

# OFF-SHORE MINERALS BILL 1997

## EXPLANATORY NOTES

*Clause 1*—sets out the short title of the Bill.

*Clause 2*—provides for the commencement of the Act on a day to be fixed by proclamation.

*Clause 3*—Outlines the main principles of the Offshore Constitutional Settlement by which the States share in the administration of the Commonwealth Act and under which a common mining code will be maintained in the offshore area. The clause also details those Acts which either gave rise to, or flow from the Offshore Constitutional Settlement.

“Note 2” explains that some sections of the Commonwealth Act contain provisions which are not relevant to this Bill. Throughout the Bill some clause numbers are not used to maintain uniformity with the Commonwealth Act.

*Clause 4*—Many provisions of this Bill are accompanied by explanatory notes. These notes may explain further the purpose of the particular provision or they may draw attention to another provision which may be relevant to the substance of the original provision. This clause provides that the notes which may be included in a clause may assist the understanding but do not form part of that clause.

*Clause 5*—Refers to the dictionary in Schedule 5 of the Bill.

*Clause 6*—The intention here is to identify the shareholders in a tenure and their percentage holding. It ensures that where a tenure has a number of holders it does not automatically mean that all have equal shares, but rather only those percentages that are specified in the Register.

*Clause 7*—This makes transparent that a transfer of a tenure or share in a tenure has occurred when all or any of the percentages of the interest in a tenure changes.

*Clause 8*—This provision makes it clear that if a holder of an exploration permit applies for and is granted a mineral development licence or a mining

lease, these latter tenures over the same area are defined as successor tenures to the exploration permit. It also allows for a mining lease to succeed a mineral development licence which previously succeeded an exploration permit. The intention is that over the life of an offshore minerals project, the previous rights of the project owner are in certain circumstances continued in the successor tenures.

**Clause 9**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 10**—From time to time it will be necessary to determine various positions upon the Continental Shelf, for example the position of a particular boundary of a title area. This clause explains how the position on the Earth's surface is calculated and ensures that all determinations of points will be made by reference to a single geodetic station, namely the Johnston Geodetic Station in the Northern Territory. This point was established through the co-operative effort of the survey authorities of the Commonwealth and the States.

**Clause 11**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 12**—This ensures that where an instrument issued under this Act is varied in any way, the variation is carried out according to the same procedures and under the same conditions by which the original instrument was issued. The intention is to ensure that there is consistency in the administration of this Act.

**Clauses 13 to 15**—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 16**—“Coastal waters” of the State is defined as the first 3 nautical miles of the territorial sea from the baseline—this is the area subject to this Bill. The “baseline” is described as effectively being the lowest astronomical tide along the coast, but varies where bays and other indentations occur. The map in Schedule 1 outlines the territorial sea baseline and the inner limit of Queensland coastal waters. This clause explains the effect on a tenure issued under this Bill where there is a change in the baseline. If the baseline moves landward and causes a tenure to no longer be within coastal waters, the Bill will still apply to the tenure as if it was still within coastal waters. If the baseline moves seaward and causes a tenure issued under the Commonwealth Act to move within coastal waters (covered by this Bill), that tenure is not affected by this Bill. Once a tenure

(or any successor tenure by the same holder) affected by a change in the baseline is no longer in force, the new position of the baseline applies to subsequent tenure applications. Subclause (7) makes reference to a new section 4 in the Queensland *Mineral Resources Act 1989* which has the same effect, i.e. if a shift in the baseline towards the land causes a tenement covered by the jurisdiction of the Queensland *Mineral Resources Act 1989* to then encroach upon coastal waters, the tenement remains within the jurisdiction of the Queensland *Mineral Resources Act 1989*.

**Clause 17**—This clause provides that for the purposes of this Bill the offshore area is divided into sub-blocks bounded by one minute of latitude and one minute of longitude. This concept is illustrated by a diagram in Schedule 2. In Australia's offshore areas this results in sub-blocks of about 3.39 sq km at latitude 10 degrees south, reducing to about 2.64 sq km at latitude 40 degrees south.

**Clause 18**—This provision allows the Minister to withdraw a sub-block entirely from the operation of this Bill, provided the sub-block is not the subject of an existing tenure or an application for a tenure. The intention is to allow sub-blocks to be reserved for conservation purposes, environmental reasons or any other reason.

**Clause 19**—This clause defines a standard sub-block as one that is not reserved and is available for any one to apply for either an exploration permit or mining lease.

**Clause 20**—This clause defines a tender sub-block as a reserved sub-block which is made available for an exploration permit or a mining lease by way of a public invitation to apply for the tenure.

**Clause 21**—This clause defines a discrete area as a group of sub-blocks where all the sub-blocks join each other at least on one side.

**Clause 22**—This clause adopts an all embracing descriptive definition of minerals to include all naturally occurring substances or any mixture of them, except petroleum, coral limestone, sand, gravel and rock. For administrative efficiency reasons, coral limestone has been excluded from the definition of “minerals” under this Act as it is already covered in this context by the *Fisheries Act 1994*. Sand gravel and rock are dealt with similarly under the *Transport Infrastructure Act 1994*.

**Clause 23**—This clause adopts a broad definition of exploration to include any operation directly related to exploration. However, in

Queensland, activities carried out by means of tunnels driven under the sea from dry land above the low water mark will be covered by Queensland's *Mineral Resources Act 1989* and not by the provisions of this legislation.

**Clause 24**—This clause adopts a broad definition of recovery. It excludes mining by undersea tunnels originating from dry land above the low water mark from the provisions of this Bill.

**Clause 25**—This clause defines a tenure holder as one whose name appears in the Register.

**Clause 26**—This clause defines “associates” in order to make a distinction between them and the tenure holder. Associates may do all the work necessary for the exploration and mining of minerals under agreements with tenure holders or other associates. Associates may be contractors, sub-contractors, agents or employees.

**Clause 27**—This clause ensures that any information provided to the Minister by the tenure holder remains confidential so long as it relates to only those sub-blocks covered by the tenure and for so long as that tenure or a successor tenure remains in force.

**Clause 28**—This ensures that any material recovered as a sample which is provided by the tenure holder to the Minister remains confidential so long as it relates to only those sub-blocks covered by the tenure and for so long as that tenure or a successor tenure remains in force.

**Clause 29**—Where “Commonwealth-State offshore area” is referred to in this Part, it has the same meaning as in the Commonwealth Act. The Commonwealth-State offshore area is the offshore area seaward of the 3 nautical mile limit. See diagram in Schedule 3.

**Clause 30**—This clause provides for the Minister to perform duties as a member of the Joint Authority, or as the Designated Authority in Commonwealth waters under the Commonwealth Act.

**Clause 31**—Similarly, this clause provides for an officer with delegated authority under the Commonwealth Act to perform those duties under that Act

**Clauses 32 to 34**—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 35**—This provision supports clause 22 in that petroleum is not covered by this Act.

**Clause 36**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 37**—This clause makes this Bill applicable to all natural persons whether or not they are Australian citizens or residents, and to all corporations whether or not they are incorporated or carrying out business in Australia or its Territories.

**Clause 38**—This clause provides for the rationale for this legislation and for the basic control over all offshore minerals activities. It provides that all offshore mineral activity is prohibited unless authorised according to the provisions of this Bill.

**Clause 39**—This outlines the five tenures and consents which may be granted, their respective purposes and the sequence in which they may be used. The five tenures and consents are:

- (a) exploration permit
- (b) mineral development licence
- (c) mining lease
- (d) works licence
- (e) special purpose consent.

**Clause 40**—This outlines the steps that must be taken before a tenure becomes fully effective.

**Clause 41**—This clause allows the Minister to determine the form and manner in which an application for a tenure and any associated documents, such as maps, are to be made and lodged.

**Clause 42**—This is one of the fundamental clauses in the legislation. It provides that minerals authorised by and recovered under a tenure (but not a works licence) are the property of the tenure holder.

**Clause 43**—The clause makes it clear that while a tenure or consent does not extinguish any native title, the native title rights in the area will be subject to the rights conferred on the holder of a tenure or consent. Subject to clause 44, the subordination of native title rights during the life of a tenure is consistent with the subordination of any other rights other interested parties may have in the tenure area. In other words, native title rights are subordinate to the tenure rights of the tenure holder while the tenure exists. Also, liability to pay compensation in relation to native title, lies with the

tenure applicant and not the Government.

**Clause 44**—Tenure holder must respect and not interfere with the rights of other persons who may be lawfully in the area including any native title rights and interests.

**Clause 45**—This provides that an exploration permit may be granted for sub-blocks that are open for exploration or sub-blocks that have been previously reserved and which have been released for tender.

**Clause 46**—This outlines in clear terms what a tenure holder can or cannot do under a tenure. The tenure authorises its holder (subject to compliance conditions and all other legal requirements) to explore the tenure area for all minerals except those specifically excluded or for minerals specified in the tenure. It also allows the tenure holder to recover samples and carry out associated activities.

**Clause 47**—A tenure can be cancelled for failing to comply with the conditions of the tenure and for breaching a provision of this Act or Regulations or a condition attached to the transfer of a tenure. No compensation is payable to the tenure holder in this situation.

**Clause 48**—This provides that any rights conferred by an exploration permit may be suspended in the public interest. For example, an investigation may need to be conducted to establish whether or not exploration activity in the area is having an adverse impact on a newly discovered and unique ecological occurrence. It also provides the procedures the Minister must follow if the Minister decides to suspend the tenure. They may be later restored and the tenure holder must be informed of both events in writing.

**Clause 49**—This provides that compensation must be paid to a tenure holder if property is acquired as a result of suspension of exploration permit rights. The tenure holder is entitled to compensation when tenure rights have been suspended for reasons beyond the control of the tenure holder.

**Clause 50**—This provides that a person may apply for an exploration permit to cover one or more vacant sub-blocks providing they form one discrete area up to a maximum size of 500 sub-blocks.

**Clause 51**—This provision outlines the various circumstances under which a sub-block can be excluded from being available for an application for an exploration permit. The intention is to allow the Minister the opportunity to reserve a newly vacant sub-block, for whatever reason. It is

also designed to prevent previous tenure holders of, or applicants for those sub-blocks from immediately re-applying for them again so as to give other interested parties the opportunity to apply for them.

**Clause 52**—This allows a person to apply to the Minister for a determination to enable him or her to apply for an exploration permit over an area covered by an excluded sub-block.

**Clause 53**—This provision allows a person to apply for and the Minister to consider an exploration permit application covering more than one discrete area. It is possible that some applications lodged around the same period may be for over-lapping areas. This provision gives the Minister the discretion to grant an exploration permit to cover up to three discrete areas, if the severance of the area is caused by a grant of a prior application.

**Clause 54**—This provision outlines to whom and the manner in which an application for an exploration permit is to be made, as well as the details to be included in the application.

**Clause 55**—This provides that an application for an exploration permit is not invalid if it includes a sub-block which is not available. This provision allows the application to be considered in relation to those remaining sub-blocks that are available.

**Clause 56**—The tenure application fee is prescribed by regulations and is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of the fee is to recover the administrative costs of processing applications wherever possible.

**Clause 57**—Applicants must advertise the details of their application for an exploration permit in the print media and invite comments on the application which should be lodged with the Minister within 30 days.

**Clause 58**—The purpose of this clause is to ensure that as a general rule, all exploration permit applications will be considered on a “first come, first considered” basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

**Clause 59**—This provision allows the Minister to discuss the shape of the total area comprising a number of sub-blocks sought by an applicant for

an exploration permit. Following the discussion, the Minister, with agreement of the applicant, may change the shape of the area in the application. The purpose is to prevent an applicant from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas.

**Clause 60**—Its purpose and contents are similar to clause 57. Applicants must advertise the details of their revised application.

**Clause 61**—This clause empowers the Minister to request any further information about the tenure application. The information in the application may be deficient in some aspects or may require further elaboration.

**Clause 62**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 63**—This clause enables the Minister to grant a provisional exploration permit which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

**Clause 64**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 65**—This requires that the tenure must specify the area, the terms and conditions of the tenure.

**Clause 66**—This provision requires the successful applicant to be given the tenure which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional tenure will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the tenure.

**Clause 67**—This allows the provisional tenure holder to request, within 30 days of receiving a written notice of a provisional grant of an exploration permit, an amendment to a condition of the provisional tenure and the Minister may amend that condition or any other condition of the tenure.

**Clause 68**—This allows the provisional tenure holder to request within 30 days of receiving a written notice of a provisional grant of an exploration permit, an amendment of the security requirement and the Minister may amend the security requirement.

**Clause 69**—This provides for the payment of fees and the confirmation of grant to be deferred to allow time for any conditions or the level of security to be amended, if thought necessary.



**Clause 70**—This is the final formal step (subject to registration) in the grant of an exploration permit. The grant becomes final upon the applicant paying the required fees, lodging appropriate security and confirming in writing, acceptance of the grant. If the confirmation of the grant is made after any amendments to the conditions or security requirements during the payment extension period, the date of the confirmed grant remains the date of the original conditional grant. This means that when discussions are held on possible amendments to the conditions or security requirements, the “clock still ticks away” so as to provide an incentive to the provisional tenure holder to conclude discussions as soon as possible.

**Clause 71**—This ensures that the conditions specified in the tenure become legally binding on the tenure holder.

**Clause 72**—A provisional grant of an exploration permit lapses if acceptance and payment of relevant fees and securities are not made within 30 days or, if an extension is granted, within this extended period.

**Clause 73**—It is intended to ensure that the potential applicants are made aware of the “ground rules” under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the tenure and the procedures that it will adopt in allocating the tenure. This provision will allow the Minister to determine whether the tenure will be allocated on the basis of program bidding or cash bidding.

**Clause 74**—In Division 2, the initiative for making an application over a standard sub-block lies with the applicant for a vacant area and at a time of the applicant's own choosing. Under this clause, the initiative lies with the Minister who invites applications to be lodged within a specified time frame for a reserved area which has been released for exploration by way of tender.

**Clause 75**—The Minister must publicly specify the criteria the applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also limits the size of an exploration permit to 500 sub-blocks. The intention is to ensure that the potential applicants are made aware of the conditions and procedures against which their applications will be assessed.

**Clause 76**—This provides that a person may apply for an exploration permit according to the public notice of invitation.

**Clause 77**—This is a procedural provision. It outlines to whom and the manner in which an application for an exploration permit is to be made, as well as the details to be included in the application.

**Clause 78**—This allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

**Clause 79**—This provision allows the Minister to request further information in relation to the application which may be thought necessary to assist in the consideration of the application.

**Clause 80**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 81**—The Minister may grant a provisional exploration permit subject to the procedures as advertised in the public tender notice being observed.

**Clause 82**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 83**—It requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the exploration permit which will expire if they are not met.

**Clause 84**—This is the final formal step in the grant of an exploration permit. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

**Clause 85**—This ensures that the conditions specified in the tenure become legally binding on the tenure holder.

**Clause 86**—This provides that a provisional grant of an exploration permit lapses if it is not properly accepted.

**Clause 87**—If there is more than one application as a result of the tender process, this allows the Minister to provisionally grant an exploration permit to the next best applicant should the first chosen tenure holder allow its provisional tenure to lapse.

**Clause 88**—The term of an exploration permit is four years. The date of

the provisional grant is when the tenure commences and it is this date that determines the expiry date, however the tenure does not come into effect until it is registered. The time difference in normal circumstances will be approximately one month, during which time the provisional tenure holder can decide whether to accept the provisional grant and pay the required fees and level of security. The period could be longer if the provisional tenure holder wishes to negotiate any changes to the conditions of the tenure.

**Clause 89**—The term of a renewal is two years, and the maximum number of renewals is three. This clause, taken together with clause 88, ensures that the maximum period of an exploration permit is ten years.

**Clause 90**—This provision empowers the Minister to extend the term of an exploration permit by the same period as tenure rights have been suspended. The intension is to ensure that the tenure holder is not penalised by the suspension and is able to carry out the exploration program within the same period of time once the tenure rights have been restored.

**Clause 91**—This provision allows an exploration permit to continue in force until the Minister either grants or refuses a renewal.

**Clause 92**—This provision allows an exploration permit to continue until the Minister grants or refuses a mineral development licence or a mining lease applied for by way of conversion.

**Clause 93**—This allows an existing exploration permit to remain in force beyond its due expiry date so that any application for an extension can be considered by the Minister.

**Clause 94**—This covers the situation where an exploration permit holder has not been able to complete its exploration program during the maximum time allowed because of circumstances beyond the tenure holder's control. In this situation, the tenure holder can ask for extra time to compensate for the time lost and thus complete the original exploration program.

**Clause 95**—This provision makes it mandatory for the Minister to extend the tenure term if the Minister is satisfied that the unforeseen circumstances did affect the exploration program. The Minister may attach conditions to the extension and there are restrictions on the term of the extension.

**Clause 96**—This allows a tenure holder to request a tenure extension in circumstances other than those outlined in clause 94, that is for circumstances other than those beyond its control such as suspension of

tenure or exemptions from tenure conditions.

**Clause 97**—This empowers the Minister to grant a tenure extension and to impose whatever conditions the Minister thinks appropriate. This is considered necessary as the circumstances may indicate that the tenure holder may need to comply with additional conditions.

**Clause 98**—This clause provides that the applicant is to be advised in writing of the grant or refusal of extension, and of any conditions that may be attached to it.

**Clause 99**—This provision allows a tenure holder to voluntarily surrender some of the area covered by a tenure if the remaining portion forms a discrete area. Under this clause the notification constitutes surrender.

**Clause 100**—This clause requires the consent of the Minister before a tenure holder can surrender sub-blocks leaving two or three discrete areas. This allows the Minister the opportunity to examine the proposed surrender so as to avoid undue fragmentation of the remaining title area and prevent the tenure holder from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas. If the Minister does not agree, then consultations can proceed to decide on the final shape of the areas to be surrendered. In the event of agreement, the applicant is advised in writing.

**Clause 101**—This allows for an exploration permit holder to lodge an application to renew the tenure.

**Clause 102**—This specifies that an application to renew an exploration permit must be made at least 30 days before the tenure expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it.

**Clause 103**—This is a procedural provision which outlines to whom and the manner in which an application for an exploration permit is to be made, as well as the details to be included in the application.

**Clause 104**—This clause provides that the tenure area must be reduced by 50% for each renewal. If a renewal is sought for more than one discrete area, then the application must not exceed 3 discrete areas. This is to avoid undue fragmentation of the tenure area. The clause also gives the Minister the discretion to reduce the mandatory reduction in the tenure area by less than 50% if it thinks that circumstances warrant it. The flexibility provided

by this clause will allow the Minister to treat special cases on their merits.

**Clause 105**—This provision empowers the Minister to request any further information about the tenure renewal application which may be thought necessary to assist in the consideration of the renewal application.

**Clause 106**—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

**Clause 107**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 108**—This provision sets out the circumstances under which the Minister must provisionally renew an exploration permit.

**Clause 109**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 110**—This provision sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

**Clause 111**—This allows the provisional tenure holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 112**—This allows the provisional tenure holder to request an amendment of any security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirements and confirm this to the tenure holder in writing.

**Clause 113**—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended if thought necessary.

**Clause 114**—This is the final formal step in the grant of a renewal of an exploration permit. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

**Clause 115**—This ensures that the conditions of the tenure become

legally binding on the tenure holder.

**Clause 116**—A provisional grant of a renewal of an exploration permit lapses if it is not properly accepted.

**Clause 117**—This clause outlines the sources of the obligations associated with an exploration permit. In addition, the clause provides that where there is more than one shareholder in an exploration permit, each shareholder will be held 100% responsible for all obligations of the tenure in the event of failure by any one of them to meet their obligations.

**Clause 118**—Under this clause an exploration permit may be granted subject to such conditions as the Minister thinks fit.

**Clause 119**—Apart from the payment of a penalty or lodgement of security, this clause prevents the possibility that a tax may be imposed by way of a condition.

**Clause 120**—This clause enables the Minister to vary any of the conditions of the tenure in any of the circumstances specified.

**Clause 121**—This clause enables the Minister to suspend or exempt any of the conditions of the tenure in any of the circumstances specified.

**Clause 122**—If a tenure is suspended, this clause frees the tenure holder from complying with the tenure conditions for the duration of the suspension.

**Clause 123**—The fundamental principle contained in this provision is that exploration operations are to be carried out at a standard accepted in the industry and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also imposes on the operator the responsibility of securing the safety, health, and welfare of individuals engaged in the tenure area. It also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the tenure area which are used in connection with the operations. All structures, plant and equipment that are not or no longer going to be used are to be removed from the operations area.

**Clause 124**—This empowers the Minister to require the tenure holder to maintain, and provide when required, any records or samples resulting from exploration activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

**Clause 125**—This requires the tenure holder to allow inspectors access to its operations and records.

**Clause 126**—This clause outlines the circumstances when a tenure expires.

**Clause 127**—This provision allows the tenure holder to surrender the tenure.

**Clause 128**—This clause provides that an existing exploration permit covering the same area as a newly granted mineral development licence automatically expires to the extent of the overlapping sub-blocks. This is to ensure that no area is covered by more than one tenure.

**Clause 129**—This is similar in substance and intent as the previous provision, clause 128.

**Clause 130**—The clause outlines the circumstances under which a tenure may be cancelled and ensures that the tenure holder receives natural justice prior to any moves to cancellation. It gives the tenure holder the opportunity to make submissions within a specified time or to take remedial action. It outlines the conditions the Minister must meet before proceeding with the cancellation.

**Clause 131**—This clause provides that any outstanding obligations must be discharged by the tenure holder after the expiry of the tenure no matter what the circumstances were which gave rise to the termination. It is intended, among other things to ensure that the tenure holder's environmental obligations are met.

**Clause 132**—This clause provides for the grant of a mineral development licence and the accompanying notes outline the reasons for the tenure.

**Clause 133**—This outlines what a tenure holder can or cannot do under a mineral development licence. It also prohibits using the tenure for recovery of minerals for commercial purposes. This is to ensure that the tenure holder applies for a mining lease should the tenure holder wish to commence commercial operations.

**Clause 134**—This empowers the Minister to cancel or not renew a mineral development licence without the need for compensation. A tenure can be cancelled for failing to comply with the conditions of the tenure and for breaching a provision of this Act or Regulations or a condition attached to the transfer of a tenure.

**Clause 135**—This provides that any rights conferred by a mineral development licence may be suspended if the Minister is satisfied it is in the public interest to do so. It also provides the procedures the Minister must follow if the Minister decides to suspend the tenure. It may be later restored and the tenure holder must be informed in writing of both events as they occur.

**Clause 136**—This provides that compensation must be paid to a tenure holder if property is acquired as a result of suspension of mineral development licence rights.

**Clause 137**—This provides that a holder of an existing exploration permit may apply for a mineral development licence covering a group of sub-blocks and each must form a discrete area up to a maximum of 20 sub-blocks.

**Clause 138**—This is a procedural provision. It outlines to whom and the manner in which an application for a mineral development licence is to be made, as well as the details to be included in the application.

**Clause 139**—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this provision is to recover the administrative costs of processing applications wherever possible.

**Clause 140**—This provides that the applicant must advertise the details of the application for a mineral development licence in the print media and invite comments which should be lodged with the Minister within 30 days. The purpose of the provision is to improve the transparency and accountability of the administration of the Act.

**Clause 141**—This provision empowers the Minister to request any further information about the tenure application. This requirement is necessary as the information in the application may be deficient in some aspects or may require further elaboration.

**Clause 142**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 143**—This clause gives the Minister a discretion to grant or refuse a mineral development licence.

**Clause 144**—(Number not used to maintain uniformity with



corresponding sections in the Commonwealth Act).

**Clause 145**—This provision outlines the various grounds on which a mineral development licence may be granted.

**Clause 146**—This details what the tenure must include and limits the term of the tenure to 5 years. The tenure may specify what activities are authorised by the tenure.

**Clause 147**—This provision requires the successful applicant to be given the tenure which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional tenure will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the tenure.

**Clause 148**—This allows the provisional tenure holder to request an amendment to a condition of the provisional tenure within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 149**—This allows the provisional tenure holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the tenure holder in writing.

**Clause 150**—This clause provides for the payment of fees and the confirmation of the grant to be deferred to allow time for any conditions to be amended if thought necessary.

**Clause 151**—This is the final formal step in the grant of a mineral development licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

**Clause 152**—This ensures that the tenure conditions become legally binding on the tenure holder.

**Clause 153**—This provides that a provisional grant of a mineral development licence lapses if it is not properly accepted.

**Clause 154**—This provision outlines the date of commencement and the initial term of a mineral development licence.

**Clause 155**—This provision specifies the date when the renewal of a mineral development licence comes into force and refers the reader to clause 169 which provides that a each renewal may not exceed 5 years.

**Clause 156**—This provides that where an application for renewal has been made, the initial mineral development licence continues in force even though it has expired. This will allow tenure related activities to continue until an application for a renewal is approved or refused by the Minister or not accepted by the applicant.

**Clause 157**—This allows a mineral development licence to continue until the Minister grants or refuses a mining lease.

**Clause 158**—This allows a tenure holder to voluntarily surrender some of the area covered by a tenure if the remaining portion forms a discrete area.

**Clause 159**—This clause allows for an application to be made to renew a mineral development licence.

**Clause 160**—This specifies that an application to renew a mineral development licence must be made at least six months before the tenure expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it. The intention of the provision is to encourage the tenure holder to make an application well before the expiry date of the initial tenure and not wait until it is due to expire.

**Clause 161**—This is a procedural provision. It outlines to whom and the manner in which an application for a mineral development licence is to be made, as well as the details to be included in the application.

**Clause 162**—This clause empowers the Minister to request any further information about the tenure renewal application.

**Clause 163**—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 164**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 165**—This provision states that the Minister can provisionally renew or refuse a mineral development licence.

**Clause 166**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 167**—Empowers the Minister to take into account the applicant's past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining code.

**Clause 168**—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a renewal of a mineral development licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a tenure renewal.

**Clause 169**—This sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant and specifies that the term of a renewal is not to be more than 5 years.

**Clause 170**—This allows the provisional tenure holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 171**—This allows the provisional tenure holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the tenure holder in writing.

**Clause 172**—This provides for the payment of fees to be deferred to allow time for any conditions or security requirement to be amended, if thought necessary.

**Clause 173**—This is the final formal step in the grant of a renewal of a mineral development licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

**Clause 174**—This ensures that the conditions of the tenure are legally binding on the tenure holder.

**Clause 175**—This provides that a provisional grant of a renewal of a mineral development licence lapses if payment is not made within 30 days or if an extension is granted, within the extended period.

**Clause 176**—This clause outlines the sources of the obligations

associated with a mineral development licence. In addition, this clause provides that where there is more than one shareholder in a mineral development licence, each shareholder will be held 100% responsible for all obligations of the tenure in the event of failure by any one of them to meet its obligations.

**Clause 177**—Under this clause a mineral development licence may be granted subject to such conditions as the Minister thinks fit.

**Clause 178**—With the exception of payment of a penalty or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

**Clause 179**—This clause enables the Minister to vary any of the conditions of the tenure in any of the circumstances specified.

**Clause 180**—This enables the Minister to suspend or exempt any of the conditions of the tenure in any of the circumstances specified.

**Clause 181**—If a tenure is suspended, this clause frees the tenure holder from complying with the tenure conditions for the duration of the suspension.

**Clause 182**—This imposes an obligation on the tenure holder to notify changes in the circumstances which significantly affect the long term viability of activities in the tenure area.

**Clause 183**—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also imposes on the operator the responsibility of securing the safety, health, and welfare of individuals engaged in the tenure area. It also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the tenure area which are used in connection with the operations. All structures, plant and equipment that are not, or no longer going to be used, are to be removed from the operations area.

**Clause 184**—This empowers the Minister to require the tenure holder to maintain, and provide when required, any records or samples resulting from exploration or development activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

**Clause 185**—This provides that the tenure holder must allow inspectors access to its operations and records.

**Clause 186**—This clause outlines the circumstances when a tenure expires.

**Clause 187**—This provision allows the tenure holder to surrender the tenure.

**Clause 188**—This provides that a mineral development licence automatically expires when a mining lease over the area is granted and registered. This is to ensure that no area is covered by more than one tenure.

**Clause 189**—The clause outlines the circumstances under which a tenure may be cancelled and ensures that the tenure holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

**Clause 190**—This provision allows the Minister to request the tenure holder to show cause as to why the tenure holder should not be granted a mining lease if the Minister thinks that mining is viable. It is intended to ensure that the tenure holder does not just sit on the area under the tenure without making attempts to develop the tenure area to the point where commercial operations can commence at the appropriate time.

**Clause 191**—This provision provides that any outstanding obligations must be discharged by the tenure holder after the termination of the tenure no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the tenure holder's environmental obligations are honoured.

**Clause 192**—This clause outlines the kind of sub-blocks in coastal waters that may be covered by a mining lease. The tenure authorises its holder (subject to compliance conditions and all other legal requirements) to exploit the tenure area for all minerals except those specifically excluded, or for minerals specified in the tenure.

**Clause 193**—This outlines what a tenure holder can or cannot do under a mining lease.

**Clause 194**—This empowers the Minister to cancel or not renew a mining lease without the need for compensation. A tenure can be cancelled for failing to comply with the conditions of the tenure and for breaching a

provision of this Act or Regulations or a condition attached to the transfer of a tenure.

**Clause 195**—This provides that rights conferred by a mining lease must be suspended in the public interest if it is thought necessary by the Minister. The rights may be restored later and the tenure holder must be informed of both events in writing.

**Clause 196**—This provides that compensation must be paid to a tenure holder if property is acquired as a result of suspension of mining lease rights.

**Clause 197**—This provides that a person may apply for a mining lease to cover any area that is vacant and not covered by an existing tenure. The maximum size of an area covered by a tenure is 20 sub-blocks which must form a discrete area. A person does not have to be a holder of a previous exploration permit or a mineral development licence to make an application under this clause.

**Clause 198**—This provides that only the holder of either an exploration permit or a mineral development licence may apply for mining leases to cover areas which are the subject of the existing titles. Each tenure to cover a maximum area of 20 sub-blocks which must form a discrete area.

**Clause 199**—This provision outlines to whom and the manner in which an application for a mining lease is to be made, as well as the details to be included in the application. There is also a requirement that each application must be accompanied by maps which show the general location of the area sought.

**Clause 200**—An application for a mining lease is not invalid if it inadvertently includes a sub-block which is not available. It is possible that an applicant may not be aware that a sub-block is already under title or is a reserved sub-block. In such circumstances, the application should not be considered invalid and this provision allows the application to be considered in relation to those remaining sub-blocks that are available.

**Clause 201**—This provision is similar to those elsewhere in the Bill. It allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose is to recover the administrative costs of processing applications wherever possible.

**Clause 202**—Applicant must advertise the fact that the applicant has

lodged an application for a mining lease and comments are invited. The purpose is to improve the transparency and accountability of the administration of the Act.

**Clause 203**—The purpose of this provision is to ensure that as a general rule all mining lease applications will be considered on a “first come, first considered” basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

**Clause 204**—It empowers the Minister to request any further information about the tenure application. The information may be deficient in some aspects or may require further elaboration.

**Clause 205**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 206**—This provision empowers the Minister to grant a provisional mining lease which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

**Clause 207**— (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 208**—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a mining lease. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant’s case for a tenure.

**Clause 209**—This specifies the items that are to be included in the tenure. It also limits the term of the tenure to 21 years.

**Clause 210**—This provision requires the successful applicant to be notified of the terms and conditions of the provisionally granted mining lease and a notice of any security deposit. The provisional tenure will lapse if the applicant does not accept the grant and if it does not pay the security and all fees associated with the tenure.

**Clause 211**—This allows the provisional tenure holder to request an amendment to a condition of the provisional tenure within 30 days.

**Clause 212**—This allows the provisional tenure holder to request an

amendment of the security requirement within 30 days.

**Clause 213**—This clause provides for the payment of fees to be deferred to allow time for any conditions or security levels to be amended, if thought necessary.

**Clause 214**—This is the final formal step in the grant of a mining lease. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant. If the acceptance of the grant is made after any amendments to the conditions or security requirements during the payment extension period, the date of the confirmed grant remains the date of the original conditional grant. This means that when discussions are held on possible amendments to the conditions or security requirements, the “clock still ticks away” so as to provide an incentive to the provisional tenure holder to conclude discussions as soon as possible.

**Clause 215**—This ensures that the conditions of the tenure become legally binding on the tenure holder.

**Clause 216**—A provisional grant of a mining lease lapses if it is not properly accepted.

**Clause 217**—This provision ensures that potential applicants are made aware of the “ground rules” under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the tenure and the procedures that it will adopt in allocating the tenure. This provision will allow the Minister to determine whether the tenure will be allocated on the basis of program bidding or cash bidding. Depending on the option chosen, the application must specify either the work program proposed or the amount of the cash bid.

**Clause 218**—Under this clause the Minister may invite applications to be lodged within a specified time frame for a reserved area which has been released for mining.

**Clause 219**—The Minister must publicly specify the criteria applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also sets the maximum size of the tenure to 20 sub-blocks. The intention is to ensure that the potential applicants are made aware of the conditions and the procedures under which their applications will be assessed.



**Clause 220**—This clause provides that a person may apply for a mining lease according to the public notice of invitation.

**Clause 221**—This is a procedural provision. It outlines to whom and the manner in which an application for a mining lease is to be made, as well as the details to be included in the application.

**Clause 222**—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 223**—This provision allows the Minister to request further information in relation to the application.

**Clause 224**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 225**—This provides that the Minister may grant a provisional mining lease in accordance with the procedures advertised in the public tender.

**Clause 226**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 227**—This requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the mining lease.

**Clause 228**—This is the final formal step in the grant of a mining lease. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

**Clause 229**—This clause is similar to those covering exploration and mineral development licences. It is to ensure that the conditions of the tenure become legally binding on the tenure holder.

**Clause 230**—This provides that a provisional grant of a mining lease lapses if it is not properly accepted and security and fee payments are not made within 30 days.

**Clause 231**—If there is more than one application as a result of the tender process, it allows the Minister to provisionally grant an exploration permit to the next best applicant should the first provisional tenure holder

allow its provisional tenure to lapse.

**Clause 232**—This outlines the date of commencement of a tenure as well as the expiry date.

**Clause 233**—This outlines the date of commencement of a renewal of a mining lease as well as the expiry date.

**Clause 234**—This allows the mining lease to continue in force until the Minister grants or refuses a renewal of the mining lease.

**Clause 235**—It allows a tenure holder to voluntarily surrender some of the area covered by a tenure if the remaining portion forms a discrete area.

**Clause 236**—This clause allows for an existing tenure holder to apply for a renewal of the existing mining lease.

**Clause 237**—This specifies that an application to renew a mining lease must be made at least six months before the tenure expires. It also allows the Minister the discretion to accept a later application if the circumstances warrant it and are acceptable to it. The intention of the provision is to encourage the tenure holder to make an application as soon as possible and not wait until the tenure is due to expire.

**Clause 238**—This provision outlines to whom and the manner in which an application to renew a mining lease is to be made, as well as the details to be included in the application.

**Clause 239**—This provision empowers the Minister to request any further information about the tenure renewal application which may be thought necessary to assist in the consideration of the renewal application.

**Clause 240**—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 241**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 242**—This provides that the Minister can provisionally renew a mining lease or refuse to renew it.

**Clause 243**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 244**—Empowers the Minister to take into account the applicants past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining code.

**Clause 245**—This specifies the procedures which the Minister must follow if the Minister proposes to refuse an application for a renewal of a mining lease. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant’s case for a tenure renewal.

**Clause 246**—This sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

**Clause 247**- This allows the provisional tenure holder to request an amendment of the conditions within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 248**—This allows the provisional tenure holder to request an amendment of the security requirement within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the security requirement and confirm this to the tenure holder in writing.

**Clause 249**—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

**Clause 250**—This is the final formal step in the grant of a renewal of a mining lease. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

**Clause 251**—This ensures that the conditions of the tenure become legally binding on the tenure holder.

**Clause 252**—This provides that a provisional grant of a renewal of a mining lease lapses if payment is not made within 30 days, or if an extension is granted within this extended period.

**Clause 253**—This clause outlines the sources of the obligations associated with a mining lease. In addition, this clause also provides that where there is more than one shareholder in a mining lease, each shareholder will be held 100% responsible for all obligations of the tenure in the event of failure by any one of them to meet tenure holder obligations.

**Clause 254**—Under this clause, a mining lease may be granted subject to such conditions as the Minister thinks fit.

**Clause 255**—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

**Clause 256**—This clause enables the Minister to vary any of the conditions of the tenure in the circumstances specified.

**Clause 257**—This clause enables the Minister to suspend or exempt any of the conditions of the tenure in the circumstances specified.

**Clause 258**—This provides that if a tenure is suspended, the tenure holder is relieved from complying with the tenure conditions for the duration of the suspension.

**Clause 259**—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also imposes an obligation on the operator, the responsibility of securing the safety, health, and welfare of individuals engaged in the tenure area. It also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the tenure area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used, are to be removed from the operations area.

**Clause 260**—Tenure holder must pay royalty

**Clause 261**—This empowers the Minister to require the tenure holder to maintain, and provide when required, any records or samples resulting from mining activities. This will ensure that the Minister has the information necessary for the proper and efficient administration of the legislation.

**Clause 262**—This provides that a tenure holder must allow inspectors access to its operations and records.

**Clause 263**—This clause outlines the circumstances when a tenure expires.

**Clause 264**—This provision allows the tenure holder to surrender the tenure.

**Clause 265**—This clause outlines the circumstances under which a

tenure may be cancelled and ensures that the tenure holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

**Clause 266**—Under this provision, any outstanding obligations must be discharged by the tenure holder after the expiry of the tenure no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the tenure holder's environmental obligations are met.

**Clause 267**—This provides that a works licence may be granted to carry out major tenure-related operations on sub-blocks which are outside the tenure area. Works licences may be granted even over areas that are the subject to another works licence or an existing major tenure.

**Clause 268**—This outlines what a works licence holder can do.

**Clause 269**—This empowers the Minister to cancel or not renew a works licence without the need for compensation. A tenure can be cancelled for failing to comply with the conditions of the tenure and for breaching a provision of this Act or Regulations or a condition attached to the transfer of a tenure.

**Clause 270**—This provides that a person may apply for a works licence to cover any sub-block.

**Clause 271**—This is a procedural provision and outlines to whom and the manner in which an application for a works licence is to be made, as well as the details to be included in the application.

**Clause 272**—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 273**—This clause provides that the applicant must notify in writing any other holders of tenures which may be affected by the application. The notification must invite any comments to the Minister within 30 days of the notice being given.

**Clause 274**—Applicants must advertise within 14 days of making the application, the details of their application in the print media, and any objections to the application should be lodged with the Minister within 30 days. The purpose of the provision is to improve the public accountability

of the administration of the legislation.

**Clause 275**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 276**—The provision empowers the Minister to grant a provisional works licence which becomes final upon the applicant paying the prescribed rental fee.

**Clause 277**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 278**—Ensures that the tenure contains all the required information necessary to ensure that the tenure holder is aware of the terms, conditions and obligations pertaining to the tenure. The maximum term of the tenure is 5 years.

**Clause 279**—This provision requires the successful applicant to be given the works licence which contains the terms and conditions of the provisional grant and a notice of any security deposit. The provisional works licence will lapse if the applicant does not confirm that the applicant accepts the provisional grant and if the applicant does not pay the security and all fees associated with the tenure.

**Clause 280**—This allows the provisional works licence holder to request an amendment to a condition of the provisional tenure within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 281**—This allows the provisional works licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the tenure holder in writing.

**Clause 282**—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

**Clause 283**—This is the final formal step (subject to registration) in the grant of a works licence. The grant becomes final upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

**Clause 284**—Ensures that the conditions of the tenure become legally

binding on the tenure holder.

**Clause 285**—This provides that a provisional grant of a works licence lapses if payment is not made within 30 days or, if an extension is granted, within this extended period.

**Clause 286**—This outlines the date of commencement of a tenure as well as the expiry date.

**Clause 287**—This outlines the date of commencement of a renewal of a mining lease as well as the expiry date.

**Clause 288**—This provision allows a works licence to continue until the Minister grants or refuses a works licence renewal.

**Clause 289**—This clause allows for an application be made to renew a works licence.

**Clause 290**—This specifies that an application to renew a works licence must be made at least one month before the works licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it and are acceptable to the Minister. The intention of the provision is to encourage the works licence holder to make an application as soon as possible and not wait until the works licence is due to expire.

**Clause 291**—This is a procedural provision and outlines to whom and the manner in which an application for the renewal of a works licence is to be made, as well as the details to be included in the application.

**Clause 292**—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 293**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 294**—This provision empowers the Minister to provisionally renew a works licence.

**Clause 295**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 296**—This provision sets out the details that the Minister must

provide in the written notice of provisional renewal to the applicant.

**Clause 297**—This allows the provisional tenure holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the tenure holder in writing.

**Clause 298**—This allows the provisional tenure holder to request an amendment of the security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the tenure holder in writing.

**Clause 299**—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

**Clause 300**—This is the final formal step in the grant of a renewal of a works licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

**Clause 301**—Ensures that the conditions of the tenure become legally binding on the tenure holder.

**Clause 302**—A provisional grant of a renewal of a works licence lapses if payment is not made within 30 days or, if an extension is granted, within this extended period.

**Clause 303**—This clause outlines the sources of the obligations associated with a works licence. In addition, this clause also provides that where there is more than one shareholder in a works licence, each shareholder will be held 100% responsible for all obligations of the works licence in the event of failure by any one of them to meet their obligations.

**Clause 304**—Under this clause, a works licence may be granted subject to such conditions as the Minister thinks fit. However, the Minister is empowered to include only such conditions as conform to the general scope and objects of the Bill.

**Clause 305**—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

**Clause 306**—This clause enables the Minister to vary any of the



conditions of the works licence in any of the circumstances specified.

**Clause 307**—This clause enables the Minister to suspend or exempt any of the conditions of the tenure in the circumstances specified.

**Clause 308**—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also imposes an obligation on the operator, the responsibility of securing the safety, health, and welfare of individuals engaged in the tenure area. It also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the area of the works licence which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used are to be removed from the operations area.

**Clause 309**—This empowers the Minister to require the works licence holder to maintain, and provide when required, any record as required by regulations or directions by the Minister.

**Clause 310**—This obliges the works licence holder to allow inspectors access to its operations and records.

**Clause 311**—This clause outlines the circumstances when a works licence expires.

**Clause 312**—This allows the works licence holder to surrender the works licence.

**Clause 313**—The clause outlines the circumstances under which a works licence may be cancelled and ensures that the works licence holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

**Clause 314**—It provides that any outstanding obligations must be discharged by the works licence holder after the termination of the works licence no matter what the circumstances were which gave rise to the termination.

**Clause 315**—This clause provides for the grant of a special consent for the purposes outlined. Unlike tenures, the special purpose consent may be granted over areas which may be reserved or are the subject of an existing tenure.

**Clause 316**—This outlines what a consent holder can or cannot do. This provision highlights the difference between a consent and the other tenures

issued under this legislation.

The consent is different in that it does not give the holder any exclusive rights over the area covered by the consent, nor does it give any preference when it comes to the grant of a tenure for the same area.

**Clause 317**—This is a procedural provision and provides that any person can apply for a consent.

**Clause 318**—This is a procedural provision and outlines to whom and the manner in which an application for a consent is to be made, as well as the details to be included in the application.

**Clause 319**—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this amendment is to recover the administrative costs of processing applications wherever possible.

**Clause 320**—This provision obliges the applicant to obtain the agreement of other tenure holders to the application. It also provides that such agreement is not necessary for scientific investigation which may be covered by international agreements. As the special purpose consent does not confer exclusive rights to the consent holder, the restriction of only one title over an area does not apply.

**Clause 321**—This provision obliges the applicant to notify any interested works licence holders about the application and invite them to lodge any comments they may have with the Minister within 30 days.

**Clause 322**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 323**—This provision empowers the Minister to grant a special purpose consent.

**Clause 324**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 325**—This ensures that the special purpose consent contains all the required information that is necessary so that the consent holder will be aware of the terms, conditions and obligations pertaining to the consent.

**Clause 326**—When taken together with clause 325, this provision limits the period of consent to not more than 12 months.

**Clause 327**—Empowers the Minister to impose any conditions,

including reporting and environmental conditions, on the special purpose consent if the Minister thinks it is appropriate.

**Clause 328**—The clause directs the Minister to set up a register of tenures issued in respect of each offshore area.

**Clause 329**—The clause directs the Minister to create and maintain an associated document file for each tenure. The document file will only contain those documents listed in the register and will be separate from the normal departmental working file which is created when an application for a tenure is lodged with the Minister.

**Clause 330**—It allows the Minister to maintain the register and document file in any form or manner the Minister decides. It allows the register to be kept in computer or electronic form.

**Clause 331**—This allows the Minister to correct any errors of omission or commission in the register. The Minister may act either on the Minister's own initiative or on an application by a person affected by the error. The clause also specifies the procedure the Minister must follow if any correction is planned or contemplated.

**Clause 332**—This clause is fundamental to the whole concept of registration of titles. It allows a person to inspect the register and document file on payment of the prescribed fee. It also obliges the Minister to make the register available to the public at all convenient times.

**Clause 333**—This provision specifies the various particulars which are to be entered in the register and which documents are to be kept in the document file when a provisional grant of a tenure has been accepted.

**Clause 334**—This provision specifies the various particulars which are to be entered into the register when an application for a renewal is made, when provisional renewal of a tenure has been accepted or when a renewal application has been refused.

**Clause 335**—This clause directs the Minister to register an application for an extension to an exploration permit or a refusal of an extension application.

**Clause 336**—This clause directs the Minister to register the fact that a tenure has expired. It also places an obligation on the tenure holder to give the tenure to the Minister for endorsement that it has expired.

**Clause 337**—This specifies the various particulars which are to be

entered in the register when a variation is made to a tenure.

**Clause 338**—This provision specifies the various particulars which are to be entered in the register when there is a transfer of a tenure.

**Clause 339**—This provision specifies the various particulars which are to be entered in the register when there is a document that deals in a tenure.

**Clause 340**—Under this clause, a person or persons upon whom the rights of the registered holder of a title have devolved by operation of law, may have their name or names entered into the register in place of the original registered holder. This is dependent on the person making an application, accompanied by the prescribed fee, to the Minister.

**Clause 341**—This clause provides that while a caveat remains in force, the Minister shall not register a dealing in a tenure unless otherwise exempted by the provisions of this clause.

**Clause 342**—This provides for the lodgement of a caveat by anybody claiming an interest in a tenure.

**Clause 343**—This outlines the form of a caveat and the particulars to be specified in the caveat.

**Clause 344**—This provides that a lodgement of a caveat is to be accompanied with the prescribed fee.

**Clause 345**—Unless otherwise directed by a court, this clause directs the Minister to register the caveat and retain it after it has been endorsed accordingly.

**Clause 346**—This allows the caveat holder to withdraw the caveat at any time and outlines the actions to be undertaken by the Minister.

**Clause 347**—This outlines the form of withdrawal of the caveat.

**Clause 348**—This provides that a caveat has effect from the date it is lodged with the Minister. It also outlines the various circumstances when a caveat will cease to have effect.

**Clause 349**—This outlines the circumstances when the Minister must notify a caveat holder of dealings in tenures.

**Clause 350**—This outlines the circumstances when a caveat holder may give consent to registration of a dealing. The consent must be registered by the Minister.

**Clause 351**—This outlines the jurisdiction of the Wardens Court in relation to caveats. The provision includes a power for the court to deal with vexatious, successive caveats which seek to frustrate or delay actions to be undertaken by the Minister.

**Clause 352**—Tenures are exempt from the application of stamp duty.

**Clause 353**—This provides that a Minister, a delegate of the Minister or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers or authority conferred by this Part.

**Clause 354**—This provides for an application to be made by a person to the Wardens Court if it is desired to have an omission or error in the register rectified. The Minister must be notified of such application, and shall rectify the register in accordance with any Wardens Court order.

**Clause 355**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 356**—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

**Clause 357**—Provides that the register, a computer record, a certified copy of, or an extract from the register are admissible as evidence in legal proceedings.

**Clause 358**—Provides that a certified copy of any document which is registered can be provided on the payment of a fee and it is admissible as evidence in any legal proceedings.

**Clause 359**—Provides that a certificate about any actions which may or may not have been done may be issued on the payment of a fee. Such a certificate will be admissible as evidence in any legal proceedings.

**Clause 360**—This clause provides that any dealings in a tenure must be done in writing.

**Clause 361**—Provides that any such dealings in a tenure have no effect until the details have been entered into the register.

**Clause 362**—This provides that all transfers, or the transfer of part of a tenure has no effect until approved by the Minister. This provision is required because the Minister in granting the original tenure in effect approved the percentage holding in the original title. Therefore, any subsequent change in the percentage holding of the title will need approval before being registered. The intent is to prevent any person considered as

being unacceptable by the Minister from gaining a part of a tenure through the “backdoor” by way of a transfer of a share in a tenure.

**Clause 363**—This a procedural provision. It outlines the manner in which an application for a transfer is to be made and that it must be accompanied by the prescribed fee.

**Clause 364**—This provision empowers the Minister to request the production of documents in respect to an application for a transfer in a tenure.

**Clause 365**—This provides the Minister with the discretion to approve or reject an application for a transfer. It also outlines the actions the Minister is to take in the event of the transfer being approved.

**Clause 366**—This clause provides that a Minister, a delegate or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers conferred by this Part.

**Clause 367**—This clause enables the Minister to require the production of information in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain information which is believed to be necessary for the proper administration of the legislation. For example the Minister might wish to obtain data to assist in the determination of the quantity and value of minerals extracted for royalty purposes.

**Clause 368**—This provision is similar to clause 367. It empowers the Minister to request a person to appear personally to provide information.

**Clause 369**—This clause gives the Minister or an inspector the power to administer an oath or affirmation, and to examine on oath, a person attending before them.

**Clause 370**—This clause enables the Minister to require the production of documents in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain documents which are believed to be necessary for the proper administration of the legislation. For example the Minister might wish to obtain data to assist in the determination of the quantity and value of minerals extracted for royalty purposes.

**Clause 371**—This clause enables the Minister to require the production of samples in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request.

**Clause 372**—The clause requires a person to provide information or to answer a question, notwithstanding that the information or answer may tend to incriminate him or her. This clause also creates an offence for any person to give false or misleading information to the Minister.

**Clause 373**—This provides protection to the supplier of information which has been requested and given to the Minister. The information or answer does not become admissible evidence against the person in proceedings other than proceedings concerned with the failure to supply information as requested. The aim of this clause is to use the power for the purposes of the administration of the legislation and not for the purposes of obtaining evidence for prosecution.

**Clause 374**—This clause establishes as a general rule that the Minister cannot release or publish confidential information or samples.

**Clause 375**—This outlines the circumstances in which confidential information or samples may be released. If the tenure holder releases or gives consent to the release, then the Minister may do so.

**Clause 376**—Under this provision, the Minister must make available reports over areas that are no longer the subject of a tenure.

**Clause 377**—This defines what is meant by a compliance inspection.

**Clause 378**—This outlines what an inspector appointed under this legislation can do when carrying out a compliance inspection.

**Clause 379**—This empowers an inspector to inspect tenure-related premises without a warrant provided the inspector is able to produce an identity card on request by the tenure holder.

**Clause 380**—This allows an inspector to carry out a compliance inspection of any premises provided the owner has given consent.

**Clause 381**—This empowers an inspector to carry out a compliance inspection with a warrant.

**Clause 382**—This is a procedural provision. It outlines the steps that an inspector must take to obtain a warrant. It also specifies what the warrant must contain.

**Clause 383**—This allows the inspector to use such assistance and force as is thought reasonable and necessary to carry out a compliance inspection.

**Clause 384**—This requires occupiers of premises to provide all reasonable facilities and assistance to enable the inspector to carry out a compliance inspection effectively.

**Clause 385**—This places an obligation on a person to comply with a direction given by the Minister.

**Clause 386**—This provision empowers the Minister to give a direction on any matters on which regulations may be made. In particular, it highlights the fact that they can cover environmental protection, site rehabilitation, health, safety and welfare. The need for directions to be able to be broad in scope and to be able to over-ride regulations is to allow the Minister to respond quickly to any emergency or unforeseen situation which may be particular to the area covered by a tenure or special purpose consent.

**Clause 387**—This provision allows the Minister to issue a direction to the tenure holder. It outlines the procedures which must be followed by the Minister in giving directions. The intent is that directions are to be title specific and generally be in response to an emergency or unforeseen event that needs to be implemented quickly.

**Clause 388**—This allows directions to incorporate material in other documents. For example, a direction may require a diver to follow the safety rules as set out in a particular manual produced by a recognised professional diving association.

**Clause 389**—Empowers the Minister to issue a direction which prohibits an action being taken or allows it only with the consent of the person affected.

**Clause 390**—This provides that a direction given to a tenure holder may extend to include associates if they are specified.

**Clause 391**—This clause obliges the tenure holder to ensure the direction is brought to the notice of associates if it extends to them.

**Clause 392**—Provides that person can be given a direction in respect of an outstanding obligation even if the tenure has already terminated. This is to ensure, among other things, that the tenure holder can be given a direction in respect of rectification of site damage and environmental rehabilitation after operations have ceased.



**Clause 393**—This clause provides that a direction can over-ride earlier directions, regulations, applied laws or conditions relating to safety or the environment. This is necessary so as to give the Minister the flexibility to respond quickly to any emergency.

**Clause 394**—Empowers the Minister to impose a deadline for compliance with a direction.

**Clause 395**—This empowers the Minister to do anything required by the direction if the person has not complied with the direction within a specified time.

**Clause 396**—This allows the Minister to recover any costs associated with the action taken under clause 395 from the title holder or associate.

**Clause 397**—This outlines the defence that a title holder or associate can mount if faced with a claim from the Minister for the recovery for debts due to the State.

**Clause 398**—This clause specifies when a security may be required to be lodged and places restrictions on how it is to be used.

**Clause 399**—This outlines the occasions when the Minister may determine the amount of security as well as the time it is to be lodged.

**Clause 400**—This outlines how the security may be used by the Minister.

**Clause 401**—This clause provides that regulations may be made which specify the manner of removal of any property etc. that was brought into the area in connection with offshore minerals activity, but which is no longer used in accordance with the conditions of the tenure.

**Clause 402**—This provides that regulations may specify the manner in which any damage to the environment of the title area may be rehabilitated.

**Clause 403**—Under this provision the Minister is empowered to set up specified areas called “safety zones” for the purpose of protecting a structure or equipment in coastal waters.

**Clause 404**—This provides that once a safety zone has been notified in the Gazette, all shipping not specified by the Minister is prohibited from entering or remaining in the zone without the Minister's consent and then only subject to any conditions attached to such a consent. Defence mechanisms against prosecution are also included.

**Clause 405 to 20**—(Numbers not used to maintain uniformity with

corresponding sections in the Commonwealth Act).

**Clause 421**—This empowers the Minister to appoint inspectors to enforce the provisions of this legislation, regulations, conditions of tenures and consents as well as directions.

**Clause 422**—This provides that inspectors must be issued with a photographic identity card as proof of his or her authority to inspect any aspect of the operations being carried out under the legislation.

**Clause 423**—This places an obligation on a person to return the identity card to the Minister as soon as possible after the termination of the appointment as an inspector under this Act. The intention is to ensure that the integrity of the identity card system is maintained.

**Clause 424**—This clause defines “year” for the purpose of fee calculation.

**Clause 425**—This clause provides that a tenure holder must pay annual fees as prescribed.

**Clause 426**—Notwithstanding any prescribed fee, this clause puts a limit on the annual amount payable in respect to each tenure.

**Clause 427**—This provides that fees are due within one month of each anniversary year.

**Clause 428**—This clause defines “royalty period” in terms of six month segments.

**Clause 429**—This clause provides that the holder of a mining lease must pay a royalty for all minerals recovered.

**Clause 430**—This clause enables the Minister to set royalty rates by an instrument in writing, and the rate set will apply to the mineral or minerals specified in the instrument while the instrument remains effective.

**Clause 431**—This clause enables the Minister to set a lower rate of royalty for individual mining leases where it is determined that mineral recovery in specific cases would be uneconomic at the general rate set.

**Clause 432**—This clause provides for the value of a mineral extracted to be agreed between the Minister and the holder of a mining lease, or set by the Minister.

**Clause 433**—This clause provides that, for the purpose of royalty calculation, mineral quantity can be agreed between the mining lease holder

and the Minister or, where there is no agreement, the quantity will be determined by the Minister.

**Clause 434**—Provides that royalty is payable within one month of the end of a royalty period.

**Clause 435**—This clause continues the existing arrangement whereby the royalty breakup is the same as under the Commonwealth *Offshore Minerals Act 1994*.

**Clause 436**—This clause provides that the tenure holder is liable to pay a penalty if royalty payments or fees are not paid by the due date.

**Clause 437**—This clause provides that any payment outstanding is a debt to the State which is recoverable through the Wardens Court.

**Clause 438**—Part 5.1 of the Commonwealth Act provides that State/Territory laws relevant to exploration and mining may be applied in the offshore area, except if a law is inconsistent with a Commonwealth law. This clause enables the State to operate similarly in coastal waters covered by this Bill.

**Clause 439**—This clause enables the Minister to delegate any of the Minister's functions by instrument signed under the Minister's hand and gazetted.

**Clause 440**—This provides for the method of service of documents on a tenure holder.

**Clause 441**—Provides that the Governor may make regulations from time to time to assist the proper administration of this Bill.

**Clause 442**—This clause provides for summary offences against the Act and the limitation period for the commencement of proceedings and also provides the mechanism for indictable offences against section 404(3).

**Clause 443**—This clause outlines the obligations of executive officers regarding corporation compliance with the Act.

**Clause 444**—Provides that the power of authorised officers under the Act is presumed and a certificate or signature are evidence of the matter and the signature it purports to be respectively.

**Clause 445**—The Minister may approve forms for use under this Act.

**Clause 446**—This clause refers to Schedule 4 which sets out the Acts to be amended to ensure their respective provisions are not inconsistent with

this Bill.

**SCHEDULE 1**—This schedule provides a map describing the coastal waters of the State covered by the jurisdiction of this Bill.

**SCHEDULE 2**—Contains a diagram of how a sub-block is constituted.

**SCHEDULE 3**—Is a diagram of the Commonwealth-State offshore area.

**SCHEDULE 4**—Is a list of consequential amendments to Acts to ensure their respective provisions are not inconsistent with this Bill.

**SCHEDULE 5**—Is a dictionary of terms included in this Bill.