and
  - (d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.
- (5) Where an application has been made under section 64 in respect of a renewal other than the first renewal of the licence, the Minister may, by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- [(6) repealed]*
- (7) An instrument under subsection (1) or (2) shall contain —
- (a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and
  - (b) a statement to the effect that the application will lapse if the licensee does not make a request under subsection (8).
- (8) A licensee on whom there has been served an instrument under subsection (1) or (2) may, within a period of one month after the date of service of the instrument on him, by instrument in writing served on the Minister, request the Minister to grant to him the renewal of the licence.
- (9) Where a licensee on whom there has been served an instrument under subsection (1) or (2) has made a request under

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subsection (8) within the period referred to in subsection (8), the Minister shall grant to him the renewal of the licence.

(10) Where a licensee on whom there has been served an instrument under subsection (1) or (2) has not made a request under subsection (8) within the period referred to in subsection (8), the application lapses upon the expiration of that period.

(11) Where —

(a) an application for the renewal of a licence is made under section 64; and

(b) the licence expires —

(i) before the Minister grants, or refuses to grant, the renewal of the licence; or

(ii) before the application lapses as provided by subsection (10),

the licence shall be deemed to continue in force in all respects —

(c) until the Minister grants, or refuses to grant, the renewal of the licence; or

(d) until the application so lapses,

whichever first happens.

*[Section 65 amended by No. 28 of 1994 s. 33.]*

**66. Conditions of licence**

(1) A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.

(2) Without limiting subsection (1), a geothermal production licence is subject to the condition that geothermal energy may be recovered under the licence only in accordance with the approved development plan.

*[Section 66 amended by No. 35 of 2007 s. 56.]*

**67. Storage of petroleum underground**

- (1) A person shall not inject petroleum into a natural underground reservoir —
- (a) for the purpose of storage and subsequent recovery other than in accordance with an agreement made under this section; or
  - (b) for a purpose other than storage and subsequent recovery without the approval of the Minister.

Penalty: \$10 000.

- (2) Where a person wishes to inject petroleum into a natural underground reservoir, the person shall apply in writing to the Minister who may reject the application or may —
- (a) where the Minister is of the opinion the injection is for the purpose of storage and subsequent recovery, require the applicant to enter into an agreement with the Minister as to the injection, storage and subsequent recovery of that petroleum; or
  - (b) where the Minister is of the opinion the injection is for a purpose other than storage and subsequent recovery, approve the application.
- (3) An agreement under subsection (2)(a) —
- (a) shall specify the details of the methods to be used for the injection, storage and subsequent recovery of the petroleum; and
  - (b) may specify —
    - (i) whether or not royalty under this Act or the *Petroleum (Submerged Lands) Act 1982* in respect of that petroleum by reason of the initial recovery is to be paid; and
    - (ii) such conditions, restrictions and other matters as the Minister thinks fit.

*[Section 67 inserted by No. 28 of 1994 s. 34.]*

**68. Directions as to recovery of petroleum**

- (1) Where petroleum is not being recovered in a licence area and the Minister is satisfied that there is recoverable petroleum in that area, he may, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.
- (2) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the recovery of petroleum in the licence area.
- (3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that he thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Minister specifies in the instrument.
- (4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area.
- (5) Without limiting the matters that may be taken into account by the Minister in determining whether to give a direction under subsection (3) or (4), the Minister may take into account matters relating to the effects on State revenue of the proposed direction, but the Minister shall not give a direction under subsection (3) or (4) if the direction would require action to be taken that is contrary to good oil-field practice.

*[Section 68 amended by No. 12 of 1990 s. 51.]*

**69. Unit development**

- (1) In this section, the expression “**unit development**” —
- (a) applies in relation to —
    - (i) a petroleum pool that is partly in a particular licence area of a petroleum licensee and partly in another area, whether in the State or not, in respect of which another person has authority, whether under this Act or another written law or under the law of another State or of the Northern Territory, to carry on operations for the recovery of petroleum from the pool; or
    - (ii) a geothermal resources area that is partly in a particular licence area of a geothermal licensee and partly in another area, whether in the State or not, in respect of which another person has authority, whether under this Act or another written law or under the law of another State or of the Northern Territory, to carry on operations for the recovery of geothermal energy from the geothermal resources area;
- and
- (b) means the carrying on of operations for the recovery of petroleum from that pool or geothermal energy from that geothermal resources area, as the case requires, under cooperative arrangements between the persons entitled to carry on such operations in each of those areas.
- (2) A licensee may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum pool or geothermal resources area, as the case requires, but nothing in this subsection derogates from the operation of section 75(2).

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- (3) The Minister, of his own motion or on application made to him in writing by —
- (a) a licensee in whose licence area there is a part of a particular petroleum pool or particular geothermal resources area; or
  - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum or geothermal energy in an area outside the State that includes part of a particular petroleum pool or particular geothermal resources area that extends into the State,

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool or geothermal energy from the geothermal resources area, direct any petroleum licensee whose licence area includes part of the petroleum pool or any geothermal licensee whose licence area includes part of the geothermal resources area, by instrument in writing served on the licensee, to enter into an agreement in writing, within the period specified in the instrument, for or in relation to the unit development of the petroleum pool or geothermal resources area and to lodge an application in accordance with section 75 for approval of any dealing to which the agreement relates.

- (4) Where —
- (a) a licensee who is directed under subsection (3) to enter into an agreement for or in relation to the unit development of a petroleum pool or geothermal resources area does not enter into such an agreement within the specified period; or
  - (b) a licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 75,

the Minister may, by instrument in writing served on that licensee, direct the licensee to submit to him, within the period specified in the instrument, a scheme for or in relation to the

unit development of the petroleum pool or geothermal resources area.

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

the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool or geothermal energy from the geothermal resources area.

- (7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by instrument in writing served on the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as he thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool or geothermal energy from the geothermal resources area.
- (8) The Minister shall not give a direction under either subsection (6) or (7) unless he has given to the licensee or

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licensees concerned an opportunity to confer with him concerning the proposed direction.

- (9) Directions under subsection (5), (6), or (7) may include directions as to the rate at which petroleum or geothermal energy is to be recovered.
- (10) In this section, “**dealing**” means a dealing to which section 75 applies.
- (11) If a petroleum pool extends, or is reasonably believed by the Minister to extend, from an area of the State into —
- (a) lands to which other written laws or the laws of another State or of a Territory relating to the exploitation of petroleum resources apply; or
  - (b) the adjacent area of an adjoining State or Territory,
- each Minister concerned shall consult concerning the exploitation of the petroleum pool with any other Minister concerned and with the appropriate authority of another State or a Territory referred to in paragraph (a).
- (11a) If a geothermal resources area extends, or is reasonably believed by the Minister to extend, from an area of the State into —
- (a) lands to which other written laws or the laws of another State or of a Territory relating to the exploitation of geothermal energy resources apply; or
  - (b) the adjacent area of an adjoining State or Territory,
- each Minister concerned shall consult concerning the exploitation of the geothermal resources area with any other Minister concerned and with the appropriate authority of another State or a Territory referred to in paragraph (a).
- (12) Where subsection (11) applies in relation to a petroleum pool or subsection (11a) applies in relation to a geothermal resources area, a Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool or geothermal resources area except with the

approval of any other Minister concerned and any State or Territory authority concerned.

*[Section 69 amended by No. 12 of 1990 s. 52; No. 35 of 2007 s. 57.]*

**Division 3A — Petroleum titles and geothermal titles may subsist in respect of same blocks**

*[Heading inserted by No. 35 of 2007 s. 58.]*

**69A. Petroleum titles and geothermal titles may subsist in respect of same blocks**

(1) In this section —

**“geothermal title”** means a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease, geothermal production licence, geothermal special prospecting authority or geothermal access authority;

**“petroleum title”** means a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease, petroleum production licence, petroleum special prospecting authority or petroleum access authority.

(2) The Minister is not to —

(a) grant a petroleum title on an application under this Act in respect of a block that is the subject of a geothermal title of which the registered holder is a person other than the applicant; or

(b) vary a petroleum production licence on an application under section 50(2) to include in the licence area a block that is the subject of a geothermal title of which the registered holder is a person other than the applicant,

unless the Minister has complied with subsection (3).

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- (3) The Minister has complied with this subsection if the Minister —
- (a) has, by instrument in writing served on the registered holder of the geothermal title, given not less than one month's notice of the Minister's intention to grant the petroleum title or vary the petroleum production licence, as the case requires; and
  - (b) has in the instrument —
    - (i) given particulars of the petroleum title proposed to be granted or of the variation proposed to be made to the petroleum production licence; and
    - (ii) specified a date on or before which the person on whom the instrument is served may, by instrument in writing served on the Minister, submit any matters that the person wishes the Minister to consider;
- and
- (c) has taken into account any matters submitted to the Minister on or before the specified date by that person.
- (4) The Minister is not to —
- (a) grant a geothermal title on an application under this Act in respect of a block that is the subject of a petroleum title of which the registered holder is a person other than the applicant; or
  - (b) vary a geothermal production licence on an application under section 50(2) to include in the licence area a block that is the subject of a petroleum title of which the registered holder is a person other than the applicant,
- unless the Minister has complied with subsection (5).
- (5) The Minister has complied with this subsection if the Minister —
- (a) has, by instrument in writing served on the registered holder of the petroleum title, given not less than one

month's notice of the Minister's intention to grant the geothermal title or vary the geothermal production licence, as the case requires; and

- (b) has in the instrument —
- (i) given particulars of the geothermal title proposed to be granted or of the variation proposed to be made to the geothermal production licence; and
  - (ii) specified a date on or before which the person on whom the instrument is served may, by instrument in writing served on the Minister, submit any matters that the person wishes the Minister to consider;

and

- (c) has taken into account any matters submitted to the Minister on or before the specified date by that person.
- (6) Nothing in this section limits the operation of any other provision of this Act relating to applying for, granting or varying a petroleum title or geothermal title.

*[Section 69A inserted by No. 35 of 2007 s. 58.]*

**[69B-69I.**     *Repealed by No. 52 of 1995 s. 37.]*

#### **Division 4 — Registration of instruments**

**69J.     Term used in this Division**

In this Division, “**title**” means a permit, drilling reservation, lease, licence or access authority.

*[Section 69J (formerly 69A) inserted by No. 12 of 1990 s. 53; amended by No. 78 of 1990 s. 7; renumbered by No. 21 of 1993 s. 45.]*

**70.     Register of certain instruments to be kept**

- (1) For the purposes of this Part, the Minister shall keep a Register of titles and special prospecting authorities granted by him.

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- (2) The Minister shall enter in the Register a memorial in respect of each title or special prospecting authority —
- (a) specifying the name of the holder of the title or special prospecting authority;
  - (b) in the case of a permit, drilling reservation, lease or licence, setting out an accurate description (including, where convenient, a map) of the permit area, drilling reservation, lease area or licence area;
  - (c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient, a map) of the area in respect of which the special prospecting authority or access authority is in force;
  - (d) specifying the term of the title or special prospecting authority;
  - (e) setting out such other matters and things as are required by this Part to be entered in the Register; and
  - (f) setting out such further matters relating to the registered holder or to the terms and conditions of the title or special prospecting authority as the Minister deems proper and expedient in the public interest.
- (3) The Minister shall enter in the Register a memorial of —
- (a) any instrument varying, cancelling, surrendering or otherwise affecting a title or special prospecting authority;
  - (b) any instrument under section 69(5), (6) or (7);
  - (c) any agreement under section 67 or 103; and
  - (d) any instrument varying or revoking an instrument referred to in either paragraph (a) or (b).
- (4) It is sufficient compliance with the requirements of subsection (2) or (3) if the Minister enters a copy of the title, special prospecting authority or instrument in the Register.

*[(5) repealed]*

- (6) The Minister shall endorse on the title, special prospecting authority or instrument a memorandum of the date upon which the memorial or copy was entered in the Register.

*[Section 70 amended by No. 12 of 1990 s. 54; No. 78 of 1990 s. 7; No. 28 of 1994 s. 35.]*

**71. Memorials to be entered of permits determined etc.**

Where —

- (a) a permit, drilling reservation or lease ceases to be in force in respect of a block in respect of which a licence is granted;
- (aa) a permit ceases to be in force in respect of a block in respect of which a lease is granted;
- (b) a permit, drilling reservation or lease has been wholly determined or partly determined; or
- (c) a title or special prospecting authority has expired,

the Minister shall enter in the Register a memorial of the fact.

*[Section 71 amended by No. 12 of 1990 s. 55; No. 78 of 1990 s. 7.]*

**72. Approval and registration of transfers**

- (1) A transfer of a title is of no force until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.
- (2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.
- (3) An application for approval of a transfer of a title shall be accompanied by —
  - (a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the

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transferee or, if there are 2 or more transferees, by each transferee;

- (b) in a case where the transferee or one or more of the transferees is not a registered holder, or are not registered holders, of the title, an instrument setting out —
- (i) the technical qualifications of that transferee or those transferees;
  - (ii) details of the technical advice that is or will be available to that transferee or those transferees; and
  - (iii) details of the financial resources that are or will be available to that transferee or those transferees;
- and
- (c) one copy of the application and of the instrument referred to in paragraph (a).

- (4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.
- (5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the Register of the date on which the application was lodged and may make such other notation in the Register as the Minister considers appropriate.
- (6) The Minister shall consider each application for approval of the transfer of a title and determine whether to approve the transfer.
- (7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister.

*[(8) repealed]*

- (9) Where the Minister approves the transfer of a title, the Minister shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the fee provided by the *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967*, enter in the Register a memorandum of the transfer and the name of the transferee or of each transferee.
- (10) Upon the entry in the Register of a memorandum of the transfer of a title and of the name of the transferee or each transferee in accordance with subsection (9) —
- (a) the transfer shall be deemed to be registered; and
  - (b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.
- (11) Where the Minister refuses to approve the transfer of a title, the Minister shall make a notation of the refusal in the Register.
- (12) Where a transfer is registered —
- (a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and
  - (b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.
- (13) The mere execution of an instrument of transfer of a title creates no interest in the title.

*[Section 72 inserted by No. 12 of 1990 s. 56; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 36; No. 35 of 2007 s. 59.]*

**73. Entries in Register on devolution of title**

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

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

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

the Minister shall make the necessary alterations in the Register.

*[Section 73 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 57.]*

*[74. Repealed by No. 12 of 1990 s. 58.]*

**75. Approval of dealings creating interests etc. in existing titles**

- (1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects —
  - (a) the creation or assignment of an interest in an existing title;
  - (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;
  - (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under

cooperative arrangements for the recovery of petroleum or geothermal energy);

- (d) the creation or assignment of —
- (i) an interest in relation to an existing permit, drilling reservation, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or
  - (ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum or geothermal energy produced from operations authorised by an existing permit, drilling reservation, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;
- (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
- (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
- (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f),

but this section does not apply to a transfer to which section 72 applies.

- (2) A dealing to which this section applies is of no force in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until —
- (a) the dealing, in so far as it relates to that title, has been approved by the Minister; and

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- (b) an entry has been made in the Register in relation to the dealing by the Minister in accordance with subsection (12).
- (3) A party to a dealing to which this section applies may lodge with the Minister —
  - (a) in a case where the dealing relates to only one title, an application in writing for approval by the Minister of the dealing; or
  - (b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each title to which the dealing relates.
- (4) An application under subsection (3) for approval of a dealing —
  - (a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and
  - (b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.
- (4a) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of —
  - (a) the application;
  - (b) the instrument referred to in subsection (4)(a); and
  - (c) any instrument lodged for the purposes of subsection (4)(b).
- (5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister, in special circumstances, allows.

- (6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 75A(1), the Minister shall not approve the dealing unless —
- (a) a provisional application for approval of the dealing was lodged in accordance with section 75A(1); or
  - (b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.
- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.
- (8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4)(a), and with subsection (4a) in so far as that subsection requires 2 copies of the document referred to in subsection (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with the Australian Securities and Investments Commission relating to the creation of that charge pursuant to section 263 of the *Corporations Act 2001* of the Commonwealth.
- (9) On receipt of an application made under this section, the Minister shall enter a memorandum in the Register of the date on which the application was lodged and may make such other notation in the Register as the Minister considers appropriate.
- (10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.

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- (11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.
- (12) If the Minister approves a dealing, the Minister shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the fee provided by the *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967*, make an entry of the approval of the dealing in the Register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.
- (13) Where an entry is made in the Register in relation to a dealing in accordance with subsection (12) —
- (a) if the dealing was approved before the commencement of section 58 of the *Acts Amendment (Petroleum) Act 1990*<sup>1</sup>, or the application for approval of the dealing was not accompanied by an instrument for the purpose of subsection (4)(b), one copy of the instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division;
  - (b) if the application for approval of the dealing was accompanied by an instrument for the purpose of subsection (4)(b), a copy of that instrument endorsed with a copy of the memorandum of approval of the dealing shall be retained by the Minister and made available for inspection in accordance with this Division but a copy of the instrument evidencing the dealing shall not be so made available; and
  - (c) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval and the instrument (if any) lodged for the purpose of subsection (4)(b) shall be returned to the person who made the application for approval.

- (13a) The approval of a dealing or the making of an entry in the Register in relation to a dealing is not rendered ineffective by any failure to comply, in relation to the application for approval of the dealing, with the requirements of this section.
- (14) Where the Minister refuses to approve a dealing, the Minister shall make a notation of the refusal in the Register.
- (15) In this section, “**charge**” and “**debenture**” have the same respective meanings as they have for the purposes of the *Corporations Act 2001* of the Commonwealth.

*[Section 75 inserted by No. 12 of 1990 s. 58; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 37; No. 20 of 2003 s. 35; No. 35 of 2007 s. 60.]*

**75A. Approval of dealings in future interests etc.**

- (1) Where 2 or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 75 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title, lodge with the Minister —
- (a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or
  - (b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.
- (2) Section 75(4), (7) and (8) applies to a provisional application lodged under subsection (1) as if that provisional application were an application lodged under section 75(3).
- (3) Where —
- (a) the title to which a dealing referred to in subsection (1) relates comes into existence; and

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- (b) upon that title coming into existence, the dealing becomes a dealing to which section 75 applies,

the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 75(3) on the day on which that title came into existence.

- (4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period —
- (a) commencing —
- (i) in the case of a permit, drilling reservation, lease or licence, on the day of service of an instrument informing the applicant for the permit, drilling reservation, lease or licence that the Minister is prepared to grant the permit, drilling reservation, lease or licence; or
- (ii) in the case of an access authority, on the day on which the application for the grant of the access authority is made;
- and
- (b) ending on the day on which the title comes into existence.

*[Section 75A inserted by No. 12 of 1990 s. 58; amended by No. 78 of 1990 s. 7.]*

**76. True consideration to be shown**

- (1) A person who is a party to a transfer referred to in section 72, a dealing to which section 75 applies or a dealing referred to in section 75A(1) shall not lodge with the Minister —
- (a) an instrument of transfer;
- (b) an instrument evidencing the dealing; or
- (c) an instrument of the kind referred to in section 75(4)(b),
- that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting

the amount of the fee payable in respect of the transfer or dealing under the *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967*, being a statement that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: \$10 000.

- (2) Where a person is convicted of an offence against subsection (1) the Minister may make a fresh determination of the amount of the fee payable under the *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967* in respect of the memorandum relating to the transfer or dealing.
- (3) Subsections (2) and (3) of section 85 apply in relation to a determination under subsection (2) as they apply in relation to a determination under subsection (1) of that section.

*[Section 76 amended by No. 12 of 1990 s. 59; No. 35 of 2007 s. 61.]*

**77. Minister not concerned with certain matters**

Neither the Minister nor a person acting under his direction or authority is concerned with the effect in law of any instrument lodged with him in pursuance of this Division nor does the approval of a transfer or dealing give to the transfer or dealing any force, effect or validity that the transfer or dealing would not have had if this Division had not been enacted.

*[Section 77 amended by No. 12 of 1990 s. 60.]*

**78. Power of Minister to require information as to transfers or dealings**

- (1) The Minister may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Division to furnish to him in writing such information concerning the transfer or dealing as the Minister considers necessary or advisable.

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- (1a) The Minister may require a person who is a party to a dealing approved by the Minister under section 75 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.
- (1b) The Minister may require a person making an application under section 73(1) or (3) or 81A(2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.
- (1c) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1), (1a) or (1b).  
Penalty: \$5 000.
- (2) A person who is so required to furnish information shall not knowingly furnish information that is false or misleading in a material particular.  
Penalty: \$5 000.

*[Section 78 amended by No. 12 of 1990 s. 61; No. 28 of 1994 s. 38.]*

**79. Production and inspection of documents**

- (1) The Minister may require any person to produce to him or to make available for inspection by him any documents in the possession or under the control of that person and relating to a transfer or dealing in relation to which approval is sought under this Division.
- (1a) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an application made to the Minister under section 73(1) or (3) or 81A(2).

- (2) A person shall not fail or refuse to comply with a requirement given to him under subsection (1) or (1a).

Penalty: \$5 000.

*[Section 79 amended by No. 12 of 1990 s. 62.]*

**80. Inspection of Register and instruments**

- (1) The Register and all instruments or copies of instruments registered, or subject to inspection, under this Division shall at all convenient times be open for inspection by any person upon payment of the prescribed fee.

*[(2) repealed]*

*[Section 80 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 63.]*

**81. Evidentiary provisions**

- (1) The Register shall be received by all courts and tribunals as evidence of all matters required or authorised by this Division to be entered in the Register.
- (2) The Minister may, on payment of a fee calculated at the prescribed rate, supply copies of or extracts from the Register or of or from any instrument lodged with him under this Division, certified by writing under his hand, and such a copy or extract so certified is admissible in evidence in all courts, tribunals and proceedings without further proof or production of the original.
- (3) The Minister may, on payment of the prescribed fee, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts, tribunals and proceedings of the statements contained in the certificate.

*[Section 81 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 64; No. 55 of 2004 s. 917.]*

**81A. Minister may make corrections to, and entries in, Register**

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

*[Section 81A inserted by No. 12 of 1990 s. 65.]*

**82. Application to State Administrative Tribunal for orders**

- (1) A person aggrieved by —
  - (a) the omission of an entry from the Register;
  - (b) an entry made in the Register without sufficient cause;

- (c) an entry wrongly existing in the Register; or
- (d) an error or defect in an entry in the Register,

may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal thinks fit directing the rectification of the Register.

- (2) The Tribunal may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the Register.
- (3) Notice of an application under this section shall be given to the Minister, who may appear and be heard and shall appear if so directed by the Tribunal.
- (4) An office copy of an order made by the Tribunal may be served on the Minister, and the Minister shall, upon receipt of the order, rectify the Register accordingly.

*[Section 82 amended by No. 55 of 2004 s. 918.]*

**83. Minister not liable to certain actions**

Subject to section 82, neither the Minister nor a person acting under his direction or authority is liable to an action, suit or proceeding for or in respect of an act or matter in good faith done or omitted to be done in exercise or purported exercise of any power or authority conferred by this Division.

**84. Offences connected with Register and certain documents**

A person who wilfully —

- (a) makes, causes to be made, or concurs in making a false entry in the Register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the Register or of or from an instrument lodged with the Minister under this Division,

commits an offence and is liable to a penalty of \$5 000.

*[Section 84 amended by No. 12 of 1990 s. 66.]*

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**85. Assessment of fee payable under *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967***

- (1) The Minister may determine the amount of the fee payable under the *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967* in respect of any memorandum.
- (2) A person dissatisfied with a determination of the Minister under subsection (1) may apply to the State Administrative Tribunal for a review of the determination.

*[Section 85 amended by No. 55 of 2004 s. 919; No. 35 of 2007 s. 62.]*

**86. Exemption from stamp duty**

Duty under the *Stamp Act 1921* is not chargeable —

- (a) on a permit, drilling reservation, lease, licence or access authority;
- (b) on a transfer of a permit, drilling reservation, lease, licence or access authority to which section 72 applies; or
- (c) on any other instrument in so far as it relates to a legal or equitable interest in or affecting a permit, drilling reservation, lease, licence or access authority.

*[Section 86 amended by No. 12 of 1990 s. 67; No. 78 of 1990 s. 7.]*

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*[87. Repealed by No. 12 of 1990 s. 68.]*

**88. Notice of grants of permits etc. to be published**

The Minister shall cause notice of, and such particulars as he thinks fit of —

- (a) the grant, and the grant of the renewal, of a permit, lease or licence;
- (aa) the grant, and the extension of, a drilling reservation;
- (b) the variation of a licence;

- (c) the surrender or cancellation of a permit, drilling reservation, lease or licence as to all or some of the blocks in the permit area, drilling reservation, lease area or licence area;
- (d) the determination of a permit, drilling reservation or lease as to a block or blocks; and
- (e) the expiry of a permit, drilling reservation, lease or licence,

under this Part to be published in the *Gazette*.

*[Section 88 amended by No. 12 of 1990 s. 69; No. 78 of 1990 s. 7; No. 28 of 1994 s. 39.]*

**89. Date of effect of certain surrenders, cancellations and variations**

*[(1) repealed]*

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

*[Section 89 amended by No. 12 of 1990 s. 70; No. 78 of 1990 s. 7.]*

**90. Commencement of works**

- (1) Where a permit, drilling reservation, lease or licence is granted subject to a condition that works or operations specified in the permit, drilling reservation, lease or licence are to be carried out, the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, drilling reservation, lease or licence, as the case may be, comes into force.

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- (2) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, holder of a drilling reservation, lessee or licensee —
- (a) exempt him from compliance with the requirements of subsection (1); and
  - (b) direct him to commence to carry out the works or operations specified in the permit, drilling reservation, lease or licence, as the case may be, within such period after the day on which the permit, drilling reservation, lease or licence, as the case may be, comes into force as is specified in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: \$10 000.

*[Section 90 amended by No. 12 of 1990 s. 71; No. 78 of 1990 s. 7.]*

**91. Work practices**

- (1) A permittee, holder of a drilling reservation, lessee or licensee shall carry out —
- (a) all petroleum exploration operations and operations for the recovery of petroleum; or
  - (b) all geothermal energy resources exploration operations and operations for the recovery of geothermal energy,
- as the case requires, in the permit area, drilling reservation, lease area or licence area in a proper and workmanlike manner and in accordance with good oil-field practice and shall secure the safety, health and welfare of persons engaged in those operations in or about the permit area, drilling reservation, lease area or licence area.
- (1a) Subsections (2) and (2a) have effect without limiting the generality of subsection (1) but subject to any authorisation, requirement or direction given or made by or under this Act.

- (2) A petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee or petroleum licensee shall —
- (a) control the flow and prevent the waste or escape in the permit area, drilling reservation, lease area or licence area of petroleum or water; and
  - (b) prevent the escape in the permit area, drilling reservation, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter; and
  - (c) prevent damage to petroleum-bearing strata in an area, whether in the State or not, in respect of which the permit, drilling reservation, lease or licence is not in force; and
  - (d) keep separate —
    - (i) each petroleum pool discovered in the permit area, drilling reservation, lease area or licence area; and
    - (ii) such of the sources of water, if any, discovered in that area as the Minister, by instrument in writing served on that person, directs;and
  - (e) prevent water or any other matter entering any petroleum pool through wells in the permit area, drilling reservation, lease area or licence area except when required by, and in accordance with, good oil-field practice.
- (2a) A geothermal permittee, holder of a geothermal drilling reservation, geothermal lessee or geothermal licensee shall —
- (a) control the flow and prevent the waste or escape in the permit area, drilling reservation, lease area or licence area of geothermal energy resources or water; and

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- (b) prevent the escape in the permit area, drilling reservation, lease area or licence area of any mixture of water or drilling fluid with geothermal energy resources or any other matter; and
  - (c) prevent damage to geothermal energy resources in an area, whether in the State or not, in respect of which the permit, drilling reservation, lease or licence is not in force; and
  - (d) keep separate —
    - (i) each geothermal resources area discovered in the permit area, drilling reservation, lease area or licence area; and
    - (ii) such of the sources of water, if any, discovered in that area as the Minister, by instrument in writing served on that person, directs;and
  - (e) except for the purposes of the recovery of geothermal energy under this Act and when required by, and in accordance with, good oil-field practice — prevent water or any other matter entering any geothermal resources area through wells in the permit area, drilling reservation, lease area or licence area.
- (3) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations or geothermal energy resources exploration operations, as the case requires, in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oil-field practice and shall secure the safety, health and welfare of persons engaged in those operations in or about that area.
- (4) It is a defence if a person charged with failing to comply with a provision of this section, or a defendant in an action arising out of a failure by the defendant to comply with a provision of this

section, proves that he took all reasonable steps to comply with that provision.

Penalty: For contravention of subsection (1), (2), (2a) or (3), \$10 000.

*[Section 91 amended by No. 12 of 1990 s. 72; No. 78 of 1990 s. 7; No. 28 of 1994 s. 40; No. 35 of 2007 s. 63.]*

**91A. Conditions relating to insurance**

- (1) The registered holder of a permit, drilling reservation, lease or licence must maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, drilling reservation, lease or licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum or geothermal energy resources, as the case requires.
- (2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the registered holder maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum or geothermal energy resources, as the case requires.
- (3) When —
  - (a) a permit, drilling reservation, lease or licence was in force immediately before the commencement of section 41 of the *Acts Amendment (Petroleum) Act 1994*;
  - (b) the Minister has required the registered holder to maintain insurance under subsection (1); and
  - (c) the Minister is satisfied that the required insurance is in effect,

the Minister shall issue a certificate to the effect that he is so satisfied.

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(4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, drilling reservation, lease or licence, being a security that was required under this Act before the commencement of section 41 of the *Acts Amendment (Petroleum) Act 1994*, is discharged.

(5) The discharge of a security under subsection (4) has no effect on any liability arising under or in relation to the security before its discharge.

*[Section 91A inserted by No. 28 of 1994 s. 41; amended by No. 35 of 2007 s. 64.]*

**91B. Conditions prohibiting entry on certain land**

(1) In this section —

**“holder”** means the holder of the permit, drilling reservation, lease or licence.

(2) The conditions subject to which a permit, drilling reservation, lease or licence is granted may include a condition prohibiting the holder from entering specified land within the permit area, drilling reservation, lease area or licence area.

(3) The Minister may, at any time, by instrument in writing served on the holder, vary or revoke a condition referred to in subsection (2).

*[Section 91B inserted by No. 17 of 1999 s. 27.]*

**92. Maintenance etc. of property**

(1) In this section —

**“operator”** means a permittee, holder of a drilling reservation, lessee, licensee or holder of a special prospecting authority or access authority;

**“the operations area”** —

(a) in relation to an operator who is a permittee, holder of a drilling reservation, lessee or licensee — means the

permit area, drilling reservation, lease area or licence area, as the case may be; and

- (b) in relation to an operator who is the holder of a special prospecting authority or access authority — means the area in respect of which that authority is in force.
- (2) An operator shall maintain in good condition and repair all structures, equipment and other property in the operations area and used in connection with the operations in which he is engaged.
- (3) An operator shall remove from the operations area all structures, equipment and other property that are not either used or to be used in connection with the operations in which he is engaged.
- (4) Subsections (2) and (3) do not apply in relation to any structure, equipment or other property that was not brought into the operations area by or with the authority of the operator.

Penalty: For contravention of subsection (2) or (3), \$10 000.

*[Section 92 amended by No. 12 of 1990 s. 74; No. 78 of 1990 s. 7; No. 28 of 1994 s. 42.]*

**93. Sections 91, 91A and 92 have effect subject to this Act**

Sections 91, 91A and 92 have effect subject to —

- (a) any other provision of this Act;
- (b) the regulations;
- (c) a direction under section 95; and
- (d) any other law.

*[Section 93 amended by No. 28 of 1994 s. 43.]*

**94. Drilling near boundaries**

- (1) A permittee, holder of a drilling reservation, lessee or licensee shall not drill a well any part of which is less than 300 metres from a boundary of the permit area, drilling reservation, lease area or licence area, as the case may be, except with the consent

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in writing of the Minister and in accordance with such conditions, if any, as are specified in the instrument of consent.

- (2) Where a permittee, holder of a drilling reservation, lessee or licensee does not comply with subsection (1), the Minister may, by instrument in writing served on the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, direct him to do one or more of the following, within the period specified in the instrument —
- (a) to plug the well;
  - (b) to close off the well; and
  - (c) to comply with such directions relating to the drilling or maintenance of the well as are specified in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: \$10 000.

*[Section 94 amended by No. 94 of 1972 s. 4; No. 12 of 1990 s. 75; No. 78 of 1990 s. 7.]*

**95. Directions**

- (1) The Minister may, by instrument in writing served on the registered holder of a permit, drilling reservation, lease, licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.
- (2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to —
- (a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons —
    - (i) servants or agents of, or persons acting on behalf of, the registered holder;

(ii) persons performing work or services, whether directly or indirectly, for the registered holder;

or

(b) any person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the State for any reason touching, concerning, arising out of or connected with exploration for, or the exploitation of, petroleum or geothermal energy resources in the State or is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the State for a reason of that kind,

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

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

Penalty: \$5 000.

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

Penalty: \$5 000.

(2c) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the Minister may, by notice in writing given to the registered holder, require the registered holder to cause to be displayed at such places in the State, and in such manner, as are specified in

the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

Penalty: \$5 000.

- (3) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.
- (4) A direction under this section has effect and shall be complied with notwithstanding anything in the regulations.
- (5) Section 153(2a) and (2b) applies in relation to directions made under this section in like manner as that section applies to the regulations.
- (6) A person who fails to comply with a direction in force under subsection (1) that applies to the person is guilty of an offence punishable, upon conviction, by a fine not exceeding \$10 000.
- (7) Where —
  - (a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (6) in relation to the direction; and
  - (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

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

*[Section 95 inserted by No. 12 of 1990 s. 76; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 65.]*

**96. Compliance with directions**

- (1) Where a person does not comply with a direction given or applicable to the person under this Part or under the regulations, the Minister may do all or any of the things required by the direction to be done.

- (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given or was applicable to the Crown and are recoverable in a court of competent jurisdiction.
- (2a) Where —
- (a) a direction given under section 95 applies to a permittee, lessee or licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and
  - (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,
- the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.
- (3) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Part or under the regulations or a defendant in an action under subsection (2) proves that he took all reasonable steps to comply with the direction.

*[Section 96 amended by No. 12 of 1990 s. 77.]*

**97. Variation and suspension of, and exemption from compliance with, conditions**

- (1) Where —
- (a) a permit, drilling reservation, lease or licence is, under this Part, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, drilling reservation, lease or licence;
  - (b) a licence is varied under section 55;
  - (c) a licensee enters into an agreement under section 69, or a direction is given to a licensee under that section;

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- (d) a permit, drilling reservation, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force;
- (e) a permittee, holder of a drilling reservation, lessee or licensee consents to the making of a determination under section 135;
- (f) an access authority is granted in respect of a block the subject of a permit, drilling reservation, lease or licence, or an access authority as in force in respect of such a block is varied;
- (g) a permittee, holder of a drilling reservation, lessee, licensee or the holder of a special prospecting authority or access authority applies, by instrument in writing served on the Minister —
  - (i) for a variation or suspension of; or
  - (ii) for exemption from compliance with, any of the conditions to which the permit, drilling reservation, lease, licence, special prospecting authority or access authority is subject; or
- (h) the Minister under this Part or the regulations gives a direction or consent to a permittee, holder of a drilling reservation, lessee, licensee or the holder of a special prospecting authority or access authority,

the Minister may, at any time, by instrument in writing served on the permittee, holder of the drilling reservation, lessee, licensee or the holder of the special prospecting authority or access authority —

- (i) vary or suspend; or
- (j) exempt the permittee, holder of the drilling reservation, lessee, licensee or the holder of the special prospecting authority or access authority from compliance with, any of the conditions to which the permit, drilling reservation, lease, licence, special prospecting authority or access authority

is subject, upon such conditions, if any, as the Minister determines and specifies in the instrument.

- (2) Subsection (1) does not authorise the making of an instrument to the extent that it would affect —
- (a) a condition of a permit, drilling reservation, lease or licence included in the permit, drilling reservation, lease or licence in compliance with Division 7; or
  - (b) the term of a permit, drilling reservation, lease or licence.
- (3) Where, in pursuance of subsection (1), the Minister suspends, or exempts the permittee, the holder of a drilling reservation or a lessee from compliance with, any of the conditions to which a permit, drilling reservation or lease is subject, the Minister may, if he considers the circumstances make it reasonable to do so, in the instrument of suspension or exemption or by a later instrument in writing served on the permittee, the holder of a drilling reservation or lessee, extend the term of the permit, drilling reservation or lease by a period not exceeding the period of the suspension or exemption.

*[Section 97 amended by No. 12 of 1990 s. 78; No. 78 of 1990 s. 7; No. 28 of 1994 s. 44.]*

**98. Surrender of permits etc.**

- (1) The registered holder of an instrument, being a permit, drilling reservation, lease or licence, may, at any time, by application in writing served on the Minister, apply for consent to surrender the instrument as to all or some of the blocks in respect of which it is in force.
- (2) Subject to subsection (3), the Minister shall not give his consent to a surrender of an instrument under subsection (1), unless the registered holder —
- (a) has paid all fees and amounts payable by him under this Act, or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts;

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- (b) has complied with the conditions to which the instrument is subject and with the provisions of this Part and of the regulations;
- (c) has, to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorised by the instrument, or has made arrangements that are satisfactory to the Minister with respect to that property;
- (d) has, to the satisfaction of the Minister, plugged or closed off all wells made in that area by any person engaged or concerned in the operations authorised by the instrument;
- (e) subject to this Part and to the regulations, has made provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
- (f) has, to the satisfaction of the Minister, made good any damage to the Earth's crust in that area caused by any person engaged or concerned in the operations authorised by the instrument,

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

- (3) Where the registered holder of an instrument, being a permit, drilling reservation, lease or licence, has not complied with the conditions to which the instrument is subject and with the provisions of this Part and of the regulations, the Minister may give his consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder has not so complied, special circumstances exist that justify the giving of consent to the surrender.
- (4) Where the Minister consents to an application under subsection (1), the applicant may, by instrument in writing served on the Minister, surrender the instrument accordingly.

- (5) In this section, **“the area to which the surrender relates”** means, in relation to a surrender of a permit, drilling reservation, lease or licence, the area constituted by the blocks as to which the permit, drilling reservation, lease or licence is proposed to be surrendered.

*[Section 98 amended by No. 12 of 1990 s. 79; No. 78 of 1990 s. 7.]*

**99. Cancellation of permits etc.**

- (1) Where a permittee, holder of a drilling reservation, lessee or licensee —
- (a) has not complied with a condition to which the permit, drilling reservation, lease or licence is subject;
  - (b) has not complied with a direction given to him under this Part by the Minister;
  - (c) has not complied with a provision of this Part or of the regulations; or
  - (d) has not paid any amount payable by him under this Act, within a period of 3 months after the day on which the amount became payable,

the Minister may, on that ground, by instrument in writing served on the permittee, holder of the drilling reservation or lessee or licensee, as the case may be, cancel the permit, drilling reservation or licence, as the case requires, as to all or some of the blocks in respect of which it is in force, or cancel the lease as to all of the blocks in respect of which it is in force.

- (2) The Minister shall not, under subsection (1), cancel a permit, drilling reservation or licence as to all or some of the blocks in respect of which it is in force, or cancel a lease as to all of the blocks in respect of which it is in force, on a ground referred to in that subsection unless —
- (a) he has, by instrument in writing served on the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, given not less than one month’s notice

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of his intention so to cancel the permit, drilling reservation, lease or licence on that ground;

- (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) he has, in the instrument, specified a date on or before which the permittee, holder of the drilling reservation, lessee or licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
- (d) he has taken into account —
  - (i) any action taken by the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
  - (ii) any matters so submitted to him on or before the specified date by the permittee, holder of the drilling reservation, lessee or licensee or by a person on whom a copy of the first-mentioned instrument has been served.

*[Section 99 amended by No. 12 of 1990 s. 80; No. 78 of 1990 s. 7.]*

**100. Cancellation of permit etc. not affected by other provisions**

- (1) A permit, drilling reservation or licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, drilling reservation, lease or licence has not complied with a provision of this Part or of the regulations notwithstanding that he has been convicted of an offence by reason of his failure to comply with the provision.
- (2) A person who was the registered holder of a permit, drilling reservation, lease or licence that has been wholly cancelled, or is the registered holder of a permit, drilling reservation, or licence that has been partly cancelled, on the ground that he has not

complied with a provision of this Part or of the regulations may be convicted of an offence by reason of his failure to comply with the provision; notwithstanding that the permit, drilling reservation, lease or licence has been so cancelled.

- (3) A permit, drilling reservation or licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, drilling reservation, lease or licence has not paid an amount payable by him under this Act, within a period of 3 months after the day on which the amount became payable; notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.
- (4) A person who was the registered holder of a permit, drilling reservation, lease or licence that has been wholly cancelled or is the registered holder of a permit or licence that has been partly cancelled, on the ground that he has not paid an amount payable by him under this Act, within a period of 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount; notwithstanding that the permit, drilling reservation, lease or licence has been so cancelled.

*[Section 100 amended by No. 12 of 1990 s. 81; No. 78 of 1990 s. 7.]*

**101. Removal of property etc. by permittee etc.**

- (1) Where a permit, drilling reservation or licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired, or a lease has been wholly determined, partly determined or wholly cancelled or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the permittee, holder of the drilling reservation, lessee or licensee, direct that person to do any one or more of the following things —
- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person

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- engaged or concerned in the operations authorised by the permit, drilling reservation, lease or licence or to make arrangements that are satisfactory to the Minister with respect to that property;
- (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations;
  - (c) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
  - (d) to make good to the satisfaction of the Minister any damage to the Earth's crust in that area caused by any person engaged or concerned in those operations.
- (2) The Minister may, by instrument in writing served on a permittee, holder of a drilling reservation, lessee or licensee, direct him to do any one or more of the following things —
- (a) to remove or cause to be removed from the permit area, drilling reservation, lease area or licence area, as the case may be, all property brought into that area or part by any person engaged or concerned in the operations authorised by the permit, drilling reservation, lease or licence or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area or part by any person engaged or concerned in those operations;
  - (c) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area or part; and
  - (d) to make good to the satisfaction of the Minister any damage to the Earth's crust in that area or part caused by any person engaged or concerned in those operations.

- (3) A person to whom a direction is given under either subsection (1) or (2) shall comply with the direction —
- (a) in the case of a direction given under subsection (1) — within the period specified in the instrument by which the direction was given; or
  - (b) in the case of a direction given under subsection (2) — on or before the date of expiration of the permit, drilling reservation, lease or licence concerned.

Penalty: \$10 000.

*[Section 101 amended by No. 12 of 1990 s. 82; No. 78 of 1990 s. 7.]*

**102. Removal of property etc. by Minister**

Where a permit, drilling reservation or licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired, or a lease has been wholly determined, partly determined or wholly cancelled or has expired, and a direction under section 101 has not been complied with, or an arrangement under that section has not been carried out, in relation to the relinquished area —

- (a) the Minister may do all or any of the things required by the direction or arrangement to be done; and
- (b) if any property brought into that area by any person engaged or concerned in the operations authorised by the permit, drilling reservation, lease or licence has not been removed in accordance with the direction or arrangement, the Minister may, by instrument published in the *Gazette*, direct that the owner or owners of that property shall remove it from that area, or dispose of it to the satisfaction of the Minister, within the period specified in the instrument and shall serve a copy of the instrument on each person whom he believes to be an owner of that property or any part of that property.

*[Section 102 amended by No. 12 of 1990 s. 83; No. 78 of 1990 s. 7.]*

**103. Payment by instalments**

- (1) The Minister and a person who may request, or has requested, that a permit under section 37, or a licence under section 60, be granted to him may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the permit or licence, together with interest at the rate that is the specified rate from time to time on so much of that amount as from time to time remains unpaid.
- (2) For the purposes of subsection (1), the specified rate is 10% per annum or, if a lower rate is prescribed, that lower rate.
- (3) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not be greater than 21 years.
- (4) Where a person enters into an agreement under this section for or in relation to the payment of an amount in respect of the grant of a permit or licence, any instalment or interest that is due under the agreement and has not been paid is payable by the registered holder of the permit or licence, as the case may be.

*[Section 103 amended by No. 69 of 1981, s. 34; No. 12 of 1990 s. 84.]*

**104. Penalty for late payments of instalments etc.**

- (1) Where the liability of a person under an agreement under section 103 to pay an amount, being an instalment or any interest, is not discharged at or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of one third of one per centum per day upon so much of the first-mentioned amount as from time to time remains unpaid, to be computed from the time when the first-mentioned amount became payable until it is paid.
- (2) The Minister may, in a particular case, for reasons that he thinks sufficient, remit the whole or part of an amount payable under this section.

**105. Special prospecting authorities**

- (1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.
- (1a) A person making an application under subsection (1) may also request authority to apply for the grant of a permit in accordance with section 31 or a drilling reservation in accordance with section 43B in respect of that block or those blocks.
- (2) An application under this section —
- (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations; and
  - (d) shall be accompanied by the prescribed fee.
- (3) The Minister —
- (a) may —
    - (i) grant to the applicant a special prospecting authority subject to such conditions as the Minister thinks fit and specifies in the authority; and
    - (ii) if the Minister considers it appropriate to do so and so specifies in the special prospecting authority, authorise the applicant to apply for the grant of a permit or drilling reservation as requested under subsection (1a);
  - or
  - (b) may refuse to grant the application.
- (4) A petroleum special prospecting authority, while it remains in force, authorises the holder, subject to this Act and the regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks

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specified in the special prospecting authority the petroleum exploration operations so specified.

- (4a) A geothermal special prospecting authority, while it remains in force, authorises the holder, subject to this Act and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the geothermal energy resources exploration operations so specified.
- (5) Nothing in a special prospecting authority authorises the holder to make a well.
- (6) A special prospecting authority comes into force on the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.
- (6a) A special prospecting authority is not capable of being transferred.
- (6b) Where —
- (a) a person holds a petroleum special prospecting authority in respect of a block; and
  - (b) another petroleum special prospecting authority is granted to another person in respect of the block,
- the Minister shall, by notice in writing served on each of those persons, inform each of them of —
- (c) the petroleum exploration operations authorised by the special prospecting authority granted to the other person; and
  - (d) the conditions to which the special prospecting authority granted to the other person is subject.
- (6c) If —
- (a) a person holds a geothermal special prospecting authority in respect of a block; and

- (b) another geothermal special prospecting authority is granted to another person in respect of the block,
- the Minister shall, by notice in writing served on each of those persons, inform each of them of —
- (c) the geothermal energy resources exploration operations authorised by the special prospecting authority granted to the other person; and
- (d) the conditions to which the special prospecting authority granted to the other person is subject.
- (7) A special prospecting authority —
- (a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and
- (b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by instrument in writing served on the holder.
- (8) Where a special prospecting authority has been surrendered or cancelled, or has expired, the Minister may, by instrument in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things —
- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property;
- (b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation or protection of the natural resources in that area; and
- (c) to make good, to the satisfaction of the Minister, any damage to the Earth's crust in that area caused by any person engaged or concerned in those operations.

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- (9) A person to whom a direction is given under subsection (8) shall comply with the direction.

Penalty: \$10 000.

- (10) Section 102 applies to and in relation to a special prospecting authority as if —
- (a) a reference in that section to a permit were a reference to a special prospecting authority; and
  - (b) a reference in that section to a direction or an arrangement under section 101 were a reference to a direction or an arrangement under subsection (8).

*[Section 105 amended by No. 12 of 1990 s. 85; No. 28 of 1994 s. 45; No. 35 of 2007 s. 66.]*

**106. Access authorities**

- (1) A petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee, petroleum licensee or holder of a petroleum special prospecting authority may make an application to the Minister for the grant of a petroleum access authority to enable him to carry on, in an area being part of the State that is not part of the permit area, drilling reservation, lease area or licence area or area of the blocks specified in the special prospecting authority, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, drilling reservation, lease area or licence area or area of the blocks so specified.
- (1a) A holder of a petroleum title outside the State may make an application to the Minister for the grant of a petroleum access authority to enable the holder to carry on, in a part of the State, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that petroleum title relates.
- (1b) A person who is a geothermal permittee, holder of a geothermal drilling reservation, geothermal lessee, geothermal licensee or holder of a geothermal special prospecting authority may make

an application to the Minister for the grant of a geothermal access authority to enable the person to carry on, in an area being part of the State that is not part of the permit area, drilling reservation, lease area or licence area or area of the blocks specified in the special prospecting authority, geothermal energy resources exploration operations or operations related to the recovery of geothermal energy in or from the permit area, drilling reservation, lease area or licence area or area of the blocks so specified.

- (1c) A holder of a geothermal title outside the State may make an application to the Minister for the grant of a geothermal access authority to enable the holder to carry on, in a part of the State, geothermal energy resources exploration operations or operations related to the recovery of geothermal energy in or from the area to which that geothermal title relates.
- (2) An application under this section —
- (a) shall be in accordance with an approved form;
  - (b) shall be made in an approved manner;
  - (c) shall specify the operations that the applicant proposes to carry on and the area in which the applicant proposes to carry on those operations; and
  - (d) may set out any other matters that the applicant wishes the Minister to consider.
- (3) The Minister may —
- (a) if he is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper performance of the duties, of a permittee, holder of a drilling reservation, lessee, licensee or holder of a special prospecting authority, petroleum title or geothermal title who has made an application under this section, grant to him an access authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and

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- (b) at any time, by instrument in writing served on the registered holder of an access authority so granted, vary the access authority.
  - (4) The Minister shall not —
    - (aa) grant a petroleum access authority on an application under this section in respect of a block that is the subject of a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease or petroleum production licence of which the registered holder is a person other than the applicant, or vary a petroleum access authority as in force in respect of a block that is the subject of a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease or petroleum production licence of which the registered holder is a person other than the registered holder of the access authority; or
    - (bb) grant a geothermal access authority on an application under this section in respect of a block that is the subject of a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease or geothermal production licence of which the registered holder is a person other than the applicant, or vary a geothermal access authority as in force in respect of a block that is the subject of a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease or geothermal production licence of which the registered holder is a person other than the registered holder of the access authority,
- unless —
- (a) he has, by instrument in writing served on that person, given not less than one month's notice of his intention to grant, or vary, as the case may be, the access authority;
  - (b) he has served a copy of the instrument —
    - (i) on such other persons, if any, as he thinks fit; and

- (ii) in a case where he intends to vary an access authority — on the registered holder of the access authority;
  - (c) he has, in the instrument —
    - (i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and
    - (ii) specified a date on or before which a person on whom the instrument, or a copy of the instrument, is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;and
  - (d) he has taken into account any matters so submitted to him on or before the specified date by a person on whom the first-mentioned instrument, or a copy of that instrument, has been served.
- (5) An access authority, while it remains in force, authorises the holder, subject to this Act and the regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.
- (6) Nothing in an access authority authorises the holder to make a well other than a deviation well into an adjacent permit area, drilling reservation, lease area or licence area held by him under this Act or, in the case of a petroleum access authority, the *Petroleum (Submerged Lands) Act 1982*.
- (7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Minister for a further specified period.
- (8) An access authority —
- (a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and

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- (b) may be cancelled by the Minister at any time by instrument in writing served on the holder and on any person in whose permit area, drilling reservation, lease area or licence area operations may be carried on in pursuance of the access authority.
- (9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by instrument in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things —
- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property;
  - (b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and
  - (c) to make good, to the satisfaction of the Minister, any damage to the Earth's crust in that area caused by any person engaged or concerned in those operations.
- (10) A person to whom a direction is given under subsection (9) shall comply with the direction.  
Penalty: \$10 000.
- (11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit, drilling reservation, lease or licence of which he is not the registered holder, furnish to the registered holder of that permit, drilling reservation, lease or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations (not being operations related to the recovery of petroleum or geothermal energy by means of a deviation well referred to in subsection (6)) carried

on in that block during that month and a summary of the facts ascertained from those operations.

Penalty: \$5 000.

- (12) Section 102 applies to and in relation to an access authority as if —
- (a) a reference in that section to a permit were a reference to an access authority; and
  - (b) a reference in that section to a direction or an arrangement under section 101 were a reference to a direction or an arrangement under subsection (9).

- (13) In this section —

**“geothermal title”** means an authority, however described, under a law of the Commonwealth, of another State or of the Northern Territory to explore for geothermal energy resources or to recover geothermal energy;

**“petroleum title”** means an authority, however described, under the *Petroleum (Submerged Lands) Act 1982* or a law of the Commonwealth, of another State or of the Northern Territory to explore for, or to recover, petroleum.

*[Section 106 amended by No. 12 of 1990 s. 86; No. 78 of 1990 s. 7; No. 28 of 1994 s. 46; No. 35 of 2007 s. 67.]*

## **107. Removal, disposal or sale of property**

- (1) Where a direction under section 102 has not been complied with in relation to any property, the Minister may do all or any of the following things —
- (a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;
  - (b) dispose of, in such manner as he thinks fit, all or any of that property; and
  - (c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell,

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by public auction or otherwise, as he thinks fit, all or any part of that property that belongs, or that he believes to belong, to that person.

- (2) The Minister may deduct from the proceeds of a sale under subsection (1) of property that belongs, or that he believes to belong, to a particular person —
- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
  - (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 101, 105 or 106, as the case may be, to be done by that person; and
  - (c) all or any part of any fees or amounts due and payable under this Act by that person.
- (3) Costs and expenses incurred by the Minister under subsection (1) —
- (a) if incurred in relation to the removal, disposal or sale of property, are a debt due by the owner of the property to the Crown; or
  - (b) if incurred in relation to the doing of anything required by a direction under section 101, 105 or 106, as the case may be, to be done by a person who is or was a permittee, holder of a drilling reservation, lessee, licensee or holder of a special prospecting authority or access authority, are a debt due by that person to the Crown,

and, to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction.

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

*[Section 107 amended by No. 12 of 1990 s. 87; No. 78 of 1990 s. 7.]*

*[108. Repealed by No. 28 of 1994 s. 47.]*

**109. Minister etc. may require information to be furnished etc.**

- (1) Where the Minister or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations or operations for the recovery of petroleum in the State, or to geothermal energy resources exploration operations or operations for the recovery of geothermal energy in the State, he may, by instrument in writing served on that person, require that person —
  - (a) to furnish to him, in writing, within the period and in the manner specified in the instrument, any such information; or
  - (b) to attend before him or a person specified in the instrument, at such time and place as is so specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are so specified.
- (2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 111.

*[Section 109 amended by No. 35 of 2007 s. 68.]*

**110. Power to examine on oath**

- (1) The Minister or an inspector may administer an oath to a person required to attend before him in pursuance of section 109 and may examine that person on oath.
- (2) Where a person attending before the Minister or an inspector in pursuance of section 109 conscientiously objects to take an oath,

he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.

- (3) An affirmation made under subsection (2) is of the same force and effect, and entails the same penalties, as an oath.

**111. Failing to furnish information etc.**

A person shall not —

- (a) refuse or fail to comply with a requirement in an instrument under section 109 to the extent to which he is capable of complying with it;
- (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular; or
- (c) when attending before the Minister or an inspector in pursuance of such a requirement knowingly make a statement or produce a document that is false or misleading in a material particular.

Penalty: \$10 000.

*[Section 111 amended by No. 12 of 1990 s. 89.]*

**112. Release of information etc.**

- (1) The Minister may, at any time, make available to another Minister of the Crown —
- (a) any information contained in a document to which this section applies that has been furnished to the Minister; and
  - (b) any cores or cuttings from, or samples of, the Earth's crust in a block, or samples of petroleum or geothermal energy resources recovered in a block, that have been furnished to the Minister.

- (1a) The Minister may, at any time after the grant or renewal, or refusal to grant or renew, a permit, drilling reservation, lease, licence, access authority or special prospecting authority —
- (a) make publicly known; or
  - (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, 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 subsection (2) or (5a); or
  - (d) particulars of —
    - (i) the technical qualifications of the applicant and of the employees of the applicant;
    - (ii) the technical advice available to the applicant; or
    - (iii) the financial resources available to the applicant.
- (2) The Minister may, at any time after the relevant day —
- (a) make publicly known; or
  - (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to that person,
- any information contained in a document to which this section applies that has been furnished to the Minister under subsection (1), being information that relates to the sea-bed or subsoil, or to petroleum or geothermal energy resources, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any such information.
- (3) The Minister or another Minister of the Crown may, at any time after the relevant day —
- (a) make publicly known any particulars of; or

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- (b) on request by a person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit that person to inspect,

any cores or cuttings from, or samples of, the Earth's crust in a block, or samples of petroleum or geothermal energy resources recovered in a block, that have been furnished to the Minister or have been made available to that other Minister under subsection (1).

- (4) For the purposes of subsections (2) and (3) —

(a) where —

(i) a permit, drilling reservation or lease is in force in respect of the block; and

(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block —

(A) the permit, drilling reservation or lease;

(B) in a case where a lease is in force in respect of the block, the permit or drilling reservation that ceased to be in force in respect of the block by virtue of section 48B(7) on the day on which the lease came into force,

the relevant day is the day on which the period of 2 years that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

(b) where —

(i) a licence is in force in respect of the block; and

(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block —

(A) the licence;

- (B) the permit, drilling reservation or lease that ceased to be in force in respect of the block by virtue of section 54(5) on the day on which the licence came into force,

the relevant day is the day on which the period of 12 months that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

- (c) where the document, core, cutting or sample was furnished to the Minister during a period during which a permit, drilling reservation, lease or licence was in force in respect of the block and —
- (i) the permit, drilling reservation, lease or licence is surrendered, cancelled or determined as to the block, and a permit or licence is not granted in exchange in respect of that block under section 37A or 61; or
  - (ii) the permit, drilling reservation, lease or licence expires but is not renewed in respect of the block,

the relevant day is the day on which the permit, drilling reservation, lease or licence is so surrendered, cancelled or determined or expires, as the case may be, whether another permit, drilling reservation, lease or licence is subsequently in force in respect of the block or not;

- (d) where —
- (i) the document, core, cutting or sample was furnished to the Minister during a period during which a permit, drilling reservation, lease or licence was not in force in respect of the block; and
  - (ii) the information in the document or the core, cutting or sample was collected for the purpose

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of the sale of information on a non-exclusive basis,

the relevant day is the day determined by the Minister, being a day not more than 5 years after the day on which the document, core, cutting or sample was furnished to the Minister; and

(e) where —

(i) the document, core, cutting or sample was furnished to the Minister during a period during which a permit, drilling reservation, lease or licence was not in force in respect of the block; and

(ii) subparagraph (d)(ii) does not apply,

the relevant day is the day determined by the Minister, being a day not more than 2 years after the day on which the document, core, cutting or sample was furnished to the Minister.

(5) Where —

(a) a document, core, cutting or sample referred to in subsection (1) was furnished to the Minister —

(i) during or in respect of a period during which a permit, drilling reservation, lease or licence was in force in respect of the block; or

(ii) during or in respect of a period during which a special prospecting authority or access authority was in force in respect of the block but during which a permit, drilling reservation, lease or licence was not in force in respect of the block;

and

(b) the permittee, holder of the drilling reservation, lessee, licensee or holder of the special prospecting authority or access authority or, if the permit, drilling reservation, lease, licence, special prospecting authority or access authority has ceased to be in force, the person who was

the holder of the permit, drilling reservation, lease, licence, special prospecting authority or access authority —

- (i) has made publicly known any information contained in the document or has consented in writing to any of that information being made publicly known; or
- (ii) has made publicly known any particulars of that core, cutting or sample or has consented in writing to any particulars of that core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection,

the Minister or another Minister to whom that information, core, cutting or sample has been made available under subsection (1) may, at any time after that information has, or those particulars have, been made publicly known or after that consent has been given —

- (c) make publicly known that information or, on request by any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, make that information available to that other person; or
- (d) make publicly known those particulars or, on request by any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit that other person to inspect that core, cutting or sample,

as the case may be.

- (5a) Subject to subsection (5f), the Minister may, at any time after the end of the period of 5 years after a document to which this section applies was furnished to the Minister —
  - (a) make publicly known; or

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- (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to that person,

any information contained in the document, being information that relates to petroleum or geothermal energy resources, in a block, and that, in the opinion of the 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 a document to which this section applies that has been furnished to the Minister under subsection (1).

- (5b) Before the Minister makes available or publicly known any information pursuant to subsection (5a), the Minister shall —

- (a) cause to be published in the *Gazette* a notice —

- (i) stating that the Minister proposes to make the information available or publicly known;
- (ii) inviting interested persons to give to the Minister, 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 served on the person who furnished the document containing the information.

- (5c) There shall be set out in the notice of objection the reasons for making the objection.

- (5d) 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 respect of the lawful business, commercial or financial affairs of the person.
- (5e) Where a person makes an objection to the Minister in accordance with such an invitation, the Minister shall, within 45 days after the receipt of the notice of objection, consider the objection, and may either disallow it, or allow it in whole or in part, and shall cause to be served on the person written notice of the decision on the objection.
- (5f) The Minister shall not make available or make publicly known any information pursuant to subsection (5a) if there is in force an objection made in relation to the information being made available or publicly known but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (5b) being made in relation to the information.
- (6) Except as provided by the preceding provisions of this section or for the purposes of the administration of this Act and the regulations, the Minister or another Minister to whom any information, core, cutting or sample has been made available under subsection (1) shall not —
- (a) make publicly known, or make available to any person (not being a Minister of the Crown), any information contained in a document to which this section applies; or
  - (b) make publicly known any particulars of, or permit any person (not being a Minister of the Crown) to inspect, any core, cutting or sample so referred to.

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- (6a) This section applies to the following documents —
- (a) an application made to the Minister under this Act or a document accompanying such an application;
  - (b) a report, return or other document relating to a block that has been furnished to the Minister under this Act.
- (7) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.
- (8) For the purposes of this section —
- (a) cores and cuttings, and well data, logs, sample descriptions and other documents, relating to the drilling of a well, shall be deemed to have been furnished to the Minister not later than one month after the drilling of the well was, in the opinion of the Minister, substantially completed; and
  - (b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been furnished to the Minister not later than one year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.
- (9) Subsections (2) and (5a) apply to information contained in a document to which this section applies that was furnished to the Minister before or after the commencement of section 90 of the *Acts Amendment (Petroleum) Act 1990*.
- (10) Subsection (3) applies to cores, cuttings and samples furnished to the Minister before or after the commencement of section 90 of the *Acts Amendment (Petroleum) Act 1990*.
- [Section 112 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 90; No. 78 of 1990 s. 7; No. 28 of 1994 s. 48; No. 35 of 2007 s. 69.]*

**112A. Safety zones**

- (1) For the purpose of protecting a well or structure, or any equipment, in an area of water in the State, the Minister may, by instrument in writing published in the *Gazette*, prohibit —
- (a) all vessels;

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

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

- (2) A safety zone specified in an instrument under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the instrument measured from each point of the outer edge of the well, structure or equipment.
- (3) The owner and the person in command or in charge of a vessel shall ensure that the vessel does not enter or remain in a safety zone specified in an instrument under subsection (1) in contravention of the instrument.

Penalty: \$100 000 or imprisonment for 10 years.

*[Section 112A inserted by No. 28 of 1994 s. 49.]*

### **113. Discovery of water to be notified**

- (1) Where water is discovered in a permit area, a drilling reservation, a lease area or a licence area, the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, shall, within a period of one month after the date of the discovery, furnish to the Minister, in writing, particulars of the discovery.

Penalty: \$10 000.

- (2) In subsection (1) —  
“**water**” does not include water that constitutes geothermal energy resources.

*[Section 113 amended by No. 12 of 1990 s. 91; No. 78 of 1990 s. 7; No. 28 of 1994 s. 50; No. 35 of 2007 s. 70.]*

**114. Survey of wells etc.**

- (1) The Minister may, at any time, by instrument in writing served on a permittee, holder of a drilling reservation, lessee or licensee, direct the permittee, holder of a drilling reservation, lessee or licensee —
  - (a) to carry out a survey of the position of the well, structure or equipment specified in the instrument; and
  - (b) to furnish to him a report in writing of the survey.
- (2) Where the Minister is not satisfied with a report of a survey furnished to him under subsection (1) by a permittee, holder of a drilling reservation, lessee or licensee, he may, by instrument in writing served on the permittee, holder of the drilling reservation, lessee or licensee, direct the permittee, holder of the drilling reservation, lessee or licensee to furnish further information in writing in connection with the survey.
- (3) A person to whom a direction is given under either subsection (1) or (2) shall comply with the direction.

Penalty: \$10 000.

*[Section 114 amended by No. 12 of 1990 s. 92; No. 78 of 1990 s. 7; No. 28 of 1994 s. 51.]*

**115. Records etc. to be kept**

- (1) The Minister may, by instrument in writing served on a person carrying on operations in the State under a permit, drilling reservation, lease, licence, special prospecting authority, access authority or instrument of consent under section 116, direct that person to do any one or more of the following things —
  - (a) to keep such accounts, records and other documents in connection with those operations as are specified in the instrument;
  - (b) to collect and retain such cores, cuttings and samples in connection with those operations as are so specified;

- (c) to furnish to the Minister, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are so specified.
- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: \$10 000.

*[Section 115 amended by No. 12 of 1990 s. 93; No. 78 of 1990 s. 7; No. 28 of 1994 s. 52.]*

**116. Scientific investigations**

- (1) The Minister may, by instrument in writing, consent to the carrying on in the State by any person of petroleum exploration operations or geothermal energy resources exploration operations in the course of a scientific investigation.
- (2) An instrument of consent under subsection (1) may be made subject to such conditions, if any, as are specified in the instrument.
- (3) An instrument of consent in force under subsection (1) authorises the person specified in the instrument, subject to section 117 and in accordance with the conditions, if any, to which the instrument is subject, to carry on in the State petroleum exploration operations or geothermal energy resources exploration operations so specified in the course of the scientific investigation so specified.

*[Section 116 amended by No. 35 of 2007 s. 71.]*

**117. Interference with other rights etc.**

A person carrying on operations in the State under a permit, drilling reservation, lease, licence, special prospecting authority, access authority or instrument of consent under section 116 shall carry on those operations in a manner that does not interfere with —

- (a) the surface of any land or any improvements thereon;

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- (b) the conservation of the resources of the soil or the Earth's crust; or
- (c) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or geothermal energy resources or geothermal energy, or by way of construction or operation of a pipeline,

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

Penalty: \$10 000.

*[Section 117 amended by No. 12 of 1990 s. 94; No. 78 of 1990 s. 7; No. 35 of 2007 s. 72.]*

**118. Inspectors**

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

Penalty: \$500.

*[Section 118 amended by No. 12 of 1990 s. 95.]*

**119. Powers of inspectors**

- (1) For the purposes of this Act and the regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 118 —
  - (a) shall have access to any part of the State and to any structure, vehicle, aircraft or building in the State that, in his opinion, has been, is being or is to be used in connection with petroleum exploration operations or operations for the recovery of petroleum or geothermal energy resources exploration operations or operations for the recovery of geothermal energy;
  - (b) may inspect and test any equipment that, in his opinion, has been, is being or is to be used in that area in connection with any of those operations; and
  - (c) may enter any structure, vehicle, aircraft, building or place in the State, in which, in his opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.
- (2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any vehicle, aircraft or equipment referred to in subsection (1) shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.
- (3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers under this section.

Penalty: \$5 000.

*[Section 119 amended by No. 12 of 1990 s. 96; No. 35 of 2007 s. 73.]*

*[120. Repealed by No. 35 of 2007 s. 12(2).]*

**121. Continuing offences**

- (1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the regulations, with the requirements specified in the direction, the offence, for purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.
- (2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act or the regulations, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.
- (3) Where, under either subsection (1) or (2), an offence is to be deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is to be deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding \$10 000.

*[Section 121 amended by No. 12 of 1990 s. 98.]*

**122. Crimes and other offences**

- (1) If the penalty provided for an offence under this Act is or includes imprisonment, the offence is a crime.
- (2) The summary conviction penalty for an offence referred to in subsection (1) is imprisonment for 2 years or a fine of \$10 000 or both.
- (3) Unless the contrary intention appears, an offence under this Act, other than a crime, is punishable summarily.

*[Section 122 inserted by No. 4 of 2004 s. 58.]*

**123. Orders for forfeiture etc. in respect of certain offences**

- (1) Where a person is convicted by the Supreme Court of an offence against section 29 or 49, the court may, in addition to imposing a fine, make one or more of the following orders —
- (a) an order for the forfeiture of a specified vessel, aircraft or vehicle used in the commission of the offence; and
  - (b) an order for the forfeiture of specified equipment used in the commission of the offence; and
  - (c) an order —
    - (i) for the forfeiture of specified petroleum recovered in the course of the commission of the offence; or
    - (ii) for the payment by that person to the Crown of an amount equal to the proceeds of the sale of specified petroleum or geothermal energy so recovered; or
    - (iii) for the payment by that person to the Crown of an amount equal to the value at the well-head, assessed by the court, of the quantity, so assessed, of petroleum or geothermal energy so recovered or for the payment of such part of that amount as the court, having regard to all the circumstances, thinks fit.
- (2) Where, in respect of petroleum, the court is satisfied that an order made under subparagraph (i) of paragraph (c) of subsection (1) cannot, for any reason, be enforced, the court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subparagraphs (ii) and (iii) of that paragraph.

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- (3) The court may, before making an order under this section, require notice to be given to, and hear, such persons as the court thinks fit.

*[Section 123 amended by No. 28 of 1994 s. 53; No. 35 of 2007 s. 74.]*

**124. Power of Attorney General to direct disposal of goods**

Goods in respect of which an order is made under section 123 shall be dealt with as the Attorney General directs and, pending his direction, may be detained in such custody as the court directs.

**125. Time for bringing proceedings for offences**

Notwithstanding the provisions of any other Act, proceedings in respect of an offence against this Act (being an offence arising under this Part) or the regulations may be brought at any time.

**126. Judicial notice**

- (1) All courts shall take judicial notice of the signature of a person who is, or has been, the Minister or a delegate of the Minister and of the fact that that person is, or has been, the Minister or a delegate of the Minister.
- (2) In this section, “**court**” includes all persons authorised by the law of the State or by consent of parties to receive evidence.

**127. Service of documents**

- (1) A document required or permitted by this Act to be served on a person other than the Minister or a corporation shall be served —
- (a) by delivering the document to that person personally;
  - (b) by prepaying and posting the document as a letter addressed to that person at his last known place of abode or business or, if he is carrying on business at 2 or more places, at one of those places;

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

*[Section 127 amended by No. 12 of 1990 s. 100.]*

**127A. Service of documents on 2 or more permittees etc.**

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

the document shall be deemed to have been served on each of those registered holders.

- (3) Where —
  - (a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and
  - (b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination,

that nomination ceases to be in force and the registered holders of the title or special prospecting authority shall forthwith make a fresh nomination under subsection (1) in relation to the title or special prospecting authority.

- (4) Where —
- (a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and
  - (b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority,

that nomination ceases to be in force and, if 2 or more registered holders of the title or special prospecting authority remain, those holders shall forthwith make a fresh nomination under subsection (1) in relation to the title or special prospecting authority.

- (5) In this section, “**title**” means a permit, lease, licence or access authority.

*[Section 127A inserted by No. 12 of 1990 s. 101.]*

### **Division 6 — Transitional provisions**

#### **128. Terms used in this Division**

In this Division, unless the contrary intention appears —

“**Barrow Island lease**” means the petroleum lease dated 27 February 1967 granted under the former provisions and registered as Number 1H and named “Barrow Island” pursuant to those provisions;

“**Barrow Marine lease**” means so much of the Petroleum lease dated 27 February 1967 granted under the *Petroleum Act 1936*<sup>2</sup> and registered as number 2H and named “Barrow Marine” pursuant to that Act as is not included in the adjacent area as defined in section 4 of the *Petroleum (Submerged Lands) Act 1982* or in the adjacent area as defined in section 5 of the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth;

“**commencing day**” means the day on which this Division commences;

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**“former provisions”** means the provisions of the *Petroleum Act 1936*<sup>2</sup>;

**“lessee”** means the lessee for the time being under the Barrow Island lease;

**“operations to which this Division applies”** means any works or operations authorised or required to be done within the State under or pursuant to a prescribed instrument or under the former provisions;

**“prescribed instrument”** means a permit to explore or licence to prospect issued under the former provisions, authorising the holder thereof to prospect for, or explore for, petroleum in an area which is within the State;

**“variation agreement”** means the agreement a copy of which is set forth in the Schedule to the *Barrow Island Royalty Variation Agreement Act 1985*.

[Section 128 amended by No. 113 of 1985 s. 6; No. 90 of 1987 s. 5.]

**129. This Division prevails over other provisions**

Except in so far as a provision contained in this Division is inconsistent with another provision contained in this Part, this Part applies —

- (a) to and in relation to an application for a permit made under this Division as if it were an application made under section 30; and
- (b) to and in relation to an application for a licence made under this Division as if it were an application made under section 50,

and to and in relation to a permit or licence granted on such an application.

**130. Cessation of operation of former provisions**

- (1) Subject to this Division, on the commencing day the former provisions shall cease to apply to or in relation to the carrying

on within the State of any operations to which this Division applies.

- (2) Section 16 of the *Interpretation Act 1918*<sup>3</sup>, has effect, subject to this Division, for the purposes of subsection (1) as if the former provisions were repealed on the commencing day, so far as those provisions relate to the carrying on of operations to which this Division applies.

**131. Prohibition on granting of instruments under former provisions after commencing day**

The Minister or the Governor shall not, on or after the commencing day, grant to a person who makes application therefor, whether the application is received before, on or after that day, a permit to explore, licence to prospect or petroleum lease under the former provisions in respect of an area within the State; or renew any such permit, licence or lease, other than the Barrow Island lease, in accordance with those provisions.

**132. Rights of holders of existing prescribed instruments**

- (1) A prescribed instrument that is in force immediately prior to the commencing day continues, subject to subsection (2), to have the same force and effect on and after that day as it had immediately prior to that day, and, subject to that subsection, the former provisions remain in full force and effect and apply to and in relation to such an instrument and to and in relation to anything done or authorised or required to be done by, under, or in connection with such an instrument.
- (2) Notwithstanding subsection (1), the holder of a prescribed instrument that is continued in force by that subsection is not entitled to be granted a petroleum lease under or pursuant to the former provisions but if that holder would have been entitled to apply for and to be granted a petroleum lease if this Act had not commenced, he may nominate a block under section 46 and may make an application or applications to the Minister for the grant of a licence and, for those purposes, this Act applies to and

in relation to that person, as if he were the holder of a permit under this Act in respect of the area comprised in the prescribed instrument and had become entitled under the provisions of this Act to apply for and to be granted a licence under this Act.

**133. Holders of existing instruments may be granted permits under this Part**

- (1) A person who —
- (a) is the holder of a prescribed instrument on the commencing day; or
  - (b) was the holder of such an instrument that expired at any time within one month before that day,

may make one or more applications for the grant of a permit.

- (2) An application under subsection (1) may be made only in respect of a single area that is constituted by —
- (a) the whole or any part of the area (in this subsection referred to as “**the former area**”) to which the prescribed instrument relates or related; or
  - (b) the whole or any part of the former area and, in addition, so much of the area of any block, being a block that is constituted as provided by section 27 and is partly included in the former area, as is not included in the former area,

but excluding any area in which a person other than the applicant is entitled by reason of an instrument granted or issued under this Act or under the former provisions to prospect for or explore for petroleum as defined by this Act, or by the former provisions, as the case may be, or to carry on operations for the recovery of petroleum as so defined.

- (3) The application —
- (a) shall be made within 6 months after the commencing day, or within 3 months after the date of the expiration

of the prescribed instrument, whichever is the earlier;  
and

- (b) shall be accompanied by a fee of \$300.
- (4) The Minister may grant to a person by whom an application under this section is made an exploration permit for petroleum in respect of a single area constituted by the whole or any part of the area in respect of which the application is made.
- (5) Where a permit is not granted on an application under this section, the applicant is not entitled to the refund of the fee, or any part of the fee, accompanying the application.
- (6) A permit shall not be granted under this section if the applicant does not, where so required by the Minister, lodge with the Minister a security for compliance with the conditions to which the permit shall be from time to time subject and with the provisions of this Part and of the regulations.
- (7) Upon the grant of a permit on an application made under this section, the prescribed instrument held by the applicant shall be deemed to have been surrendered by the holder of the prescribed instrument.

*[Section 133 amended by No. 69 of 1981 s. 34.]*

**134. Transitional provisions relating to Barrow Island lease**

Notwithstanding the repeal effected by section 3, the former provisions shall, by force of this section, be deemed to subsist and enure in their application to or in relation to the Barrow Island lease and to any renewal thereof.

**134A. Application of former provisions after coming into operation of variation agreement**

For the purposes of their application under section 134 to or in relation to the Barrow Island lease as varied and affected by the variation agreement and to any renewal thereof the former

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provisions shall, after the coming into operation of clause 6 of the variation agreement, be deemed to be modified —

- (a) in section 4, by substituting for the definitions of “**Minister**” and “**petroleum**” definitions as follows —

“

“**Minister**” means the Minister of the Crown for the time being charged with the administration of the *Petroleum Act 1967*;

”.

“

“**petroleum**” has the same meaning as it has in and for the purposes of the *Petroleum Act 1967*;

”.

- (b) by substituting for sections 71 to 75 sections as follows —

“

**71. Interpretation**

- (1) In this section and in sections 72, 74 and 75 “**Barrow Island lease**” means the petroleum lease dated 27 February 1967 granted under this Act and registered as Number 1H and named “Barrow Island” pursuant to this Act and includes that lease as renewed, substituted or varied.
- (2) In sections 72 to 75 and 117 “**royalty provisions**” means the provisions of the Barrow Island lease relating to the imposition, calculation, assessment, collection and recovery of royalty.

**72. Statements, information and records**

The lessee of the Barrow Island lease shall furnish statements, supply information and keep books and records in accordance with the royalty provisions.

**73. Powers of officers**

An authorised officer appointed under the royalty provisions may exercise the powers conferred on an authorised officer under those provisions.

**74. Royalty a debt due to the State**

The amount of royalty due under the Barrow Island lease shall, until paid or recovered under the royalty provisions, be a debt due from the lessee of the lease to the State.

**75. Offences**

- (1) Where the lessee of the Barrow Island lease is required under the royalty provisions to furnish a statement or supply information the lessee shall not wilfully make a false statement or supply false information.

Penalty: \$5 000.

- (2) A person shall not impede or obstruct any authorised officer appointed under the royalty provisions in the exercise of his powers under those provisions.

Penalty: \$5 000.

”;

- (c) by adding after section 116 a section as follows —

“

**117. Application of regulations to Barrow Island lease**

Where the royalty provisions are inconsistent with a regulation made under section 116 the royalty provisions shall prevail to the extent of the inconsistency.

”;

and

- (d) without affecting the character and incidents of the Barrow Island lease as a petroleum lease under the

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*Petroleum Act 1936*<sup>2</sup> but notwithstanding anything in that Act the following provisions apply —

- (i) before the expiration of the lease the lessee for the time being of the lease may make application for the renewal of the lease;
- (ii) with respect to the term of any renewal of the lease section 63(b) and (c) applies;
- (iii) section 64(1) and (2)(d) applies with respect to the application fee to be paid;
- (iv) section 65 applies with respect to the renewal;
- (v) section 91A applies to and in relation to the insurance to be maintained by the lessee;
- (vi) section 138 applies as to the fee payable,

as though the lease were a licence and the form of any renewal of the Barrow Island lease granted in respect of an application made under this provision shall be in the form of Lease Form No. 1 of the regulations made under the former provisions with such variations and additions as the circumstances require for the purposes of complying with section 5(3) of the *Barrow Island Royalty Variation Agreement Act 1985* and this provision.

*[Section 134A inserted by No. 113 of 1985 s. 7; amended by No. 90 of 1987 s. 6; No. 28 of 1994 s. 54.]*

*[134B. Repealed by No. 28 of 1994 s. 55.]*

**135. Certain portions of blocks to be blocks**

- (1) Where the area in respect of which a permit, drilling reservation, lease, licence or prescribed instrument is in force includes one or more portions of a block constituted as provided by section 27, then, for the purposes of this Part —
  - (a) the area of that portion or those portions constitutes a block; and

- (b) the area of the remaining portion or portions of the first-mentioned block (but not including any part of that area in respect of which a permit, drilling reservation, lease, licence or prescribed instrument is in force) constitutes a block.
- (2) Where a permit, drilling reservation, lease, licence or prescribed instrument ceases to be in force in respect of an area that constitutes a block as provided by subsection (1)(a), the Minister may, by instrument in writing, if he considers it desirable to do so, determine that that block shall be amalgamated with another block or blocks, being a block or blocks —
- (a) constituted as provided by this section;
  - (b) forming part of the graticular section of which that first-mentioned block forms part; and
  - (c) in respect of which a permit, drilling reservation, lease or licence is in force.
- (3) Where such a determination is made, then, for the purposes of this Part —
- (a) the blocks the subject of the determination cease to constitute blocks and the areas of those blocks together constitute a block;
  - (b) the block constituted by reason of the determination is, subject to this Part, for the remainder of the term of the permit, drilling reservation, lease or licence concerned a block in respect of which the permit, drilling reservation, lease or licence is in force.
- (4) The Minister shall not make a determination under subsection (2) except with the consent of the permittee, holder of the drilling reservation, lessee or licensee concerned.

*[Section 135 amended by No. 12 of 1990 s. 102; No. 78 of 1990 s. 7.]*

**136. Certain petroleum exploration or recovery activities not prohibited by section 29 or 49**

It is not an offence against —

- (a) section 29 for the holder of a prescribed instrument to explore for petroleum in the State in accordance with the instrument and with the former provisions;
- (b) section 49 for the lessee to carry on operations for the recovery of petroleum in the State before the coming into operation of clause 6 of the variation agreement in accordance with the Barrow Island lease and with the former provisions;
- (c) section 49 for the lessee to carry on operations for the recovery of petroleum in the State after the coming into operation of clause 6 of the variation agreement in accordance with the Barrow Island lease as varied and affected by the variation agreement and with the former provisions as modified by section 134A.

*[Section 136 amended by No. 113 of 1985 s. 8.]*

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**137. Permit and drilling reservation fees**

There is payable to the Minister by a permittee or holder of a drilling reservation, in respect of each year of the term of the permit or drilling reservation, as the case requires —

- (a) the prescribed fee; or
- (b) a fee calculated at the prescribed rate for each of the blocks to which the permit or the drilling reservation relates, at the commencement of that year,

whichever is the greater.

*[Section 137 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 103; No. 78 of 1990 s. 7.]*

**137A. Lease fees**

There is payable to the Minister by a lessee, in respect of each year of the term of the lease, a fee calculated at the prescribed rate for each of the blocks to which the lease relates at the commencement of that year.

*[Section 137A inserted by No. 12 of 1990 s. 104.]*

**138. Licence fees**

- (1) There is payable to the Minister by a licensee, in respect of each year of the term of the licence, a fee calculated at the prescribed rate for each of the blocks to which the licence relates at the commencement of that year.
- (2) The Minister may, on application made by a licensee, for reasons the Minister thinks sufficient, by notice in writing reduce or waive the fee payable under subsection (1).
- (3) A reduction or waiver of a fee under subsection (2) may apply for an indefinite period of time or for a limited period specified in the notice and may apply subject to such conditions as the Minister specifies in the notice.

*[Section 138 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 105; No. 28 of 1994 s. 56.]*

**139. Time of payment of fees**

A fee referred to in section 137, 137A or 138 is payable within one month after —

- (a) in the case of the first year of the term of a permit, drilling reservation, lease or licence, the day on which that term commenced; and
- (b) in the case of a year of the term of a permit, drilling reservation, lease or licence other than the first, the anniversary of that day.

*[Section 139 amended by No. 12 of 1990 s. 106; No. 28 of 1994 s. 57.]*

**140. Penalty for late payment of fees**

Where the liability of a permittee, holder of a drilling reservation, lessee or licensee to pay a fee referred to in section 137, 137A or 138 is not discharged at or before the time when the fee is payable, there is payable to the Minister by the permittee, holder of the drilling reservation, lessee or licensee an additional amount calculated at the rate of one third of one per centum per day upon the amount of the fee from time to time remaining unpaid, to be computed from the time when the fee became payable until it is paid.

*[Section 140 amended by No. 12 of 1990 s. 107; No. 28 of 1994 s. 58.]*

**141. Fees and penalties debts due to the Crown**

A fee under section 137, 137A or 138, or an amount payable under section 140, is a debt due by the permittee, holder of a drilling reservation, lessee or licensee, as the case may be, to the Crown and is recoverable in a court of competent jurisdiction.

*[Section 141 amended by No. 12 of 1990 s. 108; No. 78 of 1990 s. 7.]*

**142. Royalty**

- (1) The conditions subject to which a permit, drilling reservation, lease or licence is granted shall include a condition that the permittee, holder of the drilling reservation, lessee or licensee shall, subject to this section, pay to the Minister a royalty at the prescribed rate in respect of all petroleum or all geothermal energy, as the case requires, recovered by the permittee, holder of the drilling reservation, lessee or licensee in the permit area, drilling reservation, lease area or licence area.
- (2) The prescribed rate in respect of petroleum recovered under a petroleum exploration permit, petroleum drilling reservation or petroleum retention lease is 10% of the royalty value of the petroleum.

- (2a) Subject to section 143, the prescribed rate in respect of geothermal energy recovered under a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease or geothermal production licence is 2.5% of the royalty value of the geothermal energy.
- (3) Subject to the succeeding provisions of this section and to the provisions of section 143, the prescribed rate in respect of petroleum recovered under a petroleum production licence is the percentage determined by the Minister in pursuance of subsection (1) of section 52 or, where more than one percentage was so determined, the percentage so determined that is, in accordance with subsection (2) of that section, for the time being applicable in respect of petroleum so recovered.
- (4) Subject to section 143, the prescribed rate in respect of petroleum recovered under a secondary licence is the percentage determined by the Minister in pursuance of section 52(3) in respect of petroleum so recovered.
- (5) Subject to subsection (6) and to section 143, where a secondary licence is granted to the holder of a primary licence, the prescribed rate in respect of petroleum recovered under the primary licence is, as from the commencement of the next royalty period after the day from which the secondary licence has effect, the same percentage as is applicable in respect of petroleum recovered under the secondary licence.
- (6) Notwithstanding the provisions of section 52(3) and subsection (5), where a secondary licence is granted to the holder of a primary licence, the Minister may determine that the prescribed rate or rates in respect of petroleum recovered under the primary licence shall continue, as from the commencement of the next royalty period after the day from which the secondary licence has effect, to be the same rate or rates as was or were determined by the Minister under section 52(1) in respect of the primary licence.

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- (7) Where —
- (a) a petroleum production licence is granted on an application under section 57; and
  - (b) the instrument served on the applicant under section 59 contains a statement that the applicant will be required to pay, in respect of petroleum recovered under that licence, royalty at the rate specified in that statement,
- the prescribed rate in respect of petroleum recovered under that licence is the percentage specified in that statement.
- (8) Where a petroleum production licence is granted on an application under subsection (1) of section 61, the prescribed rate in respect of petroleum recovered under that licence is the same percentage as was applicable in respect of petroleum recovered under the original licence as defined by subsection (1) of that section.
- (9) Subject to section 143, the prescribed rate in respect of petroleum recovered under a petroleum production licence granted by way of renewal of a licence is the percentage applicable under the licence before renewal (or, if another percentage is fixed by Parliament in respect of petroleum so recovered, that percentage) of the royalty value of the petroleum.

*[Section 142 amended by No. 12 of 1990 s. 109; No. 78 of 1990 s. 7; No. 11 of 1994 s. 5; No. 35 of 2007 s. 75.]*

**143. Reduction of royalty in certain cases**

- (1) Where the Minister is satisfied that the rate of recovery of petroleum from a well has become so reduced that, having regard to the rate of royalty fixed by section 142, further recovery of petroleum from that well would be uneconomic, the Minister may, by instrument in writing, determine that the royalty in respect of petroleum recovered from that well shall be at such rate (being a rate lower than that fixed by that section) as the Minister specifies in respect of such period as the Minister specifies.

- (1a) If, because the rate of recovery of geothermal energy from a well has become so reduced or for any other reason, the Minister is satisfied that, having regard to the rate of royalty fixed by section 142(2a), further recovery of geothermal energy from that well would be uneconomic, the Minister may, by instrument in writing, determine that the royalty in respect of geothermal energy recovered from that well is to be at such rate (being a rate lower than that fixed by that provision) as the Minister specifies in respect of such period as the Minister specifies.
- (2) The prescribed rate in respect of petroleum or geothermal energy recovered, during the period specified in a determination under subsection (1) or (1a), as the case requires, from the well to which such a determination relates, is the rate so specified.

*[Section 143 amended by No. 35 of 2007 s. 76.]*

**144. Royalty not payable in certain cases**

- (1) Royalty under this Act —
- (a) is not payable in respect of petroleum or geothermal energy that the Minister is satisfied was unavoidably lost before the quantity of that petroleum or geothermal energy was ascertained; and
  - (b) is not payable in respect of petroleum that is used by the permittee, lessee, holder of the drilling reservation, or licensee as approved by the Minister for the purposes of petroleum exploration operations or operations for the recovery of petroleum; and
  - (ba) is not payable in respect of geothermal energy that is used by the permittee, lessee, holder of the drilling reservation, or licensee as approved by the Minister for the purposes of geothermal energy resources exploration operations or operations for the recovery of geothermal energy; and

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- (c) is not payable in respect of —
- (i) petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum; or
  - (ii) geothermal energy that, with the approval of the Minister, is dissipated in connection with operations for the recovery of geothermal energy.
- (2) Where petroleum that has been recovered by a permittee, holder of a drilling reservation, lessee or licensee is, with the approval of the Minister, returned to a natural reservoir, royalty under this Act is not payable in respect of that petroleum by reason of the recovery but this subsection does not affect the liability of that or any other permittee, holder of a drilling reservation, lessee or licensee to pay royalty in respect of petroleum that is recovered from that natural reservoir.
- (3) Where petroleum that has been recovered by a permittee, holder of a drilling reservation, lessee or licensee is, pursuant to an agreement entered into under section 67(2)(a), injected into a natural underground reservoir for the purpose of storage and subsequent recovery, royalty under this Act is not payable in respect of that petroleum by reason of the initial recovery except as provided under that agreement.
- (4) Subject to any agreement entered into under section 67(2)(a), nothing in subsection (3) affects the liability of any permittee, holder of a drilling reservation, lessee or licensee to pay royalty in respect of petroleum that is recovered from the natural reservoir in which it is stored.

*[Section 144 amended by No. 12 of 1990 s. 110; No. 78 of 1990 s. 7; No. 28 of 1994 s. 59; No. 35 of 2007 s. 77.]*

**144A. Royalty value**

- (1) For the purposes of this Act (but subject to subsection (2)) the royalty value of any petroleum or geothermal energy is its value at the well-head as agreed or determined under section 145.

- (2) If the value at the well-head of petroleum or geothermal energy as agreed or determined under section 145 is calculated in a way that provides for a reduction, discount, deduction or allowance to be made for federal duty that has been paid, is payable or may become payable, the royalty value of that petroleum or geothermal energy is the sum of —
- (a) its value at the well-head as so calculated; and
  - (b) the amount of that reduction, discount, deduction or allowance.
- (3) In subsection (2) “**federal duty**” means excise duty, or any other tax, duty, fee, levy or charge (except a tax, duty, fee, levy or charge of a kind excluded from this definition by the regulations) imposed by or under a law of the Commonwealth.

*[Section 144A inserted by No. 11 of 1994 s. 6; amended by No. 35 of 2007 s. 78.]*

**145. Ascertainment of value of petroleum**

For the purposes of this Act the value at the well-head of any petroleum or geothermal energy is such amount as is agreed between the permittee, holder of the drilling reservation, lessee or licensee and the Minister, or in default of agreement within such period as the Minister allows is such amount as is determined by the Minister as being that value.

*[Section 145 amended by No. 12 of 1990 s. 111; No. 78 of 1990 s. 7; No. 35 of 2007 s. 79.]*

**146. Ascertainment of well-head**

For the purposes of this Act, the well-head, in relation to any petroleum or geothermal energy, is such valve station as is agreed between the permittee, holder of the drilling reservation, lessee or licensee and the Minister, or, in default of agreement within such period as the Minister allows, is such valve station as is determined by the Minister as being that well-head.

*[Section 146 amended by No. 12 of 1990 s. 112; No. 78 of 1990 s. 7; No. 35 of 2007 s. 80.]*

**147. Ascertainment of quantity of petroleum or geothermal energy recovered**

For the purposes of this Act, the quantity of petroleum or geothermal energy recovered by a permittee, holder of a drilling reservation, lessee or licensee during a period shall be taken to be —

- (a) the quantity measured during that period by a measuring device approved by the Minister and installed at the well-head or at such other place as the Minister approves; or
- (b) where no such measuring device is so installed, or the Minister is not satisfied that the quantity of petroleum or geothermal energy recovered by the permittee, holder of the drilling reservation, lessee or licensee has been properly or accurately measured by such a measuring device, the quantity determined by the Minister as being the quantity recovered by the permittee, holder of the drilling reservation, lessee or licensee during that period.

*[Section 147 amended by No. 12 of 1990 s. 113; No. 78 of 1990 s. 7; No. 35 of 2007 s. 81.]*

**148. Payment of royalty and penalty for late payment**

- (1) Royalty under this Act in respect of petroleum or geothermal energy recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.
- (2) Where the amount of royalty under this Act is not paid as provided by subsection (1), there is payable to the Minister by the permittee, the holder of the drilling reservation, the lessee or the licensee an additional amount calculated at the rate of one third of one per centum per day upon the amount of royalty from time to time remaining unpaid, to be computed from the time when the royalty became payable until it is paid.
- (3) An additional amount is not payable under subsection (2) in respect of any period before the expiration of 7 days after the

value of the petroleum was agreed or determined under section 145.

*[Section 148 amended by No. 12 of 1990 s. 114; No. 78 of 1990 s. 7; No. 28 of 1994 s. 60; No. 35 of 2007 s. 82.]*

**149. Amount of royalty and late payment thereof debt due to Crown**

Royalty payable under section 142 or an amount payable under section 148(2) is a debt due by the permittee, holder of the drilling reservation, lessee or licensee to the Crown and is recoverable in a court of competent jurisdiction.

*[Section 149 amended by No. 12 of 1990 s. 115; No. 78 of 1990 s. 7.]*

## **Part IV — Miscellaneous**

### **150. Jurisdiction of Magistrates Court**

- (1) In any action brought before the Magistrates Court under section 14, 17, 18, 19, 21 or 22, the court has jurisdiction irrespective of the amount claimed.
- (2) The procedure of the Magistrates Court in relation to proceedings brought before it under Part II shall be as prescribed by the rules of court, or in the absence of those rules, as the court determines.

*[Section 150 amended by No. 59 of 2004 s. 141.]*

### **151. Special case may be reserved for Supreme Court**

At any stage of any civil proceedings before it the Magistrates Court may reserve any question of law for the opinion of the Supreme Court, and, with respect to every question so reserved, the following provisions shall apply —

- (a) the Magistrates Court shall prepare a special case, setting forth the question so reserved, and shall transmit such case to a master of the Supreme Court;
- (b) the master shall set a special case down for argument before a judge of the Supreme Court, and the judge's opinion on the special case shall, when given, be drawn up and transmitted by the master to the Magistrates Court;
- (c) the costs of the proceedings shall be in the discretion of the judge;
- (d) upon receipt of such opinion the Magistrates Court shall act in accordance therewith, and in the meantime no judgment or order of the Magistrates Court shall affect the question so reserved;
- (e) when reserving any such question, or at any time before acting on the judge's opinion thereon, the Magistrates Court, on the application of any party to the

proceedings, and on such terms as it thinks fit, may make such order for an injunction or a receiver or for payment of money into court, or for giving security for damages and costs or otherwise, and on such terms, as it may think fit.

*[Section 151 amended by No. 12 of 1990 s. 116; No. 59 of 2004 s. 141.]*

*[152. Repealed by No. 17 of 1999 s. 22(4).]*

*[152A, 152B. Repealed by No. 28 of 1994 s. 61.]*

### **153. Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, but without limiting the generality of subsection (1), the regulations may make provision for securing, regulating, controlling or restricting all or any of the following matters —
  - (a) the exploration for petroleum or geothermal energy resources and the carrying on of operations, and the execution of works, for that purpose;
  - (b) the recovery of petroleum or geothermal energy and the carrying on of operations, and the execution of works, for that purpose;
  - (c) conserving, and preventing the waste of, natural resources, whether petroleum or otherwise;
  - (d) the construction, erection, maintenance, operation or use of installations or equipment;
  - (e) the control of the flow and the prevention of the escape of petroleum or water;
  - (f) the control of the flow or discharge, and the prevention of the escape, of petroleum, water or drilling fluid, or a

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- mixture of water or drilling fluid with petroleum or any other matter;
- (fa) the clean-up or other remedying of the effects of the escape of petroleum;
  - (g) the prevention of damage to petroleum-bearing strata or geothermal energy resources in an area, whether in the State or not, in respect of which a permit, drilling reservation, lease or licence is not in force;
  - (h) the keeping separate of —
    - (i) each petroleum pool discovered in a permit area, drilling reservation, lease area or licence area; and
    - (ii) each source of water discovered in a permit area, drilling reservation, lease area or licence area;
  - (i) the prevention of water or other matter from entering a petroleum pool through wells;
  - (j) the maintaining in good condition and repair of all structures, equipment and other property used or intended to be used for or in connection with exploration for, or the exploitation of, petroleum or geothermal energy resources in the State; and
  - (k) the removal from the State of structures, equipment and other property brought into the State for or in connection with exploration for, or the exploitation of, petroleum or geothermal energy resources that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum or geothermal energy resources in the State.
- (2a) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the regulations take effect or as in force or existing from time to

time, being a code of practice or standard that is relevant to that matter.

- (2b) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.
- (3) The regulations may provide, in respect of an offence against the regulations, for the imposition of —
  - (a) a fine not exceeding \$10 000; or
  - (b) a fine not exceeding that amount for each day on which the offence occurs.

*[Section 153 amended by No. 12 of 1990 s. 118; No. 78 of 1990 s. 7; No. 28 of 1994 s. 62; No. 35 of 2007 s. 83.]*

**Schedule**

[Section 152A]

| <i>Permit No.</i> | <i>Permittee</i>   | <i>Expiry Date</i> |
|-------------------|--|--------------------|
| EP 144            | Magnum Minerals Pty Limited<br>Openpit Mining & Exploration Pty Ltd                  | 8.2.85             |
| EP 146            | Magnum Minerals Pty Limited<br>Openpit Mining & Exploration Pty Ltd                  | 8.2.85             |
| EP 147            | Dampier Mining Company Limited   | 8.2.85             |
| EP 158            | C S R Limited  | 8.2.85             |
| EP 181            | C R A Exploration Pty Limited  | 15.8.86            |
| EP 182            | C R A Exploration Pty Limited<br>Eagle Corporation Limited<br>Swan Resources Limited | 28.5.85            |
| EP 183            | C R A Exploration Pty Limited<br>Eagle Corporation Limited<br>Swan Resources Limited | 28.5.85            |

*[Schedule inserted by No. 69 of 1981 s. 33.]*

## Notes

- <sup>1</sup> This reprint is a compilation as at 2 May 2008 of the *Petroleum and Geothermal Energy Resources Act 1967* and includes the amendments made by the other written laws referred to in the following table <sup>1a, 4</sup>. The table also contains information about any reprint.

### Compilation table

| Short title  | Number and year                                   | Assent      | Commencement  |
|--|---|-------------|---|
| <i>Petroleum Act 1967</i> <sup>5</sup>   | 72 of 1967  | 11 Dec 1967 | 5 Sep 1969 (see s. 2 and <i>Gazette</i> 5 Sep 1969 p. 2540)   |
| <i>Metric Conversion Act 1972</i> s. 4   | 94 of 1972<br>(as amended by No. 19 of 1973 s. 8) | 4 Dec 1972  | Relevant amendments (see First Sch. <sup>6</sup> ) took effect on 1 Jan 1973 (see s. 4(2) and <i>Gazette</i> 29 Dec 1972 p. 4811) |
| <i>Acts Amendment (Mining) Act 1981</i> Pt. III <sup>7</sup>   | 69 of 1981  | 30 Oct 1981 | 30 Oct 1981   |
| <b>Reprint of the <i>Petroleum Act 1967</i> approved 20 Sep 1982</b> (includes amendments listed above)  |   |             |   |
| <i>Acts Amendment (Aboriginal Affairs Planning Authority) Act 1982</i> Pt. III   | 107 of 1982                                       | 7 Dec 1982  | 7 Dec 1982  |
| <i>Barrow Island Royalty Variation Agreement Act 1985</i> Pt. III  | 113 of 1985                                       | 7 Jan 1986  | 7 Jan 1986 (see s. 2)   |
| <i>Petroleum Amendment Act 1987</i>  | 90 of 1987  | 9 Dec 1987  | Act other than s. 6: 14 Feb 1983 (see s. 2(1)); s. 6: 9 Dec 1987 (see s. 2(2))  |
| <i>Acts Amendment (Petroleum) Act 1990</i> Pt. II <sup>8-14</sup>  | 12 of 1990  | 31 Jul 1990 | 1 Oct 1990 (see s. 2(1) and <i>Gazette</i> 28 Sep 1990 p. 5099)   |
| <i>Petroleum (Drilling Reservations) Amendment Act 1990</i>  | 78 of 1990  | 22 Dec 1990 | s. 1 and 2: 22 Dec 1990; Act other than s. 1 and 2: 1 Mar 1991 (see s. 2 and <i>Gazette</i> 22 Feb 1991 p. 868)                   |
| <b>Reprint of the <i>Petroleum Act 1967</i> as at 17 Dec 1992</b> (erratum in <i>Gazette</i> 26 Feb 1993 p. 1362) (includes amendments listed above) |   |             |   |
| <i>Land (Titles and Traditional Usage) Act 1993</i> s. 45  | 21 of 1993  | 2 Dec 1993  | 2 Dec 1993 (see s. 2)   |

**Petroleum and Geothermal Energy Resources Act 1967**

| <b>Short title</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>   |
|--|------------------------|---------------|---|
| <i>Petroleum Royalties Legislation Amendment Act 1994 Pt. 2</i>                                      | 11 of 1994             | 15 Apr 1994   | 1 Mar 1994 (see s. 2)   |
| <i>Acts Amendment (Petroleum) Act 1994 Pt. 3<sup>15-17</sup></i>                                     | 28 of 1994             | 29 Jun 1994   | 22 Jul 1994 (see s. 2 and <i>Gazette</i> 22 Jul 1994 p. 3728)           |
| <i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>   | 73 of 1994             | 9 Dec 1994    | 9 Dec 1994 (see s. 2)   |
| <i>Acts Amendment and Repeal (Native Title) Act 1995 Pt. 7</i>                                       | 52 of 1995             | 24 Nov 1995   | 9 Dec 1995 (see s. 2 and <i>Gazette</i> 8 Dec 1995 p. 5935)             |
| <i>Local Government (Consequential Amendments) Act 1996 s. 4</i>                                     | 14 of 1996             | 28 Jun 1996   | 1 Jul 1996 (see s. 2)   |
| <i>Acts Amendment (Marine Reserves) Act 1997 Pt. 4</i>   | 5 of 1997              | 10 Jun 1997   | 29 Aug 1997 (see s. 2 and <i>Gazette</i> 29 Aug 1997 p. 4867)           |
| <i>Acts Amendment (Land Administration) Act 1997 Pt. 49 and 68</i>                                   | 31 of 1997             | 3 Oct 1997    | 30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)           |
| <i>Acts Amendment (Land Administration, Mining and Petroleum) Act 1998 Pt. 4</i>                     | 61 of 1998             | 11 Jan 1999   | 11 Jan 1999 (see s. 2(1))   |
| <i>Acts Amendment (Mining and Petroleum) Act 1999 Pt. 3<sup>18, 19</sup></i>                         | 17 of 1999             | 15 Jun 1999   | 24 Jul 1999 (see s. 2 and <i>Gazette</i> 23 Jul 1999 p. 3385)           |
| <b>Reprint of the <i>Petroleum Act 1967</i> as at 14 Jan 2000</b> (includes amendments listed above) |                        |               |   |
| <i>Acts Amendment (Australian Datum) Act 2000 s. 7</i>   | 54 of 2000             | 28 Nov 2000   | 16 Dec 2000 (see s. 2 and <i>Gazette</i> 15 Dec 2000 p. 7201)           |
| <i>Corporations (Consequential Amendments) Act (No. 2) 2003 Pt. 15</i>                               | 20 of 2003             | 23 Apr 2003   | 15 Jul 2001 (see s. 2(1) and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285) |
| <i>Criminal Code Amendment Act 2004 s. 58</i>  | 4 of 2004              | 23 Apr 2004   | 21 May 2004 (see s. 2)  |

| <b>Short title</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>   |
|--|------------------------|---------------|---|
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141   | 59 of 2004             | 23 Nov 2004   | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)    |
| <i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 98 <sup>20</sup>   | 55 of 2004             | 24 Nov 2004   | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)    |
| <b>Reprint 4: The Petroleum Act 1967 as at 13 Apr 2007</b> (includes amendments listed above)                                |                        |               |   |
| <i>Petroleum Amendment Act 2007</i> Pt. 2 Div. 1   | 35 of 2007             | 21 Dec 2007   | 19 Jan 2008 (see s. 2(b) and <i>Gazette</i> 18 Jan 2008 p. 147) |
| <b>Reprint 5: The Petroleum and Geothermal Energy Resources Act 1967 as at 2 May 2008</b> (includes amendments listed above) |                        |               |   |

<sup>1a</sup> On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

| <b>Short title</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>  |
|--|------------------------|---------------|--|
| <i>Native Title (State Provisions) Act 1999</i> Sch. 2 Div. 7 <sup>21</sup>    | 60 of 1999             | 10 Jan 2000   | s. 7.3 operative on earliest of commencement of Pt. 2 (except s. 2.2), Pt. 3 (except s. 3.1) and Pt. 4 |
| <i>Petroleum Legislation Amendment and Repeal Act 2005</i> Pt. 2 <sup>22</sup> | 13 of 2005             | 1 Sep 2005    | To be proclaimed (see s. 2)  |
| <i>Petroleum Amendment Act 2007</i> Pt. 2 Div. 2 <sup>23</sup>                 | 35 of 2007             | 21 Dec 2007   | To be proclaimed (see s. 2(b))   |

<sup>2</sup> Repealed by this Act, s. 3.

<sup>3</sup> Repealed by the *Interpretation Act 1984*.

<sup>4</sup> The amendment in the *Petroleum Safety Act 1999* s. 92 is not included as it was repealed by the *Petroleum Legislation Amendment and Repeal Act 2005* s. 51 before it came into operation.

<sup>5</sup> Short title was initially the *Petroleum Act 1967* and was subsequently changed to the *Petroleum and Geothermal Energy Resources Act 1967* (see note under s. 1).

<sup>6</sup> The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Act Amendment Act 1973*.

<sup>7</sup> The *Acts Amendment (Mining) Act 1981* s. 34(2) and (3) are transitional provisions that are of no further effect.

<sup>8</sup> The *Acts Amendment (Petroleum) Act 1990* s. 26(2) reads as follows:

“

- (2) A permit granted before the commencement of this section is not invalidated by reason of any error that may have occurred in specifying the date of commencement of the permit and the term of such a permit shall be deemed to have commenced on the day of commencement specified in it.

”

<sup>9</sup> The *Acts Amendment (Petroleum) Act 1990* s. 32(2)-(6) reads as follows:

“

- (2) Where —
- (a) at the commencement of this section, a nomination has been made under section 46 of the principal Act; and
  - (b) at that commencement, a declaration had not been made under section 47 of the principal Act as a result of the making of the nomination,
- sections 46, 47 and 48 of the principal Act, as in force immediately before the commencement of this section, continue to have effect in relation to that nomination and the block or blocks that would be affected by a declaration as if this Act had not been enacted.
- (3) A declaration made under section 47 of the principal Act as continued in force by subsection (2) has effect, and the principal Act, as amended by this Act, applies to the declaration, as if the declaration had been made under that section as amended by this Act.
- (4) A declaration in force under section 47 of the principal Act immediately before the commencement of this section has effect after that commencement as if it were a declaration under section 47 of the principal Act, as amended by this Act.
- (5) Where —
- (a) the permittee under a permit granted before the commencement of this section applies under section 50 of the principal Act, as amended by this Act, for a licence;

- (b) the location that includes the block or blocks to which the application relates was declared under section 47 of the principal Act, as amended by this Act;
- (c) the location consists of not more than 8 blocks;
- (d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and
- (e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 50(1) of the principal Act, as amended by this Act, applies as if the firstmentioned location were constituted by the number of blocks specified in the notification referred to in paragraph (d).

(6) Where —

- (a) a lessee under a lease of a block or blocks for which a permit was granted before the commencement of this section applies under section 50A of the principal Act, as amended by this Act, for a licence;
- (b) the location that includes the block or blocks to which the application relates was declared under section 47 of the principal Act, as amended by this Act;
- (c) the location consists of not more than 8 blocks;
- (d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and
- (e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 50A(2) of the principal Act, as amended by this Act, applies as if the lease were in respect of the number of blocks specified in the notification referred to in paragraph (d).

”.

<sup>10</sup> The *Acts Amendment (Petroleum) Act 1990* s. 42(2) reads as follows:

“

- (2) The revocation, under section 56(3) of the principal Act, of a declaration in respect of a location shall be deemed not to have affected the validity of a licence granted under the principal Act in respect of any block forming part of that location.

”

<sup>11</sup> The *Acts Amendment (Petroleum) Act 1990* s. 48(2) reads as follows:

“

- (2) A licence granted before the commencement of this section is not invalidated by reason of any error that may have occurred in specifying the date of commencement of the licence and the term of such a licence shall be deemed to have commenced on the date of commencement specified in it.

”

<sup>12</sup> The *Acts Amendment (Petroleum) Act 1990* s. 56(2), (3) and (4) read as follows:

“

- (2) Section 72 of the principal Act as amended by this Act applies in relation to applications for approval of transfers of permits, licences or access authorities lodged after the commencement of this section.
- (3) Notwithstanding the repeal of section 72 of the principal Act effected by subsection (1), that section continues to apply in relation to applications for approval of transfers of permits, licences or access authorities lodged before the commencement of this section.
- (4) A transfer approved and registered under section 72 of the principal Act shall be deemed to have been approved and registered under section 72 of the principal Act as amended by this Act.

”

<sup>13</sup> The *Acts Amendment (Petroleum) Act 1990* s. 58(2)-(7) read as follows:

“

- (2) Subject to this section, sections 75 and 75A of the principal Act as amended by this Act apply in relation to dealings evidenced by instruments executed after the commencement of this section.

- (3) A party to an instrument to which section 75 of the principal Act applied, being an instrument that had not been approved under that section of that Act, may, if the instrument evidences a dealing —
- (a) to which section 75 of the principal Act as amended by this Act would, if the instrument had been executed after the commencement of this section, apply; and
  - (b) that relates to a permit, licence or access authority that was in existence at the time of execution of the instrument,

make an application in writing, within 12 months after the commencement of this section, to the Minister for approval of the dealing.

- (4) Where —
- (a) before the commencement of this section, 2 or more persons entered into a dealing relating to a permit, licence or access authority that was not in existence at the time of execution of the instrument evidencing the dealing;
  - (b) that dealing would, if the instrument evidencing the dealing had been executed after the commencement of this section, be a dealing referred to in section 75A(1) of the principal Act as amended by this Act; and
  - (c) that permit, licence or access authority has come, or comes, into existence,

a party to the dealing may make an application in writing within —

- (d) in a case where that permit, licence or access authority came into existence before the commencement of this section, 12 months after that commencement; or
- (e) in any other case, 3 months after that permit, licence or access authority comes into existence,

to the Minister for approval of the dealing.

- (5) Section 75 of the principal Act as amended by this Act (other than subsections (5) and (6) of that section) applies to a dealing in respect of which an application is made under subsection (3) or (4) of this section.
- (6) If, when the first regulations made for the purposes of section 75(4)(b) of the principal Act, as amended by this Act, take effect, an application for approval of a dealing has been made but

the Minister has neither approved nor refused to approve the dealing —

- (a) the Minister shall give to the applicant written notice that the applicant is entitled to lodge an instrument for the purpose of section 75(4)(b) in relation to the application;
  - (b) the applicant may lodge an instrument for the purpose of section 75(4)(b);
  - (c) the application shall not be dealt with by the Minister until after the end of 30 days after the day on which notice is given for the purpose of paragraph (a); and
  - (d) where the applicant lodges an instrument under paragraph (b), the applicant shall lodge with the instrument 2 copies of the instrument.
- (7) An instrument lodged under subsection (6) shall be taken, for the purposes of section 75(13) of the principal Act, as amended by this Act, to have accompanied the application when the application was lodged.

”.

<sup>14</sup> The *Acts Amendment (Petroleum) Act 1990* s. 76(2) and (3) read as follows:

“

- (2) A direction in force under section 95 of the principal Act immediately before the commencement of this section shall, after that commencement, continue to apply to the person or persons to whom it applied before that commencement as if it were a direction under section 95 of the principal Act as amended by this Act.
- (3) A registered holder is not required by section 95(2a) of the principal Act as amended by this Act to cause a copy of a direction to which subsection (2) applies to be given to another person or to cause a copy of such a direction to be exhibited at a place frequented by that other person if the direction or a copy of the direction was served, within the meaning of the principal Act, on the person before the commencement of this section.

”.

<sup>15</sup> The *Acts Amendment (Petroleum) Act 1994* s. 14(2), (3) and (4) read as follows:

“

- (2) Where a permit referred to in section 39(a) of the principal Act is in force at the commencement of this section, the registered holder of the permit may apply to the Minister for the term of that permit to be extended from 5 years to 6 years and that application shall —
  - (a) be in accordance with a form approved by the Minister;

- (b) be accompanied by the particulars set out in section 31(1)(d)(i) of the principal Act relevant to the year that the application is in respect of; and
  - (c) set out any other matters that the applicant wishes the Minister to consider, or that the Minister requests, in connection with the application.
- (3) By instrument in writing served on a person who has made an application under subsection (2) the Minister shall inform that person —
- (a) that the Minister is prepared to extend the term of the permit, and the instrument shall contain a summary of any conditions subject to which the extension is to be granted; or
  - (b) that the Minister has refused to extend the term of the permit.
- (4) The Minister shall grant to an applicant on whom there has been served an instrument under subsection (3)(a) the extension referred to in the instrument if the applicant requests the Minister to do so by instrument in writing served on the Minister within one month after the service on the applicant of the instrument under subsection (3)(a).

”.

<sup>16</sup> The *Acts Amendment (Petroleum) Act 1994* s. 16(2) reads as follows:

“

- (2) Section 41 of the principal Act as in force immediately before the commencement of this section continues to have effect in relation to the renewal of all permits in force at the commencement of this section, other than those permits in respect of which an extension from 5 years to 6 years has been granted under section 14 of this Act, in which case section 41 of the principal Act as amended by this section applies.

”.

<sup>17</sup> The *Acts Amendment (Petroleum) Act 1994* s. 55(2) reads as follows:

“

- (2) Notwithstanding the repeal of section 134B of the principal Act, Part III of the principal Act continues to apply to and in relation to a licence granted on an application made under that section.

”.

<sup>18</sup> The *Acts Amendment (Mining and Petroleum) Act 1999* s. 23(2) and (3) read as follows:

“

- (2) Section 15A as inserted into the *Petroleum Act 1967* by subsection (1) does not prohibit operations being carried out under the authority of —
  - (a) a relevant licence on land that immediately before the commencement of section 22 was declared under section 15(2) of that Act to be Crown land and land to which that Act applied; or
  - (b) the Barrow Island lease.
- (3) In subsection (2) —
  - “**Barrow Island lease**” has the meaning given in section 128 of the *Petroleum Act 1967*;
  - “**relevant licence**” means a production licence for petroleum in force under Part III of the *Petroleum Act 1967* immediately before the commencement of this section.

”

<sup>19</sup> The *Acts Amendment (Mining and Petroleum) Act 1999* s. 26(5) reads as follows:

“

- (5) Despite the amendments made by this section, section 43F of the *Petroleum Act 1967* continues to apply to and in relation to the extension of a drilling reservation in force on the commencement of this section.

”

<sup>20</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>21</sup> On the date as at which this reprint was prepared, the *Native Title (State Provisions) Act 1999* s. 7.3, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

### **7.3. Consequential amendments**

Schedule 2 has effect.

”

Schedule 2 Div. 7 reads as follows:

“

## **Schedule 2 — Consequential amendments**

[s. 7.3]

### **Division 7 — *Petroleum Act 1967***

**49. The Act amended**

The amendments in this Division are to the *Petroleum Act 1967*.

**50. Section 5 amended**

After section 5(8) the following subsection is inserted —

“

- (9) If the exercise of the power conferred by subsection (8) to amend or vary any instrument is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999* that exercise is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”

**51. Section 11 amended**

After section 11(1) the following subsection is inserted —

“

- (1a) If any act to be done under subsection (1) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”

**52. Section 28B inserted**

Immediately before section 29 the following section is inserted —

“

**28B. This Division subject to *Native Title (State Provisions) Act 1999***

The operation of this Division is subject to section 2.6, 3.5 or 4.3, as the case may be, of the *Native Title (State Provisions) Act 1999* where the grant, renewal or extension of an exploration permit or a drilling reservation is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of that Act.

53. **Section 48AA inserted**

Immediately before section 48A the following section is inserted —

“

**48AA. This Division subject to *Native Title (State Provisions) Act 1999***

The operation of this Division is subject to section 2.6, 3.5 or 4.3, as the case may be, of the *Native Title (State Provisions) Act 1999* where the grant or renewal of a retention lease is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of that Act.

”

54. **Section 48L inserted**

Immediately before section 49 the following section is inserted —

“

**48L. This Division subject to *Native Title (State Provisions) Act 1999***

Where the grant or renewal of a production licence is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of the provisions of this Division relating to that grant or renewal is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”

55. **Section 105 amended**

After section 105(3) the following subsection is inserted —

“

- (3a) Where the grant of a special prospecting authority under subsection (3) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”

**56. Section 106 amended**

After section 106(3) the following subsection is inserted —

“

- (3a) Where the grant of an access authority under subsection (3) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”.

**57. Section 116 amended**

After section 116(1) the following subsection is inserted —

“

- (1a) Where the giving of a consent under subsection (1) is a Part 2 act, a Part 3 act or Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”.

”.

<sup>22</sup> On the date as at which this reprint was prepared, the *Petroleum Legislation Amendment and Repeal Act 2005* Pt. 2 had not come into operation. It reads as follows:

“

**Part 2 — Petroleum Act 1967**

**3. The Act amended**

The amendments in this Part are to the *Petroleum Act 1967*.

**4. Section 5 amended**

Section 5(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**facility**” means a structure for or in connection with carrying out a petroleum operation;

“**listed OSH law**” means —

- (a) section 117A;
- (b) Schedule 1;

- (c) a regulation made for the purposes of Schedule 1;
- (d) a regulation made for the purposes of section 149B; or
- (e) any other written law relating to occupational safety and health matters that is prescribed for the purposes of this paragraph;

**“operator” —**

- (a) in relation to an operation to explore for petroleum or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a permit area, means the registered holder of the permit for that area;
- (b) in relation to an operation to drill for petroleum or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a drilling reservation area, means the registered holder of the drilling reservation for that area;
- (c) in relation to an operation to explore for petroleum or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a lease area, means the registered holder of the lease for that area;
- (d) in relation to —
  - (i) an operation to recover petroleum in a licence area or to recover petroleum from a licence area in another area;
  - (ii) an operation to explore for petroleum in a licence area; or
  - (iii) the carrying on of such operations or the execution of such works in a licence area as are necessary for those purposes,means the registered holder of the licence for that area;
- (e) in relation to an operation for the mining, obtaining or production of petroleum under the Barrow Island lease, as defined in section 128, means the lessee, as defined in that section;
- (f) in relation to a petroleum exploration operation specified in a special prospecting authority, means the registered holder of the special prospecting authority;
- (g) in relation to a petroleum exploration operation or an operation related to the recovery of petroleum in or

- from an area specified in an access authority, means the registered holder of the access authority;
- (h) in relation to the injection of petroleum into a natural underground reservoir, means a person (other than the Minister) who is a party to an agreement under section 67(1), or who has the Minister's approval under section 67(2), in respect of that injection;
  - (i) in relation to the injection of carbon dioxide, as defined in section 3 of the *Barrow Island Act 2003*, into an underground reservoir or other subsurface formation, means a person who has the BI Act Minister's approval under section 13 of that Act, in respect of that injection;
  - (j) in relation to any other kind of operation that is prescribed by the regulations to be a petroleum operation for the purposes of the definition of "petroleum operation", means the person prescribed by the regulations to be the operator of such a petroleum operation for the purposes of this definition;

**"other protected person"** means a person who is at or near a place where a petroleum operation is being carried on at the invitation of, or with the express or implied consent of —

- (a) the operator of the petroleum operation; or
- (b) a person in control of a part of the petroleum operation;

**"petroleum operation"** means —

- (a) an operation to explore for petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (b) an operation to drill for petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (c) an operation to recover petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (d) an operation for the mining, obtaining or production of petroleum under the Barrow Island lease, as defined in section 128;
- (e) the injection of petroleum into a natural underground reservoir;

- (f) the injection of carbon dioxide, as defined in section 3 of the *Barrow Island Act 2003*, into an underground reservoir or other subsurface formation;
- (g) any other kind of operation that is prescribed by the regulations to be a petroleum operation for the purposes of this definition,

but does not include an operation of a kind that is prescribed by the regulations not to be a petroleum operation for the purposes of this definition;

**“structure”** means any fixed, moveable or floating structure or installation and includes a pipeline, pumping station, tank station and valve station;

”

**5. Section 7AA inserted**

After section 7 the following section is inserted —

“

**7AA. Disapplication of State occupational safety and health laws**

- (1) The prescribed occupational safety and health laws do not apply in relation to —
  - (a) a petroleum operation; or
  - (b) a person engaged in a petroleum operation or any other protected person.
- (2) In this section —

**“prescribed occupational safety and health laws”** means any laws of the State relating to occupational safety and health (whether or not they also relate to other matters) that are prescribed by the regulations for the purposes of this section.

”

**6. Section 83 repealed**

Section 83 is repealed.

**7. Section 91 amended**

- (1) Section 91(1) is amended by deleting “and shall secure the safety, health and welfare of persons engaged in those operations in or about the permit area, drilling reservation, lease area or licence area”.
- (2) Section 91(3) is amended by deleting “and shall secure the safety, health and welfare of persons engaged in those operations in or about that area”.

**8. Section 117A inserted**

After section 117 the following section is inserted —

“

**117A. Interfering with petroleum operation**

A person must not intentionally or recklessly —

- (a) cause damage to, or interfere with, a well or any structure or vessel in the State that is, or is to be, used in a petroleum operation; or
- (b) interfere with any petroleum operation.

Penalty: imprisonment for 10 years.

”

**9. Section 118 amended**

- (1) Section 118(1) is amended by deleting “the purposes of this Act and the regulations.” and inserting instead —

“

such or all of the purposes of this Act as are specified in the instrument of appointment.

”

- (2) Section 118(2) is amended by deleting “he is such an inspector for the purposes of this Act and the regulations.” and inserting instead —

“

the person is an inspector for the purposes specified in the certificate.

”

**10. Section 119 amended**

Section 119(1) is amended by deleting “and the regulations,” and inserting instead —

“

, but without affecting the powers of an inspector under Schedule 1,

”

**11. Section 119A inserted**

After section 119 the following section is inserted —

“

**119A. Protection from liability for wrongdoing**

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

”

**12. Section 125 amended**

Section 125 is amended by deleting “(being an offence arising under this Part) or the regulations”.

**13. Section 126A inserted**

After section 126 the following section is inserted —

“

**126A. Evidentiary matters**

- (1) In a proceeding for an offence against this Act an averment in the complaint that at a particular time —
  - (a) a particular operation was a petroleum operation;
  - (b) a particular person was the operator of a petroleum operation;
  - (c) a particular person was in control of a particular part of a petroleum operation;
  - (d) a particular person was an employer who carried on a petroleum operation;
  - (e) a particular person was an employer of a particular person or particular persons engaged in a petroleum operation; or
  - (f) a particular person was an employee or inspector,

is to be taken to have been proved in the absence of evidence to the contrary.

- (2) In a proceeding for an offence against this Act, proof is not required as to any of the following matters, unless evidence is given to the contrary —
- (a) a delegation under section 25 by the Minister of a power or function;
  - (b) the authority of any person to institute a proceeding for an offence against this Act other than an offence against a listed OSH law;
  - (c) the authority of an inspector to institute a proceeding for an offence against a listed OSH law.
- (3) In a proceeding for an offence against this Act, production of a copy of —
- (a) a code of practice;
  - (b) an Australian Standard; or
  - (c) an Australian/New Zealand Standard,

purporting to be certified by the CEO to be a true copy as at any date or during any period is, without proof of the signature of the CEO, sufficient evidence of the contents of the code of practice or Standard as at that date or during that period.

- (4) In subsection (3) —
- “**Australian Standard**” means a document having that title published by Standards Australia;
- “**Australian/New Zealand Standard**” means a document having that title jointly published by Standards Australia and the Standards Council of New Zealand;
- “**CEO**” means the chief executive officer of the department of the Public Service principally assisting in the administration of this Act.

”.

**14. Part IIIA inserted**

After section 149 the following Part is inserted —

“

**Part IIIA — Occupational safety and health**

**149A. Occupational safety and health**

Schedule 1 has effect.

**149B. Regulations relating to occupational safety and health**

- (1) The regulations may make provision in relation to —
  - (a) the occupational safety and health of a person engaged in a petroleum operation; or
  - (b) the safety and health of any other protected person.
- (2) Without limiting subsection (1), regulations for the purpose of that subsection may —
  - (a) require a person who is carrying on a petroleum operation to establish and maintain a system of management to secure —
    - (i) the occupational safety and health of a person engaged in a petroleum operation; or
    - (ii) the safety and health of any other protected person;
  - and
  - (b) specify requirements with which the system must comply.

**149C. Minister's occupational safety and health functions**

- (1) The Minister has the following functions —
  - (a) to promote the occupational safety and health of persons engaged in petroleum operations;
  - (b) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational safety and health obligations under this Act;
  - (c) to investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational safety and health of persons engaged in petroleum operations;
  - (d) to advise persons, either on the Minister's own initiative or on request, on occupational safety and health matters relating to petroleum operations.
- (2) The Minister has power to do all things necessary or convenient to be done for or in connection with the performance of the Minister's functions.

”

**15. Section 153 amended**

- (1) Section 153(2) is amended as follows:

- (a) after paragraph (j) by deleting “and”;
- (b) in paragraph (k) by deleting “State.” and inserting instead —

“

State;

- (l) fees in relation to petroleum operations, safety audits or other services provided by the Minister;
- (m) any transitional matter arising out of the amendments made to this Act by the *Petroleum Legislation Amendment and Repeal Act 2005*.

”

- (2) After section 153(2b) the following subsection is inserted —

“

- (2c) Regulations under this section may adopt or apply, with or without modification, any regulation made under the *Petroleum Pipelines Act 1969*, the *Petroleum (Submerged Lands) Act 1982* or the Commonwealth Act as defined in that Act, that is in force or existing at the time when the regulations under this section take effect or as in force or existing from time to time.

”

**16. Various sections amended to delete “the regulations”**  
**(*Interpretation Act 1984 s. 46*)**

- (1) The provisions set out in the Table to this section are amended by deleting “or the regulations” in each case.

**Table**

|                 |                   |
|-----------------|-------------------|
| s. 8(1) (twice) | s. 121(1) and (2) |
| s. 25(1)(a)     |                   |

- (2) The provisions set out in the Table to this section are amended by deleting “and the regulations” in each case.

**Table**

|        |           |
|--------|-----------|
| s. 38  | s. 105(4) |
| s. 43D | s. 106(5) |
| s. 48C | s. 112(6) |
| s. 62  |           |

**17. Schedule replaced with Schedule 1**

The Schedule is repealed and the following Schedule is inserted instead —

“

**Schedule 1 — Occupational safety and health**

[s. 149A]

**Division 1 — Introduction**

**1. Objects**

The objects of this Schedule are, in relation to petroleum operations —

- (a) to secure the occupational safety and health of persons engaged in those operations;
- (b) to protect persons in the vicinity of those operations at the invitation of, or with the express or implied consent of, the operators of, or persons in control of a part of, those operations from risks to safety and health arising out of those operations;
- (c) to ensure that expert advice is available on occupational safety and health matters in relation to those operations;
- (d) to promote an occupational environment for members of the workforce engaged in those operations that is adapted to their needs relating to safety and health; and
- (e) to foster a consultative relationship between all relevant persons concerning the safety and health of members of the workforce engaged in those operations.

**2. Simplified outline**

The following is a simplified outline of this Schedule —

- This Schedule sets up a scheme to regulate occupational safety and health matters relating to petroleum operations.
- Occupational safety and health duties are imposed on the following —
  - (a) the operator of a petroleum operation;
  - (b) a person in control of any part of a petroleum operation;
  - (c) an employer;
  - (d) a manufacturer of plant, or a substance, for use in a petroleum operation;

- (e) a supplier of a facility, or of any plant or substance, for use in a petroleum operation;
- (f) a person who erects or installs a facility, or any plant, for use in a petroleum operation;
- (g) a person engaged in a petroleum operation.
- A group of members of the workforce engaged in a petroleum operation may be established as a designated work group.
- The members of a designated work group may select a safety and health representative for that designated work group.
- The safety and health representative may exercise certain powers for the purpose of promoting or ensuring the occupational safety and health of group members.
- An inspector may conduct an inspection —
  - (a) to ascertain whether a listed OSH law is being complied with;
  - (b) concerning a contravention or a possible contravention of a listed OSH law; or
  - (c) concerning an accident or dangerous occurrence that has happened at or near a place at which a petroleum operation is carried on.
- The operator of a petroleum operation must report to the Minister accidents and dangerous occurrences arising out of the petroleum operation.

**3. Definitions**

In this Schedule —

“**accident**” includes the contraction of a disease;

“**contract**” includes an arrangement or understanding;

“**contractor**” has the meaning given by clause 6;

“**dangerous occurrence**” means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition;

“**designated work group**” means —

- (a) a group of members of the workforce engaged in a petroleum operation that is established as a designated work group under clause 17 or 18; or
- (b) that group as varied in accordance with clause 19 or 20;

“**employee**”, in relation to an employer, means an employee of that employer;

- “employer”** means an employer who carries on a petroleum operation;
- “group member”**, in relation to a designated work group for a petroleum operation, means a person who is —
- (a) a member of the workforce engaged in that operation; and
  - (b) included in that designated work group;
- “improvement notice”** means an improvement notice issued under clause 60(1);
- “inspection”** means an inspection conducted under Division 4 and includes an investigation or inquiry;
- “member of the workforce”**, in relation to a petroleum operation, means a natural person who is engaged in the operation, whether —
- (a) as an employee of the operator or of another person; or
  - (b) as a contractor of the operator or of another person;
- “operator’s representative”** means a person present at a workplace in compliance with the obligations imposed on the operator by clause 4;
- “own”** includes own jointly and 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 clause 58(1);
- “registered organisation”** means an organisation —
- (a) within the meaning of the *Workplace Relations Act 1996* of the Commonwealth; or
  - (b) as defined in section 7(1) of the *Industrial Relations Act 1979*;
- “regulated business premises”** means —
- (a) a place where a petroleum operation is carried on; or
  - (b) premises that are —
    - (i) occupied by a person who is the operator of a petroleum operation; and

- (ii) used, or proposed to be used, wholly or principally in connection with a petroleum operation;

**“regulations”** means regulations made for the purposes of this Schedule;

**“Tribunal”** has the meaning given to that term in the *Occupational Safety and Health Act 1984* section 51G(2);

**“work”** means work that is directly or indirectly related to a petroleum operation;

**“workforce representative”** means —

- (a) in relation to a person who is a member of the workforce engaged in a petroleum operation — 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 in relation to the petroleum operation; 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, in relation to the petroleum operation as a member of the group;

**“work group employer”**, in relation to a designated work group in relation to a petroleum operation, means an employer of one or more group members, but does not include the operator of the petroleum operation;

**“workplace”**, in relation to a petroleum operation, means the whole place where the petroleum operation is carried on or any part of a place where the petroleum operation is carried on.

**4. Operator must ensure presence of operator’s representative**

- (1) The operator of a petroleum operation must ensure that, at all times when one or more natural persons are engaged in the petroleum operation, there is present at the workplace a natural person (the **“operator’s representative”**) who has day to day management and control of the petroleum operation.  
Penalty: \$5 500.
- (2) The operator of a petroleum operation must ensure that the name of the operator’s representative is displayed in a prominent place at the workplace.  
Penalty: \$5 500.

- (3) Subclause (1) does not imply that, if the operator is a natural person, the operator's representative may not be, from time to time, the operator.

**5. Safety and health of persons using an accommodation amenity**

For the avoidance of doubt, a reference in this Schedule to the occupational safety and health of a person includes a reference to the safety and health of a person using an accommodation amenity provided for the accommodation of persons engaged in a petroleum operation.

**6. Contractor**

For the purposes of this Schedule, a natural person is taken to be a "contractor" of another person (the "**relevant person**") if the natural person is engaged in a petroleum operation under a contract for services between —

- (a) the relevant person; and
- (b) either —
  - (i) the natural person; or
  - (ii) the employer of the natural person.

**Division 2 — Occupational safety and health**

**Subdivision 1 — Duties relating to occupational safety and health**

**7. Duties of operator**

- (1) The operator of a petroleum operation must take all reasonably practicable steps to ensure that the petroleum operation is carried out in a manner that is safe and without risk to the health of persons engaged in the petroleum operation or other protected persons.  
Penalty: \$110 000.
- (2) Without limiting the generality of subclause (1), the operator of a petroleum operation must —
- (a) provide and maintain a physical environment at the place where the petroleum operation is carried out that is safe and without risk to health;
  - (b) provide and maintain adequate amenities for the safety and health of all members of the workforce engaged in the petroleum operation;
  - (c) ensure that any plant, equipment, materials and substances for use in the petroleum operation are safe and without risk to health;

- (d) implement and maintain systems of work in relation to the petroleum operation that are safe and without risk to health;
- (e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies arising out of the petroleum operation;
- (f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the occupational safety and health of persons engaged in the petroleum operation;
- (g) monitor the occupational safety and health of all members of the workforce and keep records of that monitoring;
- (h) provide appropriate medical and first aid services at the places at which a petroleum operation is carried on; and
- (i) develop, in consultation with members of the workforce and workforce representatives, a policy relating to occupational safety and health that —
  - (i) will enable the operator and the members of the workforce to cooperate effectively in promoting and developing measures to ensure the occupational safety and health of persons engaged in the petroleum operation;
  - (ii) will provide adequate mechanisms for reviewing the effectiveness of the measures; and
  - (iii) provides for the making of an agreement that complies with subclauses (4) and (5).

Penalty: \$110 000.

- (3) Subclause (2)(i) does not require the operator of a petroleum operation to engage in consultations with a workforce representative unless a member of the workforce engaged in the petroleum operation has requested the workforce representative to be involved in those consultations.
- (4) The agreement referred to in subclause (2)(i)(iii) 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 engaged in the petroleum operation has requested a workforce

representative in relation to the member to be a party to that agreement — that workforce representative.

- (5) The agreement referred to in subclause (2)(i)(iii) 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 engaged in the petroleum operation has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion — that workforce representative.
- (6) The agreement may provide for any other matters agreed between the parties to it.

**8. Duties of persons in control of parts of petroleum operation**

- (1) A person who is in control of any part of a petroleum operation must take all reasonably practicable steps to ensure that that part of the petroleum operation is carried out in a manner that is safe and without risk to the health of persons engaged in the petroleum operation or other protected persons  
Penalty: \$110 000.
- (2) Without limiting the generality of subclause (1), a person who is in control of any part of a petroleum operation must —
- (a) ensure that the physical environment at the place where that part of the petroleum operation is carried out is safe and without risk to health;
  - (b) ensure that any plant, equipment, materials and substances for use in that part of the petroleum operation are safe and without risk to health;
  - (c) implement and maintain systems of work in relation to that part of the petroleum operation that are safe and without risk to health;
  - (d) ensure a means of access to, and egress from the place where that part of the petroleum operation is carried out is safe and without risk to health; and
  - (e) provide all members of the workforce engaged in that part of the petroleum operation in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: \$110 000.

**9. Duties of employers**

- (1) An employer must take all reasonably practicable steps to protect the safety and health of employees engaged in a petroleum operation.

Penalty: \$110 000.

- (2) Without limiting the generality of subclause (1), an employer must —

- (a) provide and maintain a working environment that is safe for employees and without risk to their health;
- (b) ensure that any plant, equipment, materials and substances for use in connection with the employees' work are safe and without risk to health;
- (c) implement and maintain systems of work that are safe and without risk to health;
- (d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health; and
- (e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: \$110 000.

- (3) A person has, in respect of a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in respect of an employee of that employer, but only in relation to —

- (a) matters over which the first-mentioned person has control; or
- (b) matters over which —
  - (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.

- (4) An employer must take all reasonable steps to —

- (a) monitor the safety and health of employees; and
- (b) keep records of that monitoring.

Penalty: \$110 000.

- (5) An employer must take all reasonably practicable steps to ensure that —
- (a) work that is undertaken by the employer's employees is carried out in a manner that is safe and without risk to the health of persons engaged in the petroleum operation or other protected persons; and
  - (b) the employer's system of work is operated in a manner that is safe and without risk to the health of persons engaged in the petroleum operation or other protected persons.

Penalty: \$22 000.

**10. Duties of manufacturers in relation to plant and substances**

- (1) A manufacturer of any plant that the manufacturer knows or ought reasonably to expect will be used by members of the workforce engaged in a petroleum operation 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;
  - (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 safety or health that may arise from the use of the plant; and
  - (c) to make available, in connection with the use of the plant in a petroleum operation, adequate written information about —
    - (i) the use for which it is designed and has been tested;
    - (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.

Penalty: \$22 000.

- (2) A manufacturer of any substance that the manufacturer knows or ought reasonably to expect will be used by members of the workforce engaged in a petroleum operation 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;
  - (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 safety or health that may arise from the use of the substance; and

- (c) to make available, in connection with the use of the substance in a petroleum operation, adequate written information concerning —
  - (i) the use for which it is manufactured and has been tested;
  - (ii) details of its composition;
  - (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.

Penalty: \$22 000.

- (3) If —
  - (a) plant or a substance is imported into Australia by a person who is not its manufacturer; and
  - (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia,

the first-mentioned person is taken, for the purposes of this clause, to be the manufacturer of the plant or substance.

- (4) This clause does not affect the operation of any other law of this State that imposes an obligation on a manufacturer in respect of defective goods or in respect of information to be supplied in relation to goods.

#### **11. Duties of suppliers of facilities, plant and substances**

- (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 engaged in a petroleum operation, 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;
  - (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 safety or health 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 the petroleum operation; 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;
  - (iv) any risk to the safety and health of members of the workforce engaged in a petroleum operation to which the condition of the facility, plant or substance may give rise unless it is properly used;
  - (v) the steps that need to be taken in order to eliminate that 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 engaged in a petroleum operation.

Penalty: \$22 000.

- (2) For the purposes of subclause (1), if a person (the “**ostensible supplier**”) supplies to a person either a facility, or any plant or substance, that is for use by members of the workforce engaged in a petroleum operation, and the ostensible supplier —
- (a) carries on the business of financing the acquisition or the use of goods by other persons;
  - (b) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the “**actual supplier**”), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and
  - (c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied,

a reference in subclause (1) to a supplier is, in relation to the facility, plant or substance referred to in this subclause, to be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

- (3) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the sale or supply of goods or in respect of the information to be supplied in relation to goods.

**12. Duties of persons erecting facilities or installing plant**

- (1) A person who erects or installs a facility, or erects or installs any plant, for use in a petroleum operation, 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 safety or health.

Penalty: \$22 000.

- (2) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the erection or installation of structures or goods or the supply of services.

**13. Duties of persons in relation to occupational safety and health**

- (1) A person engaged in a petroleum operation 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 —
    - (i) the occupational safety and health of that person; or
    - (ii) the safety and health of any other protected person;
  - (b) in respect of any obligation imposed on the operator or on any other person under a listed OSH 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 the petroleum operation (the “**equipment supplier**”); and
    - (ii) necessary to protect the occupational safety and health of the person, or the safety and health of

any other person engaged in the petroleum operation or protected person, in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Penalty: \$5 500.

- (2) Despite subclause (1), the choice or manner of use, or choice and manner of use, of equipment of the kind referred to in subclause (1)(c)(ii) is a matter that may be, consistently with each listed OSH law —
  - (a) agreed on between the equipment supplier and any relevant safety and health representative; or
  - (b) agreed on by a safety and health committee.
- (3) If an agreement of the kind referred to in subclause (2)(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.
- (4) If an agreement of the kind referred to in subclause (2)(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.

**14. Reliance on information supplied or results of research**

- (1) For the purpose of the application of clause 7, 8 or 9 to the use of plant or a substance, a person on whom an obligation is imposed under any of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, 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 occupational safety and health in its use; and
  - (b) it was reasonable for the person to rely on that information.
- (2) For the purpose of the application of clause 10 or 11 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under either of those clauses is regarded as having taken reasonably

practicable steps as required by the relevant clause, 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.
- (3) For the purpose of the application of clause 12 to the erection of a facility or the erection or installation of plant for use in a petroleum operation, a person on whom an obligation is imposed under that clause is regarded as having taken reasonably practicable steps as required by that clause 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 occupational safety and health of persons engaged in the petroleum operation;
  - and
  - (b) it was reasonable for the person to rely on that information.
- (4) Nothing in this clause limits the generality of what constitutes reasonably practicable steps as required by clause 7, 8, 9, 10, 11 or 12.

**Subdivision 2 — Regulations relating to occupational safety and health**

**15. Regulations relating to occupational safety and health**

- (1) The regulations may make provision relating to any matter affecting, or likely to affect, the occupational safety and health of persons engaged in a petroleum operation.
- (2) 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 in relation to a petroleum operation;
  - (b) prohibiting or restricting the use of all plant or specified plant in a petroleum operation;
  - (c) prohibiting or restricting the carrying out of all processes or a specified process in a petroleum operation;

- (d) prohibiting or restricting the storage or use of all substances or specified substances in a petroleum operation;
- (e) specifying the form in which information required to be made available under clause 10(1)(c) or 11(1)(c) is to be so made available;
- (f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or specified substances in a petroleum operation;
- (g) providing for —
  - (i) the issue, variation, renewal, transfer, suspension and cancellation of those licences; and
  - (ii) the conditions to which the licences may be subject;
- (h) regulating the maintenance and testing of plant for use in a petroleum operation;
- (i) regulating the labelling or marking of substances for use in a petroleum operation;
- (j) regulating the transport of specified plant or specified substances for use in a petroleum operation;
- (k) prohibiting the performance, in relation to a petroleum operation, 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 of persons to perform specified duties relating to the maintenance of occupational safety and health in relation to a petroleum operation;
- (o) regulating the provision and use, in a petroleum operation, of protective clothing and equipment, safety equipment and rescue equipment;
- (p) providing for monitoring the health of members of the workforce engaged in a petroleum operation and the

conditions at a place at which a petroleum operation is carried out;

- (q) requiring employers to keep records of matters related to the occupational safety and health of employees;
- (r) providing for the provision of first aid equipment and amenities at a place at which a petroleum operation is carried out.

### **Division 3 — Workplace arrangements**

#### **Subdivision 1 — Introduction**

#### **16. Simplified outline**

The following is a simplified outline of this Subdivision —

- A group of members of the workforce engaged in a petroleum operation may be established as a designated work group.
- The members of a designated work group may select a safety and health representative for that designated work group.
- The safety and health representative may exercise certain powers for the purpose of promoting or ensuring the occupational safety and health of group members.
- A safety and health committee may be established in relation to the members of the workforce engaged in a petroleum operation.
- The main function of a safety and health committee is to assist the operator in relation to occupational safety and health matters.

#### **Subdivision 2 — Designated work groups**

#### **17. Establishment of designated work groups by request**

- (1) A request to the operator of a petroleum operation to enter into consultations to establish designated work groups in relation to the members of the workforce engaged in the petroleum operation may be made by —
  - (a) any member of the workforce; or
  - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator — that workforce representative.
- (2) The operator of a petroleum operation 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;
  - (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.
- (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.

**18. Establishment of designated work groups at initiative of operator**

- (1) If, at any time, the operator of a petroleum operation considers that designated work groups should be established, the operator must enter into consultations with —
  - (a) all members of the workforce;
  - (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.
- (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.

**19. Variation of designated work groups by request**

- (1) A request to the operator of a petroleum operation to enter into consultations to vary designated work groups that have already

been established in relation to the members of the workforce engaged in the petroleum operation may be made by —

- (a) any member of the workforce; or
  - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator — that workforce representative.
- (2) The operator of a petroleum operation 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;
    - (ii) the safety and health 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 that workforce representative in relation to the group — that workforce representative;
    - (ii) the safety and health 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.
- (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.

**20. Variation of designated work groups at initiative of operator**

- (1) If the operator of a petroleum operation believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with —
  - (a) the safety and health representative of each of the designated work groups affected by the proposed variation;
  - (b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that 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.
- (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.

**21. Referral of disagreement to reviewing authority**

- (1) If, in the course of consultations under clause 17, 18, 19 or 20, 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) The party referring the matter to the reviewing authority must give notice of the referral to all the other parties to the disagreement.
- (3) The reviewing authority is to —
  - (a) resolve the matter of the disagreement referred to the reviewing authority; and
  - (b) notify all parties to the disagreement of the decision.

- (4) If the matter of a 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.
- (5) In this clause —  
“**reviewing authority**” means a person prescribed by the regulations to be a reviewing authority for the purposes of this clause.

**22. Manner of grouping members of the workforce**

- (1) Consultations about the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping members of the workforce —
  - (a) that best and most conveniently enables their interests relating to occupational safety and health to be represented and safeguarded; and
  - (b) that best takes account of the need for any safety and health 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 engaged in the petroleum operation to which the consultation relates;
  - (b) the nature of each type of work performed by those members;
  - (c) the number and grouping of those members who perform the same or similar types of work;
  - (d) the workplaces where each type of work is performed;
  - (e) the nature of any risks to safety and health at each of those workplaces; and
  - (f) any overtime or shift working arrangement in relation to the petroleum operation.
- (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 engaged in a petroleum operation is in a designated work group.
- (4) All the members of the workforce engaged in a petroleum operation may be in one designated work group.

**Subdivision 3 — Safety and health representatives**

**23. Selection of safety and health representatives**

- (1) One safety and health representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the safety and health 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 safety and health 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 safety and health representative of the group in accordance with clause 24.

**24. Election of safety and health representatives**

- (1) If —
  - (a) there is a vacancy in the office of safety and health representative for a designated work group; and
  - (b) within a reasonable time after the vacancy occurs, a person has not been selected under clause 23(3)(a),the operator of the petroleum operation must invite nominations from all group members for election as the safety and health representative of the group.
- (2) If the office of safety and health 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 Minister may direct the operator to do so.
- (3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.
- (4) An election conducted or arranged to be conducted under subclause (3) must be conducted in accordance with regulations made for the purposes of this subclause if this is requested by the lesser of —
  - (a) 100 members of the workforce normally in the designated work group; or
  - (b) a majority of the members of the workforce normally in the designated work group.
- (5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.

- (6) A person cannot be a candidate in the election if he or she is disqualified under clause 30.
- (7) All the members of the workforce in the designated work group are entitled to vote in the election.
- (8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Minister.

**25. List of safety and health representatives**

The operator of a petroleum operation must —

- (a) prepare and keep up to date a list of all the safety and health representatives of designated work groups comprising members of the workforce engaged in the petroleum operation; and
- (b) ensure that the list is available for inspection, at all reasonable times, by —
  - (i) the members of the workforce engaged in the petroleum operation; and
  - (ii) inspectors.

**26. Members of designated work group must be notified of selection etc. of safety and health representative**

The operator of a petroleum operation must —

- (a) notify members of a designated work group in relation to the petroleum operation of a vacancy in the office of safety and health 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 clause 23(3)(a) or (b)) as safety and health representative for the designated work group within a reasonable time after the selection is made.

**27. Term of office**

- (1) A safety and health representative for a designated work group holds office —
  - (a) if, in consultations that took place under clause 17, 18, 19 or 20, the parties to the consultations agreed to the period for which the safety and health representative for the group was to hold office — for that period; or
  - (b) if paragraph (a) does not apply — for 2 years.
- (2) The term of office of a safety and health representative begins at the start of the day on which he or she was selected.

- (3) Nothing in this clause prevents a safety and health representative from being selected for further terms of office.

**28. Training of safety and health representatives**

- (1) A safety and health representative for a designated work group must undertake a course of training relating to occupational safety and health that is accredited by the Minister for the purposes of this clause.
- (2) The operator of the petroleum operation concerned must permit the representative to take any time off work, without loss of remuneration or other entitlements, that 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 any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

**29. Resignation etc. of safety and health representatives**

- (1) A person ceases to be the safety and health representative for the designated work group if —
- (a) the person resigns as the safety and health representative;
  - (b) the person ceases to be a group member of that designated work group;
  - (c) the person's term of office expires without the person having been selected, under clause 23, to be the safety and health representative for the designated work group for a further term; or
  - (d) the person is disqualified under clause 30.
- (2) A person may resign as the safety and health representative for a designated work group by notice in writing delivered to the operator and to each work group employer.
- (3) If a person resigns as the safety and health representative for a designated work group, the person must notify the resignation to the group members.
- (4) If a person has ceased to be the safety and health representative for a designated work group because of subclause (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 safety and health representative for that designated work group.

**30. Disqualification of safety and health representatives**

- (1) An application for the disqualification of a safety and health representative for a designated work group may be made to the Tribunal by —
  - (a) the operator;
  - (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.
- (2) An application under subclause (1) may be made on either or both of the following grounds —
  - (a) that action taken by the representative in the exercise or purported exercise of a power under clause 32(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 representative;
  - (b) that the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a safety and health representative, information acquired from the operator or work group employer.
- (3) On an application under subclause (1), the Tribunal may disqualify the representative, for a specified period not exceeding 5 years, from being a safety and health representative for any designated work group, if the Tribunal is satisfied that the representative has acted in a manner referred to in subclause (2).
- (4) In making a decision under subclause (3), the Tribunal must have 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;
  - (b) the past record of the representative in exercising the powers of a safety and health representative;
  - (c) the effect (if any) on the public interest of the action of the representative; and

(d) any other matters the Tribunal thinks relevant.

**31. Deputy safety and health representatives**

- (1) One deputy safety and health representative may be selected for each designated work group for which a safety and health representative has been selected.
- (2) A deputy safety and health representative is to be selected in the same way as a safety and health representative under clause 23.
- (3) If the safety and health representative for a designated work group —
  - (a) ceases to be the safety and health representative; or
  - (b) is unable (because of absence or for any other reason) to exercise the powers of a safety and health representative,then —
  - (c) the powers may be exercised by the deputy safety and health representative (if any) for the group; and
  - (d) this Schedule (other than this clause) applies in relation to the deputy safety and health representative accordingly.

**32. Powers of safety and health representatives**

- (1) A safety and health representative for a designated work group may, for the purpose of promoting or ensuring the safety and health at a workplace of the group members —
  - (a) do all or any of the following —
    - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;
    - (ii) inspect the whole or any part of the workplace if the safety and health representative has given reasonable notice of the inspection to the operator's representative and to any other person having immediate control of the workplace;
    - (iii) make a request to an inspector or to the Minister that an inspection be conducted at the workplace;
    - (iv) accompany an inspector during any inspection at the workplace by the inspector (whether or not the inspection is being conducted as a result of a

- request made by the safety and health representative);
  - (v) if there is no safety and health committee in respect of the members of the workforce engaged in the petroleum operation — represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the safety and health of those members at the workplace;
  - (vi) if a safety and health committee has been established in respect of the members of the workforce engaged in the petroleum operation — examine any of the records of that committee;
  - (b) investigate complaints made by any group member to the safety and health representative about the safety and health of any of the members of the workforce (whether in the group or not);
  - (c) with the consent of a group member, be present at any interview about safety and health at work between that member and —
    - (i) an inspector;
    - (ii) the operator or a person representing the operator; or
    - (iii) a work group employer or a person representing that employer;
  - (d) obtain access to any information under the control of the operator or any work group employer —
    - (i) relating to risks to the safety and health of any group member; and
    - (ii) relating to the safety and health of any group member;
- and
- (e) issue provisional improvement notices in accordance with clause 36.
- (2) Subclause (1)(d)(ii) has effect subject to clause 34.
- 33. Assistance by consultant**
- (1) A safety and health representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.

- (2) A safety and health 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 safety and health representative by a group member under clause 32(1)(d),
- only if the operator or the Minister has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.
- (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.
- (4) If a safety and health 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 safety and health at work, between a group member and —
- (a) an 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.

**34. Information**

- (1) Neither —
- (a) a safety and health representative; nor
  - (b) a consultant assisting a safety and health representative,
- is entitled, under clause 32(1)(d)(ii), to have access to information in respect of which a group member is entitled to claim, and does claim, legal professional privilege.
- (2) Neither —
- (a) a safety and health representative; nor
  - (b) a consultant assisting a safety and health representative,
- is entitled, under clause 32(1)(d)(ii), 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 safety and health representative, or the safety and health

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.

**35. Obligations and liabilities of safety and health 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 safety and health 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.

**36. Provisional improvement notices**

- (1) If —
  - (a) a safety and health representative for a designated work group believes, on reasonable grounds, that a person —
    - (i) is contravening a listed OSH law; or
    - (ii) has contravened a provision of a listed OSH 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.

- (2) If, in the safety and health representative's opinion, agreement is not reached within a reasonable time, the safety and health representative may issue a provisional improvement notice to any or each person (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.
- (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.
- (5) The notice must —
- (a) specify the contravention that, in the safety and health 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.
- (7) If, in the safety and health 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.
- (8) On issuing the notice, the safety and health representative must give a copy of the notice to —
- (a) if the operator is not a responsible person — the operator;
- (b) each work group employer other than a work group employer who is a responsible person;
- (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.

**37. Effect of provisional improvement notice**

- (1) Within 7 days after a notice is issued under clause 36 —
- (a) the responsible person; or
- (b) any other person, to whom a copy of the notice has been given under clause 36(8),
- may request an inspector for an inspection of the matter to be conducted.

- (2) On the request being made, the operation of the notice is suspended pending the determination of the matter by an inspector.
- (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 inspector conducting the inspection must —
  - (a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under clause 36(8) accordingly; and
  - (b) make decisions, and exercise powers, under Division 4, as the inspector considers necessary in relation to the work.
- (4) If the 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.
- (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.
- (6) The notice ceases to have effect if —
  - (a) it is cancelled by an inspector or by the safety and health representative; or
  - (b) the responsible person —
    - (i) takes the action, if any, specified in the notice; or
    - (ii) if no action is so specified — takes the action necessary to prevent the further contravention, or likely contravention, concerned.
- (7) The responsible person —

- (a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and
  - (b) must take reasonable steps to inform the safety and health representative who issued the notice of the action taken to comply with the notice.
- (8) For the purposes of clause 64, if the inspector confirms or varies the notice, the inspector is taken to have decided, under clause 60, to issue an improvement notice in those terms.

**38. Duties of the operator and other employers in relation to safety and health representatives**

- (1) The operator of a petroleum operation, in relation to which a designated work group having a safety and health 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, being changes that may affect their safety and health;
  - (b) in relation to a workplace at which some or all of the group members perform work —
    - (i) permit the representative to make any inspection of the workplace that the representative is entitled to make in accordance with clause 32(1)(a)(i) and to accompany an inspector during an inspection at the workplace by the inspector; and
    - (ii) if there is no safety and health committee in respect of the members of the workforce — on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the safety and health of group members;
  - (c) permit the representative to be present at any interview at which the representative is entitled to be present under clause 32(1)(c);
  - (d) provide to the representative access to any information to which the representative is entitled to obtain access under clause 32(1)(d)(i) or (ii) and to which access has been requested;

- (e) permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to exercise the powers of a safety and health representative; and
  - (f) provide the representative with access to any amenities that are —
    - (i) prescribed for the purposes of this paragraph; or
    - (ii) necessary for the purposes of exercising the powers of a safety and health representative.
- (2) Subclause (1)(d) has effect subject to subclauses (3) and (4).
- (3) The operator must not permit a safety and health 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 safety and health representative access to any information in respect of which the operator is entitled to claim, and does claim, legal professional privilege.
- (5) The duties imposed by this clause on the operator in respect of the safety and health 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.

**Subdivision 4 — Safety and health committees**

**39. Safety and health committees**

- (1) A safety and health committee must be established in relation to the members of the workforce engaged in a petroleum operation if —
  - (a) the number of those members normally engaged in the petroleum operation is not less than 50 (whether or not

- those members are all at work in relation to the petroleum operation at the same time);
- (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 safety and health representative for the designated work group or for one of the designated work groups.
- (2) The safety and health 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 employer (other than the operator) of members of the workforce.
- (3) The agreement referred to in subclause (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.
- (4) If regulations made for the purposes of this clause specify procedures for the selection of persons as members of safety and health committees to represent the interests of members of the workforce, an agreement referred to in subclause (2)(a) must not provide for members to be chosen in a way inconsistent with the regulations.
- (5) A safety and health committee must hold a meeting at least once every 3 months.
- (6) The procedure at meetings of a safety and health committee must, except to the extent provided for by the regulations, be the procedure agreed upon by the committee.
- (7) A safety and health committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.

- (8) This clause does not prevent an operator from establishing, in consultation with registered unions or any other persons, committees concerned with occupational safety and health in relation to undertakings carried on by the operator.

**40. Functions of safety and health committees**

- (1) A safety and health committee has the following functions —
- (a) to assist the operator of the petroleum operation concerned —
    - (i) to develop and implement measures designed to protect; and
    - (ii) to review and update measures used to protect, the safety and health at work of members of the workforce;
  - (b) to facilitate cooperation between the operator of the petroleum operation, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational safety and health matters;
  - (c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to safety and health at work;
  - (d) any prescribed functions;
  - (e) any other functions that are agreed between the operator and the safety and health committee.
- (2) A safety and health 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 safety and health 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.

**41. Duties of the operator and other employers in relation to safety and health committees**

- (1) If there is a safety and health 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 safety and health to members of the workforce; and
  - (b) permit any member of the committee who is a member of the workforce to take 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) Subclause (1)(a) has effect subject to subclauses (3) and (4).
- (3) The operator or any employer (other than the operator) of a member of the workforce must not make available to a safety and health 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 safety and health committee any information in respect of which the operator or employer is entitled to claim, and does claim, legal professional privilege.

**Subdivision 5 — Emergency procedures**

**42. Action by safety and health representatives**

- (1) If a safety and health representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the safety or health of any person engaged in the petroleum operation or any other protected person 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 subclause (1)(a) of a danger to the safety or health of a person engaged in the petroleum operation or any other protected person, the supervisor must take the action he or she thinks appropriate to remove that danger, which may include directing a group member or group members to cease, in a safe manner, to perform the work.
- (3) If —
  - (a) a safety and health representative has informed a supervisor under subclause (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 safety or health of a person engaged in the petroleum operation or any other protected person unless the group member or group members cease to perform particular work,the representative must —
  - (c) direct the group member or group members to cease, in a safe manner, to perform the work; and
  - (d) as soon as practicable, inform the supervisor that the direction has been given.
- (4) If —
  - (a) a safety and health representative gives a direction under subclause (1)(b), but is unable to agree with a supervisor whom the representative has informed under that subclause that there is a need for a direction under that subclause; or
  - (b) a safety and health representative gives a direction under subclause (3)(c),the representative or the supervisor may request an 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 inspector conducting the inspection must make decisions, and

exercise powers, under Division 4 as the inspector considers necessary in relation to the work.

- (6) This clause does not limit the power of a safety and health representative under clause 32(1)(a)(iii) to request an inspector that an inspection be conducted at the workplace.

**43. Directions to perform other work**

If —

- (a) a group member who is an employee has ceased to perform work, in accordance with the direction of a safety and health representative under clause 42(1)(b) or (3)(c); and
- (b) the cessation of work does not continue after —
  - (i) the safety and health representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or
  - (ii) an inspector has, under clause 42(5), made a decision to the effect that the employee should perform the work,

the employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

**Subdivision 6 — Exemptions**

**44. Exemptions**

- (1) The Minister may, in accordance with the regulations, make a written order exempting a specified person or class of person from any or all of the provisions of this Division (other than this clause).
- (2) The Minister must not make an order under subclause (1) unless the Minister is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.

**Division 4 — Inspections**

**Subdivision 1 — Introduction**

**45. Simplified outline**

The following is a simplified outline of this Division —

- An inspector may conduct an inspection —
  - (a) to ascertain whether a listed OSH law is being complied with;
  - (b) concerning a contravention or a possible contravention of a listed OSH law; or
  - (c) concerning an accident or dangerous occurrence that has arisen out of a petroleum operation.
- An inspector may issue a prohibition notice to the operator of a petroleum operation in order to remove an immediate threat to the safety and health of any person.
- An inspector may issue an improvement notice specifying action that is to be taken to prevent contravention of a listed OSH law.
- An inspector must prepare a report about an inspection and give the report to the Minister.

**46. Powers, functions and duties of inspectors**

- (1) An inspector has the powers, functions and duties conferred or imposed by each listed OSH law.
- (2) The Minister may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on inspectors by a listed OSH law are to be exercised. If the Minister does so, the powers of inspectors must be exercised in accordance with those directions.
- (3) The Minister may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular inspector by a listed OSH law. If the Minister does so, the powers of the inspector are taken to have been restricted accordingly.

**Subdivision 2 — Inspections**

**47. Inspections**

- (1) An inspector may, at any time, conduct an inspection —
  - (a) to ascertain whether a requirement of, or any requirement properly made under, a listed OSH law is being complied with;

- (b) concerning a contravention or a possible contravention of a listed OSH law; or
  - (c) concerning an accident or dangerous occurrence that has arisen out of a petroleum operation.
- (2) The Minister may direct an inspector to conduct an inspection —
- (a) to ascertain whether a requirement of, or any requirement properly made under, a listed OSH law is being complied with;
  - (b) concerning a contravention or a possible contravention of a listed OSH law; or
  - (c) concerning an accident or dangerous occurrence that has arisen out of a petroleum operation,
- and the inspector must, unless the Minister revokes the direction, conduct an inspection accordingly.

**Subdivision 3 — Powers of inspectors in relation to the conduct of inspections**

**48. Powers of entry and search — places at which petroleum operations are carried on**

- (1) An inspector may, for the purposes of an inspection, at any reasonable time during the day or night —
- (a) enter the place at which a petroleum operation is carried on and to which the inspection relates and do all or any of the following —
    - (i) search the place;
    - (ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace, facility, plant, substance or thing at the place;
    - (iii) take photographs of, make video recordings of, or make sketches of, any workplace, facility, plant, substance or thing at the place;
    - (iv) inspect, take extracts from, or make copies of, any documents at the place that the 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 place to which the inspection relates.

- (2) Immediately on entering a place at which a petroleum operation is carried on for the purposes of an inspection, an inspector must take reasonable steps to notify the purpose of entering the place to —
- (a) the operator's representative; and
  - (b) if there is a safety and health representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection — that representative,
- and must, on being requested to do so by the person referred to in paragraph (a) or (b), produce for inspection by that person —
- (c) the inspector's certificate of appointment under section 118(2);
  - (d) a copy of the Minister's written direction (if any) to conduct the inspection; and
  - (e) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 46(3).
- (3) If there is a safety and health representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the inspector must afford the safety and health representative a reasonable opportunity to consult on the matter the subject of the inspection.

**49. Powers of entry and search — regulated business premises (other than places where petroleum operations carried on)**

- (1) An inspector may, for the purposes of an inspection —
- (a) at any reasonable time, enter any regulated business premises (other than a place at which a petroleum operation is carried on) if the inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a petroleum operation that is a subject of the inspection; and
  - (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.
- (2) Immediately on entering premises referred to in subclause (1), an 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 inspector's certificate of appointment under section 118(2);
  - (b) a copy of the Minister's written direction (if any) to conduct the inspection; and

- (c) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 46(3).

**50. Powers of entry and search — premises (other than regulated business premises)**

- (1) An inspector may, for the purposes of an inspection —
  - (a) enter any premises (other than regulated business premises) if the inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a petroleum operation that is 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 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 51;
    - (ii) with the consent of the occupier of the premises;
  - or
  - (b) if the premises are a residence — with the consent of the occupier of the premises.
- (3) Immediately on entering premises referred to in subclause (1), an inspector must —
  - (a) take reasonable steps to notify the purpose of the entry to the occupier of those premises;
  - (b) take reasonable steps to produce, for inspection by the occupier, the inspector's certificate of appointment under section 118(2); and
  - (c) on being requested to do so by the occupier, produce, for inspection by the occupier —
    - (i) a copy of the Minister's written direction (if any) to conduct the inspection; and
    - (ii) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 46(3).
- (4) If —
  - (a) an inspector enters premises in accordance with a warrant under clause 51; and
  - (b) the occupier of the premises is present at the premises,the inspector must make a copy of the warrant available to the occupier.

- (5) Before obtaining the consent of a person as mentioned in subclause (2)(a) or (b), an 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.

**51. Warrant to enter premises (other than regulated business premises)**

- (1) An inspector may apply to a magistrate for a warrant authorising the inspector, with any assistance as the inspector thinks necessary, to exercise the powers referred to in clause 50(1) in relation to particular premises (other than a residence).
- (2) The application must be supported by evidence on oath (whether oral or by affidavit) that sets out the grounds on which the inspector is applying for the warrant.
- (3) If the magistrate is satisfied that there are reasonable grounds for issuing the warrant, the magistrate may issue the warrant.
- (4) A warrant issued under subclause (3) must state —
  - (a) the name of the inspector;
  - (b) whether the inspection may be carried out at any time or only during specified hours of the day;
  - (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 subclause (4)(c) is not to be more than 7 days after the day on which the warrant is issued.
- (6) The purposes specified under subclause (4)(d) must include the identification of the premises in relation to which the warrant is issued.

**52. Obstructing or hindering inspector**

A person must not, without reasonable excuse, obstruct or hinder an inspector in the exercise of an inspector's powers under clause 48, 49 or 50.

Penalty: \$5 500.

**53. Power to require assistance and information**

- (1) An 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 petroleum operation;
  - (b) the person in charge of a petroleum operation;

(c) a member of the workforce engaged in a petroleum operation; or

(d) any person representing a person referred to in paragraph (a) or (b),

to provide the inspector with reasonable assistance and amenities —

(e) that is or are reasonably connected with the conduct of the inspection in relation to the petroleum operation; or

(f) for the effective exercise of the inspector's powers under this Schedule in connection with the conduct of the inspection in relation to the petroleum operation.

(2) The reasonable assistance referred to in subclause (1) includes, so far as the operator of a petroleum operation is concerned —

(a) appropriate transport for the inspector to and from the place to be inspected and for any equipment required by the inspector, or any article of which the inspector has taken possession; and

(b) reasonable accommodation and means of subsistence while the inspector is at the place to be inspected.

(3) A person must not fail, without reasonable excuse, to comply with a requirement under this clause.

Penalty: \$3 300 or imprisonment for 6 months or both.

**54. Power to require the answering of questions and the production of documents or articles**

(1) If —

(a) an 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 petroleum operation;

(ii) the person in charge of a petroleum operation;

(iii) a member of the workforce engaged in a petroleum operation; or

(iv) any person representing a person referred to in subparagraph (i) or (ii),

the 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 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;
  - (b) specifies the day on or before which the question is to be answered (being at least 14 days after the day on which the requirement is imposed); and
  - (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.
- (3) If —
- (a) an 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 petroleum operation;
    - (ii) the person in charge of a petroleum operation;
    - (iii) a member of the workforce engaged in a petroleum operation; or
    - (iv) any person representing a person referred to in subparagraph (i) or (ii),
- the 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;
  - (b) specifies the day on or before which the document or article is to be produced (being at least 14 days after the day on which the requirement is imposed); and
  - (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.
- (5) A person must not —
- (a) fail, without reasonable excuse, to comply with a requirement under this clause; or

- (b) in purported compliance with a requirement under this clause, give information that is false or misleading in a material particular.

Penalty: \$3 300 or imprisonment for 6 months or both.

**55. Privilege against self-incrimination**

- (1) A person is not excused from answering a question or producing a document or article when required to do so under clause 54 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.

- (2) However —

- (a) the answer given or document or article produced;
- (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 proceedings for an offence against clause 54.

**56. Power to take possession of plant, take samples of substances etc.**

- (1) In conducting an inspection, an 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 place at which a petroleum operation is carried out in connection with the inspection —

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

- (2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the inspector must, by notice in writing, inform —

- (a) the operator of the petroleum operation;
- (b) if the plant, substance or thing is used for the performance of work by an employer of a member or members of the workforce engaged in the petroleum

operation other than the operator of the petroleum operation — that employer;

- (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 safety and health representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates — that representative,

of the taking of possession or the taking of the sample, as the case may be, and the reasons for it.

- (3) If the inspector gives the notice to the operator of the petroleum operation to which the inspection relates, the operator's representative must cause the notice to be displayed in a prominent place at the workplace from which the plant, substance or thing was removed.
- (4) If the 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 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 inspector must give a written statement setting out the results to each person whom the inspector is required to notify under subclause (2).

**57. Power to direct that workplace etc. not be disturbed**

- (1) An inspector may give a direction under subclause (2) if, in conducting an inspection, the inspector has reasonable grounds to believe that it is reasonably necessary to do so in order to —
  - (a) remove an immediate threat to the safety or health 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, for use in a petroleum operation.

- (2) If subclause (1) applies, the inspector may direct, by written notice given to the operator's representative, that the operator must ensure that —
  - (a) a particular workplace; or
  - (b) particular plant, or a particular substance or thing,not be disturbed for a period specified in the direction.
- (3) The period specified in the direction must be a period that the 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.
- (4) The direction may be renewed by another direction in the same terms.
- (5) If an inspector gives a notice to the operator's representative under subclause (2), 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.
- (6) As soon as practicable after giving the direction, the 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 petroleum operation — that person; and
  - (b) if there is a safety and health 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.
- (7) The operator of a petroleum operation to which a direction concerning a workplace, plant, substance or a thing relates must ensure that the direction is complied with.  
Penalty: \$27 500.
- (8) A direction under subclause (2) must be accompanied by a statement setting out the reasons for the direction.

**58. Power to issue prohibition notices**

- (1) If, having conducted an inspection, an inspector is satisfied on reasonable grounds that it is reasonably necessary to issue a

prohibition notice to the operator of a petroleum operation in order to remove an immediate threat to the safety or health of any person, the inspector may issue a prohibition notice, in writing, to the operator.

- (2) The notice must be issued to the operator by giving it to the operator's representative.
- (3) The notice must —
  - (a) specify the activity in respect of which, in the inspector's opinion, the threat to safety or health 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 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.
- (5) The notice may specify action that may be taken to satisfy an inspector that adequate action has been taken to remove the threat to safety and health.
- (6) The operator's representative must —
  - (a) give a copy of the notice to each safety and health 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.
- (7) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the inspector must, upon issuing the notice, give a copy of the notice to that person.

**59. Compliance with prohibition notice**

- (1) An operator must ensure that a prohibition notice issued to the operator is complied with.  
Penalty: \$27 500.
- (2) If an inspector is satisfied that action taken by the operator to remove the threat to safety and health in respect of which the notice was issued is not adequate, the inspector must inform the operator accordingly.
- (3) A prohibition notice ceases to have effect when an inspector notifies the operator that the inspector is satisfied that the operator has taken adequate action to remove the threat to safety or health.
- (4) In making a decision under subclause (2), an inspector may exercise any of the powers of an inspector conducting an inspection that the inspector considers necessary for the purposes of making the decision.

**60. Power to issue improvement notices**

- (1) If, in conducting an inspection, an inspector believes on reasonable grounds that a person —
  - (a) is contravening a listed OSH law; or
  - (b) has contravened a provision of a listed OSH law and is likely to contravene that provision again,the 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.
- (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; 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.
- (4) The notice —
  - (a) must specify the contravention that the inspector believes is occurring or is likely to occur, and set out the reasons for that belief;
  - (b) must specify a reasonable 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; and
- (c) may specify action that the responsible person is to take during the period specified in the notice.
- (5) If the inspector believes on reasonable grounds that it is appropriate to do so, the inspector may, in writing and before the end of the period, extend the period specified in the notice.
- (6) 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.
- (7) 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 must —
- (a) give a copy of the notice to each safety and health representative for a designated work group having group members performing work that is affected by the notice; and
- (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.
- (8) On issuing a notice, the 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;
- (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 OSH law has occurred or is likely to occur —
- (i) the operator of the petroleum operation; 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.

**61. Compliance with improvement notice**

A person to whom an improvement notice is issued must comply with it to the extent that the notice relates to any matter over which the person has control.

Penalty: \$11 000.

**62. Notices not to be tampered with or removed**

- (1) A person must not, without reasonable excuse, tamper with any notice that has been displayed under clause 56(3), 57(5), 58(6) or 60(7) while that notice is so displayed.
- (2) If a notice has been displayed under clause 56(3), a person must not, without reasonable excuse, remove the notice until the plant 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 clause 57(5), 58(6) or 60(7), a person must not, without reasonable excuse, remove the notice before it has ceased to have effect.

Penalty applicable to subclauses (1), (2) and (3): \$11 000.

**Subdivision 4 — Reports on inspections**

**63. Reports on inspections**

- (1) If an inspector has conducted an inspection, the inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Minister.
- (2) The report must include —
  - (a) the inspector's conclusions from conducting the inspection and the reasons for those conclusions;
  - (b) any recommendations that the inspector wishes to make arising from the inspection; and
  - (c) any other prescribed matters.
- (3) As soon as practicable after receiving the report, the Minister must give a copy of the report, together with any written comments that the Minister wishes to make —
  - (a) to the operator of the petroleum operation to which the report relates;
  - (b) if the report relates to activities performed by an employee of another person — that other person; and

- (c) if the report relates to any plant, substance or thing owned by another person — that other person.
- (4) The Minister may, in writing, request the operator or any other person to whom the report is given to provide to the Minister, 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 58 or 60 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.
- (5) As soon as practicable after receiving a report, the operator of the petroleum operation must give a copy of the report, together with any written comment made by the Minister on the report —
  - (a) if there is at least one safety and health 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 safety and health representative — to each such safety and health representative.

**Subdivision 5 — Reviews of inspectors' decisions**

**64. Reviews of inspectors' decisions**

- (1) If an inspector, in conducting an inspection or having conducted an inspection —
  - (a) decides, under clause 37, to confirm or vary a provisional improvement notice;
  - (b) decides, under clause 56, to take possession of plant, a substance or a thing at a workplace;
  - (c) decides, under clause 57, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed;
  - (d) decides, under clause 58, to issue a prohibition notice;
  - (e) decides, under clause 59, that the operator of a petroleum operation to whom a prohibition notice has been issued

has not taken adequate action to remove the threat to safety and health that caused the notice to be issued; or

(f) decides, under clause 60, to issue an improvement notice,

a person referred to in subclause (2) may apply in writing to the reviewing authority for a review of the decision.

- (2) The following persons may apply for a review of the decision, as is relevant to the case —
- (a) the operator of the petroleum operation or any employer (other than the operator) who is affected by the decision;
  - (b) a person to whom a notice has been issued under clause 36(2) or 60(1);
  - (c) the safety and health representative for a designated work group having a group member affected by the decision;
  - (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 apply for a review of the decision;
  - (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 apply for the review of the decision — that workforce representative;
  - (f) a person who owns any workplace, plant, substance or thing to which the decision referred to in subclause (1)(a), (b), (c) or (f) relates.
- (3) If an inspector, having conducted an inspection —
- (a) decides under clause 37 to cancel a provisional improvement notice; or
  - (b) decides under clause 59 that the operator of a petroleum operation to whom a prohibition notice has been issued has taken adequate action to remove the threat to safety and health that caused the notice to be issued,
- the following persons may apply in writing for a review of the decision, as is relevant in the case —
- (c) the safety and health representative for a designated work group having a group member affected by the decision;
  - (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 apply for a review of the decision;

- (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 apply for a review of the decision — that workforce representative.
- (4) An application under subclause (2) or (3) must be made —
  - (a) not later than 7 days after the day on which the person applying received notice of the inspector’s decision; or
  - (b) within such further period as the reviewing authority may allow.
- (5) A person, other than the operator of the petroleum operation concerned, who applies for a review of a decision must, as soon as is practicable, give a copy of the application to the operator.  
Penalty: \$5 000.
- (6) The reviewing authority is to give notice in writing of the decision on the reference and the reasons for the decision to —
  - (a) the person who referred the matter for review; and
  - (b) if that person is not the operator of the petroleum operation concerned, to the operator.
- (7) Subject to this clause, applying for a review of a decision does not affect the operation of the decision or prevent the taking of action to implement that decision, except to the extent that the reviewing authority makes an order to the contrary.
- (8) If the decision to be reviewed is a decision under clause 60 to issue an improvement notice, the operation of the notice is suspended pending determination of the review, except to the extent that the reviewing authority makes an order to the contrary.
- (9) If the decision to be reviewed is a decision of an inspector under clause 37 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 review, except to the extent that the reviewing authority makes an order to the contrary.
- (10) In this clause —  
“**reviewing authority**” means a person prescribed by the regulations to be a reviewing authority for the purposes of this clause.

**65. Powers of reviewing authority on review**

- (1) On a review of a decision under clause 64, the reviewing authority may —
  - (a) affirm the decision;
  - (b) affirm the decision with such modifications as the reviewing authority considers appropriate; or
  - (c) revoke the decision and make such other decision with respect to the matter as the reviewing authority thinks fit,and the decision has effect or, as the case may be, ceases to have effect accordingly.
- (2) If —
  - (a) the decision being reviewed is a decision under clause 56 to take possession of plant, a substance or a thing at a workplace; and
  - (b) the decision is not affirmed,the 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.

**Division 5 — Referrals to the Tribunal**

**66. Decision may be referred to Tribunal**

- (1) If a person given notice of a decision under clause 21(3)(b) or 64(6) is not satisfied with the reviewing authority's decision under that section, the person may refer the decision to the Tribunal for further review.
- (2) A reference under subclause (1) must be made —
  - (a) not later than 7 days after the day on which the person received notice of the decision; or
  - (b) within such further period as the Tribunal may allow.
- (3) A person, other than the operator of the petroleum operation concerned, who refers a matter for review under this clause must, as soon as is practicable, give a copy of the duly completed prescribed form to the operator.  
Penalty applicable to subclause (3): \$5 000.

**67. Determination by Tribunal**

- (1) On a reference under clause 66, the Tribunal is to inquire into the circumstances relating to the decision, and may —
  - (a) affirm the decision of the reviewing authority;
  - (b) affirm the decision of the reviewing authority with such modifications as the Tribunal considers appropriate; or

- (c) revoke the decision of the reviewing authority and make such other decision with respect to the notice as the Tribunal thinks fit,

and the decision has effect or, as the case may be, ceases to have effect accordingly.

- (2) A review under this clause —
  - (a) is to be in the nature of a rehearing; and
  - (b) is to be completed by the Tribunal as quickly as is practicable.
- (3) The Tribunal is to give notice in writing of its decision on the reference and the reasons for the decision to —
  - (a) the person who referred the matter for review; and
  - (b) if that person is not the operator of the petroleum operation concerned, to the operator.

**68. Effect of pending review by Tribunal**

- (1) Subject to this clause, a reference to the Tribunal for further review of a decision does not affect the operation of the decision or prevent the taking of action to implement that decision, except to the extent that the Tribunal makes an order to the contrary.
- (2) If the decision to be reviewed concerns a decision under clause 60 to issue an improvement notice, the operation of the notice is suspended pending determination of the review, except to the extent that the Tribunal makes an order to the contrary.
- (3) If the decision to be reviewed concerns a decision of an inspector under clause 37 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 review, except to the extent that the Tribunal makes an order to the contrary.

**69. Jurisdiction of Tribunal**

- (1) This clause applies where —
  - (a) under clause 66 a matter is referred to the Tribunal; or
  - (b) under clause 30 an application is made to the Tribunal.
- (2) Where this clause applies —
  - (a) the matter or application may be heard and determined; and

- (b) a determination made by the Tribunal on the matter or application has effect, and may be appealed against and enforced,
- as if it were —
- (c) a matter in respect of which jurisdiction is conferred on the Tribunal by Part VIB of the *Occupational Safety and Health Act 1984*; or
  - (d) a determination made for the purposes of that Part.
- (3) The provisions of —
- (a) Part VIB of the *Occupational Safety and Health Act 1984*; and
  - (b) the *Industrial Relations Act 1979* applied by that Part,
- have effect for the purposes of this clause with all necessary changes.
- (4) In the operation of subclause (3), section 51J(1) of the *Occupational Safety and Health Act 1984* has effect as if it were expressed to apply where a matter has been referred to the Tribunal under clause 66 in relation to a decision made under clause 21.

#### **Division 6 — General**

#### **70. Notifying and reporting accidents and dangerous occurrences**

- (1) If, arising from a petroleum operation, there is —
- (a) an accident that causes the death of, or serious personal injury to, any person;
  - (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 Minister notice of, and a report about, the accident or dangerous occurrence.
- Penalty: \$5 000.
- (2) Regulations made for the purposes of subclause (1) (other than regulations made for the purpose of subclause (1)(b)) may prescribe —
- (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given, and the form of the notice; and

- (b) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given, and the form of the report.
- (3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

**71. Records of accidents and dangerous occurrences to be kept**

- (1) The operator of a petroleum operation 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 67 to notify the Minister.
- (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 the record must be retained.
- (3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

**72. Codes of practice**

- (1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to operators of petroleum operations and employers (other than operators) of members of the workforce engaged in petroleum operations.
- (2) A person is not liable in any civil or criminal proceedings for contravening a code of practice.

**73. Use of codes of practice in proceedings**

- (1) This clause applies if, in any proceedings for an offence against a listed OSH law, it is alleged that a person contravened a provision of a listed OSH law in relation to which a code of practice was in effect at the time of the alleged contravention.
- (2) The code of practice is admissible in evidence in those proceedings.
- (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 alleged 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 the listed OSH law otherwise than by complying with the code of practice.

**74. Interference etc. with equipment etc.**

A person must not, without reasonable excuse, do anything that results in the interference with, or the rendering ineffective of, any protective equipment or safety device provided for the occupational safety and health of members of the workforce engaged in a petroleum operation if the person knew (or ought reasonably to have known) that the equipment or device was protective equipment or a safety device.

Penalty: \$3 300 or imprisonment for 6 months or both.

**75. No charges to be levied on members of workforce**

The operator of a petroleum operation or an employer (other than the operator) of members of the workforce engaged in a petroleum operation must not levy, or permit to be levied, on a member of the workforce any charge in respect of anything done or provided in accordance with a listed OSH law in order to ensure the occupational safety and health of persons engaged in the petroleum operation or any other protected persons.

Penalty: \$27 500.

**76. Victimisation**

- (1) An employer (whether the operator or another person) must not —
- (a) dismiss an employee;
  - (b) perform an act that results in injury to an employee in his or her employment;
  - (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
  - (d) threaten to do any of those things,
- because the employee —
- (e) has complained or proposes to complain about a matter concerning the safety or health of employees at work;
  - (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 safety and health

representative under clause 42(1)(b) or (3)(c), and the cessation or proposed cessation does not continue after —

- (i) the safety and health 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 inspector has, under clause 42(5), made a decision that has the effect that the employee should perform the work.

Penalty: \$27 500.

- (2) In proceedings for an offence against subclause (1), if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, the defendant has the onus of establishing that the action was not taken for that reason.

**77. Institution of prosecutions**

- (1) Proceedings for an offence against a listed OSH law may be instituted by an inspector but an inspector is not to be personally responsible for any costs incurred by or awarded against the inspector in connection with any proceeding for an offence against a listed OSH law.
- (2) A safety and health representative for a designated work group may request an inspector to institute proceedings for an offence against a listed OSH 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;
  - (b) the safety and health representative considers that the occurrence of the act or omission constitutes an offence against a listed OSH 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 an inspector to institute proceedings for an offence against a listed OSH 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;
  - (b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against a listed OSH law;

- (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 an inspector to institute the proceedings.
- (4) A request under subclause (2) or (3) must be in writing.
  - (5) An inspector must, within 3 months after receiving the request, advise the safety and health 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.

**78. Conduct of directors, employees and agents**

- (1) This clause has effect for the purposes of a proceeding for an offence against a listed OSH law.
- (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.
- (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.
- (4) If it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show —
  - (a) that the conduct was engaged in by an employee or agent of the natural person within the scope of actual or apparent authority; and
  - (b) that the employee or agent had the state of mind.
- (5) Any conduct engaged in on behalf of a natural person by an employee or agent of the natural person within the scope of actual or apparent authority is taken to have been engaged in also by the natural person unless the natural person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.
- (6) If —
  - (a) a natural person is found guilty of an offence; and

- (b) he or she would not have been found guilty 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.

- (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.

**79. Act not to give rise to other liabilities etc.**

This Schedule does not —

- (a) confer a right of action in any civil proceeding in respect of any contravention of a listed OSH law; or
- (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

**80. Circumstances preventing compliance may be defence to prosecution**

It is a defence to a prosecution for a contravention of a listed OSH law if the defendant proves that it was not practicable to comply with it because of an emergency prevailing at the relevant time.

**81. Regulations — general**

- (1) The regulations may prescribe any of the following —
  - (a) procedures for the selection of persons, under clause 39, as members of safety and health committees, to represent the interests of members of the workforce engaged in a petroleum operation;
  - (b) procedures to be followed at meetings of safety and health committees;
  - (c) the manner in which notices are to be served under this Schedule or the regulations;
  - (d) the practice and procedure to be followed in relation to the review of decisions under clause 21 or 64 by reviewing authorities;
  - (e) forms for the purposes of this Schedule or the regulations.

- (2) If the Minister is satisfied that —
- (a) a power, function or duty is conferred or imposed on a person under a law of this State or the Commonwealth; and
  - (b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule,
- regulations made for the purposes of this subclause may declare that this Schedule, or the provision, as the case may be, does not apply to that person, or does not apply to that person in the circumstances specified in the regulations.
- (3) Regulations made for the purposes of subclause (2) do not remain in force for longer than 5 years after they commence, but this subclause does not prevent the making of further regulations of the same substance.
- (4) In subclause (2) —  
“**this Schedule**” includes regulations made for the purposes of this Schedule.

”

”

<sup>23</sup> On the date as at which this reprint was prepared, the *Petroleum Amendment Act 2007* Pt. 2 Div. 2 had not come into operation. It reads as follows:

“

## **Part 2 — *Petroleum Act 1967***

### **Division 2 — Amendments to Act as amended by the *Petroleum Legislation Amendment and Repeal Act 2005***

#### **84. The Act amended**

The amendments in this Division are to the *Petroleum Act 1967* as amended by the *Petroleum Legislation Amendment and Repeal Act 2005*.

#### **85. Section 5 amended**

Section 5(1) is amended as follows:

- (a) in the definition of “facility” after “operation” by inserting —  
“ or geothermal energy operation ”;

- (b) after the definition of “geothermal energy” by inserting —

“

**“geothermal energy operation”** means —

- (a) an operation to explore for geothermal energy resources, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (b) an operation to drill for geothermal energy resources, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (c) an operation to recover geothermal energy, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (d) any other kind of operation that is prescribed by the regulations to be a geothermal energy operation for the purposes of this definition,

but does not include an operation of a kind that is prescribed by the regulations not to be a geothermal energy operation for the purposes of this definition;

”;

- (c) in paragraph (a) of the definition of “operator” after “petroleum” by inserting —  
“ or geothermal energy resources ”;
- (d) in paragraph (b) of the definition of “operator” after “petroleum” by inserting —  
“ or geothermal energy resources ”;
- (e) in paragraph (c) of the definition of “operator” after “petroleum” by inserting —  
“ or geothermal energy resources ”;
- (f) in paragraph (d) of the definition of “operator” —
  - (i) in subparagraph (i) after “petroleum” in both places where it occurs by inserting —  
“ or geothermal energy ”;
  - (ii) in subparagraph (ii) after “petroleum” by inserting —  
“ or geothermal energy resources ”;

- (g) in paragraph (f) of the definition of “operator” after “operation” by inserting —

“

or geothermal energy resources exploration operation

”;

- (h) in paragraph (g) of the definition of “operator” —

(i) after “exploration operation” by inserting —

“

or geothermal energy resources exploration operation

”;

(ii) after “recovery of petroleum” by inserting —

“ or geothermal energy ”;

- (i) after paragraph (j) of the definition of “operator” by inserting —

“

- (k) in relation to any other kind of operation that is prescribed by the regulations to be a geothermal energy operation for the purposes of the definition of “geothermal energy operation”, means the person prescribed by the regulations to be the operator of such a geothermal energy operation for the purposes of this definition;

”;

- (j) by deleting the definition of “other protected person” and inserting —

“

**“other protected person”**, in relation to a geothermal energy operation, means a person who is at or near a place where the geothermal energy operation is being carried on at the invitation of, or with the express or implied consent of —

- (a) the operator of the geothermal energy operation; or  
(b) a person in control of a part of the geothermal energy operation;

**“other protected person”**, in relation to a petroleum operation, means a person who is at or near a place where the petroleum operation is being carried on at the invitation of, or with the express or implied consent of —

- (a) the operator of the petroleum operation; or

- (b) a person in control of a part of the petroleum operation;

”.

**86. Amendments relating to “geothermal energy operation”**

The provisions listed in the Table to this section are amended after “petroleum operation” in each place where it occurs by inserting —

“ or geothermal energy operation ”.

**Table**

|  |                              |
|--|------------------------------|
| s. 7AA(1)                                    | Sch. 1 cl. 22(4)             |
| s. 117A                                      | Sch. 1 cl. 24(1)             |
| s. 126A(1)                                   | Sch. 1 cl. 25                |
| s. 149B(1)(a)                                | Sch. 1 cl. 26                |
| s. 149B(2)                                   | Sch. 1 cl. 28(2)             |
| Sch. 1 cl. 2                                 | Sch. 1 cl. 32(1)(a)(v), (vi) |
| Sch. 1 cl. 3 (“designated work group”)       | Sch. 1 cl. 38(1)             |
| Sch. 1 cl. 3 (“employer”)                    | Sch. 1 cl. 39(1)             |
| Sch. 1 cl. 3 (“group member”)                | Sch. 1 cl. 40(1)(a), (b)     |
| Sch. 1 cl. 3 (“member of the workforce”)     | Sch. 1 cl. 42(1)             |
| Sch. 1 cl. 3 (“regulated business premises”) | Sch. 1 cl. 42(2)             |
| Sch. 1 cl. 3 (“work”)                        | Sch. 1 cl. 42(3)(b)          |
| Sch. 1 cl. 3 (“workforce representative”)    | Sch. 1 cl. 45                |
| Sch. 1 cl. 3 (“work group employer”)         | Sch. 1 cl. 47(1)(c)          |
| Sch. 1 cl. 3 (“workplace”)                   | Sch. 1 cl. 47(2)(c)          |
| Sch. 1 cl. 4(1)                              | Sch. 1 cl. 48(1)(a)          |
| Sch. 1 cl. 4(2)                              | Sch. 1 cl. 48(2)             |
| Sch. 1 cl. 5                                 | Sch. 1 cl. 49(1)(a)          |
| Sch. 1 cl. 6                                 | Sch. 1 cl. 50(1)(a)          |
| Sch. 1 cl. 7(1)                              | Sch. 1 cl. 53(1)             |
| Sch. 1 cl. 7(2)                              | Sch. 1 cl. 53(2)             |
| Sch. 1 cl. 7(3)                              | Sch. 1 cl. 54(1)(b)          |
| Sch. 1 cl. 7(4)(b)(ii)                       | Sch. 1 cl. 54(3)(b)          |
| Sch. 1 cl. 7(5)(b)(ii)                       | Sch. 1 cl. 56(1)             |
| Sch. 1 cl. 8(1)                              | Sch. 1 cl. 56(2)             |
| Sch. 1 cl. 8(2)                              | Sch. 1 cl. 56(3)             |
| Sch. 1 cl. 9(1)                              | Sch. 1 cl. 57(1)(b)          |
| Sch. 1 cl. 9(5)                              | Sch. 1 cl. 57(6)(a)          |
| Sch. 1 cl. 10(1)                             | Sch. 1 cl. 57(7)             |
| Sch. 1 cl. 10(2)                             | Sch. 1 cl. 58(1)             |

|                  |                        |
|------------------|------------------------|
| Sch. 1 cl. 11(1) | Sch. 1 cl. 60(8)(c)(i) |
| Sch. 1 cl. 11(2) | Sch. 1 cl. 63(3)(a)    |
| Sch. 1 cl. 12(1) | Sch. 1 cl. 63(5)       |
| Sch. 1 cl. 13(1) | Sch. 1 cl. 64(1)(e)    |
| Sch. 1 cl. 14(3) | Sch. 1 cl. 64(2)(a)    |
| Sch. 1 cl. 15(1) | Sch. 1 cl. 64(3)(b)    |
| Sch. 1 cl. 15(2) | Sch. 1 cl. 64(5)       |
| Sch. 1 cl. 16    | Sch. 1 cl. 64(6)(b)    |
| Sch. 1 cl. 17(1) | Sch. 1 cl. 66(3)       |
| Sch. 1 cl. 17(2) | Sch. 1 cl. 67(3)(b)    |
| Sch. 1 cl. 18(1) | Sch. 1 cl. 70(1)       |
| Sch. 1 cl. 19(1) | Sch. 1 cl. 71(1)       |
| Sch. 1 cl. 19(2) | Sch. 1 cl. 74          |
| Sch. 1 cl. 20(1) | Sch. 1 cl. 75          |
| Sch. 1 cl. 22(2) | Sch. 1 cl. 81(1)(a)    |
| Sch. 1 cl. 22(3) |                        |

**87. Amendments relating to “geothermal energy operations”**

The provisions listed in the Table to this section are amended after “petroleum operations” in each place where it occurs by inserting —

“ or geothermal energy operations ”.

**Table**

|              |                  |
|--------------|------------------|
| s. 149C(1)   | Sch. 1 cl. 2     |
| s. 153(2)(l) | Sch. 1 cl. 72(1) |
| Sch. 1 cl. 1 |                  |

”.

## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

| <b>Defined Term</b>                       | <b>Provision(s)</b> |
|---|---------------------|
| a compensable lessee .....                | 21(1)               |
| access authority .....                    | 5(1)                |
| access authority area .....               | 7A(2)               |
| adjacent area.....                        | 26                  |
| affected lessee .....                     | 24(1)               |
| application for a primary licence.....    | 5(1)                |
| application for a secondary licence ..... | 5(1)                |
| approved.....                             | 5(1)                |
| approved development plan .....           | 5(1)                |
| authorisation.....                        | 24A(3)              |
| Barrow Island lease.....                  | 128                 |
| Barrow Marine lease .....                 | 128                 |
| block.....                                | 5(1)                |
| charge.....                               | 75(15)              |
| commencing day .....                      | 128                 |
| construct.....                            | 5(1)                |
| construction.....                         | 5(1)                |
| court .....                               | 126(2)              |
| Crown land.....                           | 5(1)                |
| dealing.....                              | 69(10)              |
| debenture.....                            | 75(15)              |
| document.....                             | 5(1)                |
| drilling reservation .....                | 5(1)                |
| explore for.....                          | 29(3)               |
| federal duty .....                        | 144A(3)             |
| former provisions .....                   | 128                 |
| geothermal access authority .....         | 5(1)                |
| geothermal drilling reservation .....     | 5(1)                |
| geothermal energy.....                    | 5(1)                |
| geothermal energy resources.....          | 5(1)                |
| geothermal exploration permit .....       | 5(1)                |
| geothermal lease area .....               | 5(1)                |
| geothermal lessee .....                   | 5(1)                |
| geothermal licensee.....                  | 5(1)                |
| geothermal permit area.....               | 5(1)                |
| geothermal permittee.....                 | 5(1)                |
| geothermal production licence .....       | 5(1)                |
| geothermal resources area .....           | 5(1)                |

**Defined Terms**

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|   |                 |
|---|-----------------|
| geothermal retention lease .....                | 5(1)            |
| geothermal special prospecting authority .....  | 5(1)            |
| geothermal title .....                          | 69A(1), 106(13) |
| good oil-field practice .....                   | 5(1)            |
| graticular section .....                        | 5(1)            |
| holder .....                                    | 91B(1)          |
| holder of a drilling reservation .....          | 5(1)            |
| inspector .....                                 | 5(1)            |
| lease .....                                     | 5(1)            |
| lease area .....                                | 5(1)            |
| lessee .....                                    | 5(1), 128       |
| licence .....                                   | 5(1)            |
| licence area .....                              | 5(1)            |
| licensee .....                                  | 5(1)            |
| location .....                                  | 5(1)            |
| marine reserve .....                            | 28A(3)          |
| native title holders .....                      | 24A(3)          |
| oil shale .....                                 | 5(1)            |
| operations to which this Division applies ..... | 128             |
| operator .....                                  | 92(1)           |
| partly cancelled .....                          | 5(1)            |
| partly determined .....                         | 5(1)            |
| permit .....                                    | 5(1)            |
| permit area .....                               | 5(1)            |
| permittee .....                                 | 5(1)            |
| petroleum .....                                 | 5(1)            |
| petroleum access authority .....                | 5(1)            |
| petroleum drilling reservation .....            | 5(1)            |
| petroleum exploration permit .....              | 5(1)            |
| petroleum lease area .....                      | 5(1)            |
| petroleum lessee .....                          | 5(1)            |
| petroleum licensee .....                        | 5(1)            |
| petroleum permit area .....                     | 5(1)            |
| petroleum permittee .....                       | 5(1)            |
| petroleum pool .....                            | 5(1)            |
| petroleum production licence .....              | 5(1)            |
| petroleum retention lease .....                 | 5(1)            |
| petroleum special prospecting authority .....   | 5(1)            |
| petroleum title .....                           | 69A(1), 106(13) |
| prescribed instrument .....                     | 128             |
| primary entitlement .....                       | 5(1)            |
| primary licence .....                           | 5(1)            |
| private land .....                              | 5(1)            |
| recovery .....                                  | 5(1)            |
| Register .....                                  | 5(1)            |

**Defined Terms**

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|   |              |
|---|--------------|
| registered holder.....                        | 5(1)         |
| regulations.....                              | 5(1)         |
| reservoir .....                               | 16(2)        |
| royalty period.....                           | 5(1)         |
| royalty value.....                            | 5(1)         |
| safety zone .....                             | 112A(1)      |
| secondary licence .....                       | 5(1)         |
| special prospecting authority .....           | 5(1)         |
| the area to which the surrender relates ..... | 98(5)        |
| the compensable lessee .....                  | 21(1)        |
| the former area .....                         | 133(2)(a)    |
| the operations area .....                     | 92(1)        |
| the original licence .....                    | 61(1)        |
| the original permit.....                      | 37A(1)       |
| the relinquished area .....                   | 5(1)         |
| the State.....                                | 26           |
| title .....                                   | 69J, 127A(5) |
| unit development.....                         | 69(1)        |
| variation agreement.....                      | 128          |
| vessel.....                                   | 5(1)         |
| water.....                                    | 113(2)       |
| well.....                                     | 5(1)         |
| wholly cancelled .....                        | 5(1)         |
| wholly determined .....                       | 5(1)         |