



Western Australia

Petroleum Act 1967

Reprinted as at 14 January 2000

Western Australia

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Defined Terms



Western Australia

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Petroleum Act 1967

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

Part I — Preliminary

1. Short title

This Act may be cited as the *Petroleum Act 1967*^{1, 1a}.

2. Commencement

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

3. Repeal

The *Petroleum Act 1936* is repealed.

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 *Repealed by No. 12 of 1990 s.4.*]

5. Interpretation

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

“**access authority**” means an access authority under Part III;

“**application for a primary licence**” means an application 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;

“**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) and (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;

“drilling reservation” means a drilling reservation referred to in section 43D;

“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 retention lease under Part III;

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

“lessee” means the registered holder of a lease;

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

“licence area” means the area constituted by the blocks that are the subject of a licence;

“licensee” means the registered holder of a licence;

“location” means a block or blocks in respect of which a declaration under section 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;

“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 an exploration permit for petroleum referred to in section 38;

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

“permittee” means the registered holder of a permit;

“petroleum” means —

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

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

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

“primary entitlement” means —

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

“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 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;

“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 special prospecting authority under Part III;

“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 operations for the recovery of petroleum, 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.

- (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.]

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.

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

7A. Petroleum pool 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, being a pool 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 recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.

- (3) Where a petroleum pool is partly in one licence area and partly in an adjoining licence area of the same licensee and petroleum is recovered from that pool through a well or wells in one or both of the licence areas, there shall be deemed to have been recovered in each of the licence areas, under the licence in respect of that area, such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and the respective proportions shall be determined in accordance with subsection (4).
- (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 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, and petroleum is recovered from that pool through a well or wells in the licence area, the other area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum 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, 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 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;
- (b) a unit development agreement in accordance with section 69 is in force between the licensee and that other person; and
- (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both,

there shall be deemed to have been recovered in the licence area such proportion of all petroleum 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 one of the States, in which the petroleum pool is wholly or partly situated.

[Section 7A inserted by No. 12 of 1990 s.7.]

8. Points etc. to be ascertained by reference to Australian Geodetic Datum

- (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 shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of $\frac{100}{29\ 825}$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.
- (2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30.0771 seconds of East Longitude and at 25 degrees, 56 minutes and 54.5515 seconds of South Latitude and to have a ground level of 571.2 metres above the spheroid referred to in subsection (1).

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 on or below the surface of all land within this State, whether alienated in fee simple or not so alienated from the Crown, is and shall be deemed always to have been the property of the Crown.

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 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 in any part of the land.

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

11. Power to obtain petroleum

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

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 Compensation Court 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 Court may order that such adjoining land or some portion thereof shall also be resumed.

[Section 12 amended by No. 31 of 1997 ss.76(3)-(5), 142 and 143.]

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 Local Court held 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.]

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), (3) and (4) 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).]

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
 - (d) carrying out operations for the recovery of petroleum,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 minimize 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)².]

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
 - (b) carrying out operations for the recovery of petroleum,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.
- (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.]

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, or petroleum 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 upon a plaint in that behalf have the amount determined by the Local Court held nearest to the place at which the land is situated.
- (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.]

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 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 Local 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 Local Court held 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.]

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.]

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 authorized 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 or petroleum 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.]

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 authorization, 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 authorization at the time the amount is required to be paid; or
 - (b) otherwise, the applicant for the grant of, or the holder of, the authorization at the time a determination of compensation is made.
- (2) If, at the relevant time, there is no holder of the authorization because the authorization has been surrendered or cancelled or has expired, a reference in subsection (1) to the holder of the authorization is a reference to the holder of the authorization immediately before its surrender, cancellation or expiry.
- (3) In this section —
- “authorization”** 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
 - (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

Division 1 — Preliminary

26. Interpretation

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.

- (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.

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 permit, drilling reservation, lease or licence is in force) shall not be the subject of a permit, drilling reservation, lease, licence, special prospecting authority or access authority.
- (2) While a declaration under subsection (1) remains in force in respect of a block, a permit, drilling reservation, lease, licence, special prospecting authority or 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.]

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).]

Division 2 — Permits and drilling reservations

[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 permit or drilling reservation; or
 - (b) as otherwise permitted by this Act.

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

- (2) In subsection (1) to **“explore for petroleum”** includes to conduct any geophysical survey, the data from which is intended for use in the search for petroleum.

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

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;
 - (b) shall be made in an approved manner;
 - (c) shall be in respect of not more than 400 blocks;
 - (d) shall be accompanied by particulars of —
 - (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application;
 - (ii) the technical qualifications of the applicant and of his employees;
 - (iii) the technical advice available to the applicant; and
 - (iv) the financial resources available to the applicant;
 - (e) may set out any other matters that the applicant wishes 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.
- (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.]

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 an exploration permit

for petroleum in respect of the block or blocks specified in the instrument.

- (5) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period.

[Section 32 amended by No. 28 of 1994 s.8.]

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

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

[(2) and (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.]

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), 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), 2 or more applications have been made under that subsection in respect of the block or blocks 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) and (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.]

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 an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

[Section 37 amended by No. 28 of 1994 s.12.]

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 permits 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.]

38. Rights conferred by permit

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

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.26³; No. 28 of 1994 s.14⁴.]

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).

- (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.15⁵.]

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;
 - (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
 - (b) specify the period within which applications may be made.
- (2) Applications shall not be invited under subsection (1) over any area that is included in an existing permit or an application for a permit, drilling reservation, lease or 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.]

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;
 - (b) shall be made in an approved manner;
 - (c) shall be in respect to a block or blocks containing potential sites of petroleum deposits;
 - (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;

- (ii) the technical qualifications of the applicant and of the employees of the applicant;
 - (iii) the technical advice available to the applicant;
 - (iv) a statement as to the size and configuration of the potential petroleum deposit and a geological prognosis of the well;
 - (v) a statement of the approximate time of the completion of the well; and
 - (vi) the financial resources available to the applicant;
- (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.]

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

A drilling reservation, while it remains in force, authorizes 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.

[Section 43D inserted by No. 78 of 1990 s.6.]

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 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)⁵.]

44. Discovery of petroleum to be notified etc.

- (1) Where petroleum is discovered in a permit area or 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.
- (2) Where petroleum is discovered in a permit area or 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; and
 - (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) shall comply with the direction.

Penalty: \$10 000.

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

45. Direction by Minister on discovery of petroleum

- (1) Where petroleum is discovered in a permit area or 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.
- (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: \$10 000.

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

46. Nomination of blocks as location

- (1) Where a petroleum pool is identified in a permit area or 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.
- (2) Where 2 or more petroleum pools are identified in a permit area or 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) unless, in the case of each of the pools to which the nomination relates, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.
- (4) A nomination by a permittee 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 to which the nomination relates or, if the nomination relates to more than one pool, from each of those pools.
- (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) or (2); 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.32⁷; amended by No. 78 of 1990 s.7.]

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 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.
- (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.32⁷; amended by No. 78 of 1990 s.7.]

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.]

Division 2A — Retention leases for petroleum

[Heading inserted by No. 12 of 1990 s.34.]

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

- (1) A permittee whose permit is in force, or, the holder of a drilling reservation whose 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 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) —
 - (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 from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area;
 - (d) may set out any other matters that the applicant wishes to be considered; and
 - (e) shall be accompanied by the prescribed fee.
- (3) The 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.]

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 from the area comprised in the blocks specified in the application —
 - (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 shall, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to the applicant a lease 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 retention lease in respect of the block or blocks specified in the instrument.
- (6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.

- (7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit 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.]

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

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

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

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 lease area 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 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.]

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 lease area at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area;
 - and
 - (d) shall be accompanied by the prescribed fee.
- (3) The 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.]

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 lease area —
 - (i) is not, at the time of the application, commercially viable; and

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

the 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

- (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.
- (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.]

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 petroleum production in the 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.]

48J. Discovery of petroleum to be notified

- (1) Where petroleum is discovered in a 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.
- (2) Where petroleum is discovered in a 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.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: \$10 000.

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

48K. Directions by Minister on discovery of petroleum

- (1) Where petroleum is discovered in a 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.

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

Penalty: \$10 000.

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

Division 3 — Production licences for petroleum

49. Recovery of petroleum in State

A person shall not carry on operations for the recovery of petroleum in the State except —

- (a) under and in accordance with a 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.]

50. Application by permittee for licence

- (1) A permittee whose permit is in force, or, the holder of a drilling reservation whose 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 licence —
- (a) where 9 or more blocks constitute the location concerned — in respect of 5 of those blocks;
 - (b) where 8 or 7 blocks constitute the location concerned — in respect of 4 of those blocks;
 - (c) where 6 or 5 blocks constitute the location concerned — in respect of 3 of those blocks;
 - (d) where 4 or 3 blocks constitute the location concerned — in respect of 2 of those blocks;
 - (e) where 2 blocks constitute the location concerned — in respect of one of those blocks; or

- (f) where one block constitutes the location concerned — in respect of that block.
- (2) A permittee whose permit is in force, 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) 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 permittee or the holder of a drilling reservation makes an application under subsection (1) in respect of his primary entitlement; or
 - (b) a permittee or the holder of a drilling reservation who is the holder of a licence in respect of a number of blocks that is less than his primary entitlement makes an application under subsection (2) for a variation of that licence, and the number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is his primary entitlement,

the permittee 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.]

50A. Application by lessee for licence

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

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) 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.]

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 production licence for petroleum 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.]

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.42⁸; No. 78 of 1990 s.7.]

57. Application for licence in respect of surrendered etc. blocks

(1) Where —

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

or

- (ba) a petroleum pool from which petrol 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* —

- (c) invite applications for the grant of a licence in respect of that block; and
- (d) 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 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 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.
- (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 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) and (5) repealed]

- (6) 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 51(1)(c);
 - (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) deleted]*
 - (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.]

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 February 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) of section 57, only one application has been

made under that subsection in respect of the block specified 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) 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 a rate of royalty, that he would be prepared to pay that is not less than the amount, or 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) and (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.

- (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.]

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 production licence for petroleum in respect of the block specified in the instrument.

[Section 60 amended by No. 28 of 1994 s.31.]

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 2 or more licences in respect of the blocks the subject of the original licence in exchange for the original licence.
- (2) An application under subsection (1) —
 - (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 production licences for petroleum in accordance with the application.
- (5) A licence granted on an application under this section —
 - (a) remains in force, subject to this Part, but notwithstanding section 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.]

62. Rights conferred by licence

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

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

[Section 62 amended by No. 12 of 1990 s.47.]

[62A. Repealed by No. 52 of 1995 s.36.]

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.48⁹.]

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
- (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 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

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

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 a petroleum pool that is partly in a particular licence area of a 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; and
 - (b) means the carrying on of operations for the recovery of petroleum from that pool 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, but nothing in this subsection derogates from the operation of section 75(2).
- (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
 - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside the State that includes part of a particular petroleum pool that extends into the State,

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee whose

licence area includes part of the petroleum pool, by instrument in writing served on the licensee, to enter into an agreement in writing, within the period specified in the instrument, for or in relation to the unit development of the petroleum pool and to lodge an application in accordance with section 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 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.

- (5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the 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.
- (6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the 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.

- (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.
- (8) The Minister shall not give a direction under either subsection (6) or (7) unless he has given to the licensee or 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 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).
- (12) Where subsection (1) applies in relation to a petroleum pool, a Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool except with the approval of any other Minister concerned and any State or Territory authority concerned.

[Section 69 amended by No. 12 of 1990 s.52.]

[Division 3A (sections 69A to 69I) repealed by No. 52 of 1995 s.37.]

Division 4 — Registration of instruments

69J. Interpretation in Division 4

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.
- (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 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 (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.56¹⁰; amended by No. 78 of 1990 s.7; No. 28 of 1994 s.36.]

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 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);
 - (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 produced from operations authorized 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
 - (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 National Companies and Securities Commission relating to the creation of that charge pursuant to section 201 of the *Companies (Western Australia) Code*¹¹ or pursuant to the corresponding provision of a law of the Commonwealth or another State or a Territory.
- (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.
- (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 (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*¹, 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 section 201 of the *Companies (Western Australia) Code*¹¹.

[Section 75 inserted by No. 12 of 1990 s.58¹²; amended by No. 78 of 1990 s.7; No. 28 of 1994 s.37.]

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
 - (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.58¹²; 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 (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 (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.]

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.
- (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 as evidence of all matters required or authorized 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 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 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.]

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. Appeals

- (1) The Supreme Court may, on the application of 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,make such order as it thinks fit directing the rectification of the Register.
- (2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in 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 Supreme Court.

- (4) An office copy of an order made by the Supreme Court may be served on the Minister, and the Minister shall, upon receipt of the order, rectify the Register accordingly.

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.]

85. Assessment of fee payable under *Petroleum (Registration Fees) Act 1967*

- (1) The Minister may determine the amount of the fee payable under the *Petroleum (Registration Fees) Act 1967* in respect of any memorandum.
- (2) A person dissatisfied with a determination of the Minister under subsection (1) may appeal to the Supreme Court against the determination.
- (3) Upon the hearing of the appeal, the Supreme Court may affirm, reverse or modify the determination of the Minister.

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.]

Division 5 — General

[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.
- (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 all petroleum exploration operations and operations for the recovery of petroleum 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.
- (2) In particular, and without limiting the generality of subsection (1) but subject to any authorization or requirement given or made by or under this Act or regulations or directions under this Act, a permittee, holder of a drilling reservation, lessee or 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;
 - (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;

- (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;
 - (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.
- (3) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oil-field practice 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) 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.]

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.
- (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 cleanup or other remedying of the effects of the escape of petroleum.
- (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.

- (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.]

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 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 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.76¹³; amended by No. 78 of 1990 s.7.]

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;

- (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 authorize 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;

- (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 authorized 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 authorized 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 authorized 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 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 engaged or concerned in the operations authorized 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 authorized 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 authorized 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, authorize 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 special prospecting authority, while it remains in force, authorizes the holder, subject to this Act and the regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the petroleum exploration operations so specified.

(5) Nothing in a special prospecting authority authorizes the holder to make a well.

(6) A special prospecting authority comes into force on the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.

(6a) A special prospecting authority is not capable of being transferred.

(6b) Where —

- (a) a person holds a special prospecting authority in respect of a block; and

- (b) another special prospecting authority is granted to another person in respect of the block,

the Minister shall, by notice in writing served on each of those persons, inform each of them of —

- (c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person;

- (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 authorized 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.
- (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.]

106. Access authorities

- (1) A permittee, holder of a drilling reservation, lessee, licensee or holder of a special prospecting authority may make an application to the Minister for the grant of an 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 an 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.
- (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 or a petroleum 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

- (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 grant an access authority on an application under this section in respect of a block that is the subject of a permit, drilling reservation, lease or licence of which the registered holder is a person other than the applicant, or vary an access authority as in force in respect of a block that is the subject of a permit, drilling reservation, lease or 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, authorizes the holder, subject to this Act and the regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.
- (6) Nothing in an access authority authorizes the holder to make a well other than a deviation well into an adjacent permit area, drilling reservation, lease area or licence area held by him under this Act or 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
 - (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 authorized 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 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, “**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.]

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, 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, 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.

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 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, 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
 - (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 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 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
- (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, 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.
- (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.]

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

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.

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

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 in the course of a scientific investigation.
- (2) An instrument of consent under subsection (1) may be made subject to such conditions, if any, as are specified in the instrument.
- (3) An instrument of consent in force under subsection (1) authorizes the person specified in the instrument, subject to section 117 and in accordance with the conditions, if any, to which the instrument is subject, to carry on in the State petroleum exploration operations so specified in the course of the scientific investigation so specified.

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;
- (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 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.]

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;
 - (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.]

120. Property in petroleum

Subject to this Act and to any rights of other persons, upon recovery of any petroleum by a permittee, holder of a drilling reservation, lessee or licensee in the permit area, drilling reservation, lease area or licence area, the petroleum becomes the property of the permittee, holder of the drilling reservation, lessee or licensee.

[Section 120 amended by No. 12 of 1990 s.97; No. 78 of 1990 s.7.]

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. Prosecution of offences

- (1) In this section “**prescribed offence**” means an offence against this Act the penalty in respect of which may include a term of imprisonment.
- (2) Except as provided by subsection (3), a prescribed offence is triable only on indictment.
- (3) A court of petty sessions may hear and determine proceedings for a prescribed offence if the court of petty sessions is satisfied that it is appropriate to do so, and the defendant and the prosecutor consent.
- (4) Where, in accordance with subsection (3), a court of petty sessions convicts a person of a prescribed offence, the penalty that the court of petty sessions may impose in respect of the offence is a fine not exceeding \$10 000 or imprisonment for a term not exceeding 2 years, or both.
- (5) An offence against this Act other than a prescribed offence is, unless the contrary intention appears, punishable summarily.

[Section 122 inserted by No. 12 of 1990 s.99.]

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;
 - (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;
 - (ii) for the payment by that person to the Crown of an amount equal to the proceeds of the sale of specified petroleum 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 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 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.
- (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.]

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 authorized 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. Interpretation

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*¹⁴ 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;

“**former provisions**” means the provisions of the *Petroleum Act 1936*¹⁴;

“**lessee**” means the lessee for the time being under the Barrow Island lease;

“**operations to which this Division applies**” means any works or operations authorized 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, authorizing 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*¹⁵, 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 authorized 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

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 authorized officer appointed under the royalty provisions may exercise the powers conferred on an authorized 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 authorized 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 *Petroleum Act 1936*¹⁴ 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 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.55¹⁶.]

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.]

Division 7 — Fees and royalties

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 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 permit, drilling reservation, or lease is 10% of the royalty value of the petroleum.
- (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 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.
- (7) Where —
- (a) a 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 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 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.]

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.
- (2) The prescribed rate in respect of petroleum recovered, during the period specified in the determination, from the well to which such a determination relates, is the rate so specified.

144. Royalty not payable in certain cases

- (1) Royalty under this Act —
 - (a) is not payable in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained;
 - (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
 - (c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.
- (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.]

144A. Royalty value

- (1) For the purposes of this Act (but subject to subsection (2)) the royalty value of any petroleum is its value at the well-head as agreed or determined under section 145.
- (2) If, in relation to petroleum recovered on or after 1 March 1994, the value at the well-head of that petroleum 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 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.]

145. Ascertainment of value of petroleum

For the purposes of this Act the value at the well-head of any petroleum 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.]

146. Ascertainment of well-head

For the purposes of this Act, the well-head, in relation to any petroleum, 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.]

147. Ascertainment of quantity of petroleum recovered

For the purposes of this Act, the quantity of petroleum 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

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.]

148. Payment of royalty and penalty for late payment

- (1) Royalty under this Act in respect of petroleum 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.]

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 Local Court

- (1) In any action brought before a Local Court under section 14, 17, 18, 19, 21 or 22, the court has jurisdiction irrespective of the amount claimed.
- (2) The procedure of a Local 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.

151. Special case may be reserved for Supreme Court

At any stage of any civil proceedings before it a Local 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 Local 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 Local Court;
- (c) the costs of the proceedings shall be in the discretion of the Judge;
- (d) upon receipt of such opinion the Local Court shall act in accordance therewith, and in the meantime no judgment or order of the Local 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 Local 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.]

[152. Repealed by No. 17 of 1999 s.22(4).]

[152A and 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 and the carrying on of operations, and the execution of works, for that purpose;
 - (b) the recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose;
 - (c) conserving, and preventing the waste of, 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 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 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 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 that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum 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.]

Schedule

<i>Permit No.</i>	<i>Permittee</i>	[Section 152A] <i>Expiry Date</i>
EP 144	Magnum Minerals Pty Limited Openpit Mining & Exploration Pty Ltd	8.2.85
EP 146	Magnum Minerals Pty Limited 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 Eagle Corporation Limited Swan Resources Limited	28.5.85
EP 183	C R A Exploration Pty Limited Eagle Corporation Limited Swan Resources Limited	28.5.85

[Schedule inserted by No. 69 of 1981 s.33.]



Defined Terms

Notes

¹ This reprint is a compilation as at 14 January 2000 of the *Petroleum Act 1967* and includes all amendments effected by the other Acts referred to in the following Table ^{1a}.

Table of Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Petroleum Act 1967</i>	72 of 1967	11 December 1967	5 September 1969 (see section 2 and <i>Gazette</i> 5 September 1969 p.2540)	
<i>Metric Conversion Act 1972</i> , section 4	94 of 1972	4 December 1972	The relevant amendments, as set out in the First Schedule, took effect on 1 January 1973 (see section 4(2) and <i>Gazette</i> 29 December 1972 p.4811)	The schedule to No. 94 of 1972 was redesignated as the First Schedule by the <i>Metric Conversion Act Amendment Act 1973</i> (No. 19 of 1973)
<i>Acts Amendment (Mining) Act 1981</i> , Part III	69 of 1981	30 October 1981	30 October 1981	Section 34(2) and (3): transitional
<i>Acts Amendment (Aboriginal Affairs Planning Authority) Act 1982</i> , Part III	107 of 1982	7 December 1982	7 December 1982	
<i>Barrow Island Royalty Variation Agreement Act 1985</i> , Part III	113 of 1985	7 January 1986	7 January 1986 (see section 2)	
<i>Petroleum Amendment Act 1987</i> , section 6	90 of 1987	9 December 1987	Operative 9 December 1987 Balance deemed operative 14 February 1983 (see section 2)	

Defined Terms

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Petroleum) Act 1990, Part II</i>	12 of 1990	31 July 1990	1 October 1990 (see section 2(1) and <i>Gazette</i> 28 September 1990 p.5099)	Section 26(2): transitional ³ ; section 32(2)-(6): transitional ⁷ ; section 42(2): transitional ⁸ ; section 48(2): transitional ⁹ ; section 56(2)-(4): transitional ¹⁰ ; section 58(2)-(7): transitional ¹² ; section 76(2)-(3): transitional ¹³
<i>Petroleum (Drilling Reservations) Amendment Act 1990</i>	78 of 1990	22 December 1990	1 March 1991 (see section 2 and <i>Gazette</i> 22 February 1991 p.868)	
<i>Land (Titles and Traditional Usage) Act 1993, section 45</i>	21 of 1993	2 December 1993	2 December 1993 (see section 2)	
<i>Petroleum Royalties Legislation Amendment Act 1994, Part 2</i>	11 of 1994	15 April 1994	Deemed operative 1 March 1994 (see section 2)	
<i>Acts Amendment (Petroleum) Act 1994, Part 3</i>	28 of 1994	29 June 1994	22 July 1994 (see section 2 and <i>Gazette</i> 22 July 1994 p.3728)	Section 14(2)-(4): transitional ⁴ ; section 16(2): transitional ⁵ ; section 55(2): transitional ¹⁶
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994 (see section 2)	

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Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment and Repeal (Native Title) Act 1995, Part 7</i>	52 of 1995	24 November 1995	9 December 1995 (see section 2 and <i>Gazette</i> 8 December 1995 p.5935)	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Acts Amendment (Marine Reserves) Act 1997, Part 4</i>	5 of 1997	10 June 1997	29 August 1997 (see section 2 and <i>Gazette</i> 29 August 1997 p.4867)	
<i>Acts Amendment (Land Administration) Act 1997, Parts 49 and 68</i>	31 of 1997	3 October 1997	30 March 1998 (see section 2 and <i>Gazette</i> 27 March 1998 p.1765)	
<i>Acts Amendment (Land Administration, Mining and Petroleum) Act 1998, Part 4</i>	61 of 1998	11 January 1999	11 January 1999 (see section 2(1))	
<i>Acts Amendment (Mining and Petroleum) Act 1999, Part 3</i>	17 of 1999	15 June 1999	24 July 1999 (see section 2 and <i>Gazette</i> 23 July 1999 p.3385)	Section 23(2) and (3): saving ² ; section 26(5): transitional ⁶

Defined Terms

^{1a} As at the date of this Reprint the Second Schedule of the *Petroleum Safety Act 1999* (No. 19 of 1999) was not in operation. The relevant clause of the Second Schedule reads as follows —

“

Petroleum Act 1967

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”.

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”.

”.

As at the date of this reprint Division 7 of Schedule 2 to the *Native Title (State Provisions) Act 1999* (No. 60 of 1999) was not operative. It reads as follows —

“

Division 7 —*Petroleum Act 1967*

49. The Act amended

The amendments in this Division are to the *Petroleum Act 1967**.

[* Reprinted as at 17 December 1992.

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 188 and Act No. 17 of 1999.]

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

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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

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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.

”.

”.

Defined Terms

² Section 23(2) and (3) of the *Acts Amendment (Mining and Petroleum) Act 1999* (No. 17 of 1999) 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.

”.

³ Section 26(2) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

”.

⁴ Section 14(2), (3) and (4) of the *Acts Amendment (Petroleum) Act 1984* (No. 28 of 1984) 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

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- (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).

”.

⁵ Section 16(2) of the *Acts Amendment (Petroleum) Act 1984* (No. 28 of 1994) 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.

”.

⁶ Section 26(5) of the *Acts Amendment (Mining and Petroleum) Act 1999* (No. 17 of 1999) 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.

”.

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⁷ Section 32(2)-(6) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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

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- (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).

”

⁸ Section 42(2) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

”

Defined Terms

⁹ Section 48(2) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

”

¹⁰ Section 56(2), (3) and (4) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

”

¹¹ In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions of Division 2 of Part 13 of the *Corporations (Western Australia) Act 1990*.

¹² Section 58(2)-(7) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

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- (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

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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.

”.

¹³ Section 76(2) and (3) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) 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.

”.

¹⁴ Repealed by this Act, s.3.

¹⁵ Now see *Interpretation Act 1984*.

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¹⁶ Section 55(2) of the *Acts Amendment (Petroleum) Act 1994* (No. 28 of 1994) 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.

”.

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

<u>Defined Term</u>	<u>Provision(s)</u>
a compensable lessee	21(1)(c)
access authority	5(1)
adjacent area.....	26
affected lessee	24(1)
application for a primary licence.....	5(1)
application for a secondary licence	5(1)
approved.....	5(1)
authorization	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 petroleum.....	29(2)
federal duty	144A(3)
former provisions	128
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)

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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 pool	5(1)
petroleum title	106(13)
prescribed instrument	128
prescribed offence	122(1)
primary entitlement	5(1)
primary licence.....	5(1)
private land	5(1)
Register	5(1)
registered holder.....	5(1)
regulations.....	5(1)
reservoir	16(2)(a)
royalty period.....	5(1)
royalty value.....	5(1)
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special prospecting authority	5(1)
the area to which the surrender relates	98(5)
the compensable lessee	21(1)(c)
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)
well.....	5(1)
wholly cancelled	5(1)
wholly determined	5(1)