



Petroleum (Submerged Lands) Act 1982

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Queensland

Petroleum (Submerged Lands) Act 1982

Contents

| | | Page |
|-------------------|--|------|
| Part 1 | Preliminary | |
| Division 1 | Interpretation, application and construction of Act | |
| 1 | Short title | 13 |
| 4 | Definitions | 13 |
| 5 | Effect of territorial sea baseline changes on pipeline licence | 21 |
| 6 | Application of Act | 21 |
| 6A | Relationship of Act to National Gas (Queensland) Law | 22 |
| 6B | Declaration for Commonwealth Act | 22 |
| 7 | Petroleum pool extending into 2 licence areas | 22 |
| 8 | Points etc. to be ascertained by reference to Australian Geodetic Datum 25 | |
| Division 2 | Administration of the Commonwealth adjacent area for Queensland | |
| 9 | Definition for div 2 | 25 |
| 10 | Minister as member of Joint Authority | 26 |
| 11 | Minister as Designated Authority | 26 |
| 12 | Delegations under Commonwealth Act | 26 |
| 13 | Public servants performing functions under Commonwealth Act | 26 |
| Part 2 | Application of laws | |
| 14 | Application of laws in area adjacent to State | 27 |
| 14A | Disapplication of State occupational health and safety laws | 28 |
| 15 | Jurisdiction of State courts | 29 |
| Part 3 | Mining for petroleum | |
| Division 1 | Preliminary | |
| 16 | Delegation | 30 |
| 17 | Graticulation of earth's surface | 30 |
| 18 | Reservation of blocks | 31 |
| Division 2 | Exploration permits for petroleum | |

Contents

| | | |
|-------------------|--|----|
| 19 | Exploration for petroleum | 32 |
| 20 | Advertisement of blocks | 32 |
| 21 | Application for permits | 33 |
| 22 | Grant or refusal of permit in relation to application | 34 |
| 23 | Application for permit in respect of surrendered etc. blocks | 36 |
| 24 | Application fee etc. | 37 |
| 25 | Consideration of applications | 38 |
| 26 | Request by applicant for grant of permit in respect of advertised blocks 39 | |
| 27 | Grant of permit on request | 40 |
| 28 | Rights conferred by permit | 41 |
| 29 | Term of permit | 41 |
| 30 | Application for renewal of permit | 41 |
| 31 | Application for renewal of permit to be in respect of reduced area | 42 |
| 32 | Grant or refusal of renewal of permit | 43 |
| 33 | Conditions of permit | 46 |
| 34 | Discovery of petroleum to be notified | 46 |
| 35 | Directions by Minister on discovery of petroleum | 47 |
| 36 | Nomination of block for purposes of declaring location | 47 |
| 37 | Declaration of location | 49 |
| 38 | Immediately adjoining blocks | 50 |
| Division 3 | Production licences for petroleum | |
| 39 | Recovery of petroleum in adjacent area | 50 |
| 40 | Application by permittee for licence | 50 |
| 41 | Application for licence | 52 |
| 42 | Determination of rate of royalty | 53 |
| 43 | Notification as to grant of licence | 53 |
| 44 | Grant of licence | 54 |
| 45 | Variation of licence area | 55 |
| 46 | Determination of permit as to block not taken up by licensee ... | 56 |
| 47 | Application for licence in respect of surrendered etc. blocks ... | 57 |
| 48 | Application fee etc. | 59 |
| 49 | Request by applicant for grant of licence | 60 |
| 50 | Grant of licence on request | 63 |
| 51 | Grant of licences in respect of individual blocks | 63 |
| 52 | Rights conferred by licence | 65 |

| | | |
|-------------------|---|----|
| 53 | Term of licence | 65 |
| 54 | Application for renewal of licence | 66 |
| 55 | Grant or refusal of renewal of licence | 66 |
| 56 | Conditions of licence | 69 |
| 57 | Works to be carried out | 70 |
| 58 | Directions as to recovery of petroleum | 71 |
| 59 | Unit development | 71 |
| Division 4 | Pipeline licences | |
| 60 | Construction etc. of pipelines etc. | 74 |
| 61 | Acts done in an emergency etc. | 76 |
| 62 | Removal of pipeline etc. constructed in contravention of Act . . . | 76 |
| 63 | Terminal station | 77 |
| 64 | Application for pipeline licence | 78 |
| 65 | Grant or refusal of pipeline licence | 80 |
| 66 | Rights conferred by pipeline licence | 84 |
| 67 | Term of the pipeline licence | 84 |
| 68 | Application for renewal of pipeline licence | 85 |
| 69 | Grant or refusal of renewal of pipeline licence | 85 |
| 70 | Conditions of pipeline licence | 88 |
| 71 | Variation of pipeline licence on application of pipeline licensee . | 89 |
| 72 | Variation of pipeline licence by Minister | 89 |
| 73 | Common carrier | 90 |
| 74 | Ceasing to operate pipeline | 91 |
| Division 5 | Registration of instruments | |
| 75 | Register of certain instruments to be kept | 91 |
| 76 | Particulars to be entered in register | 91 |
| 77 | Memorials to be entered of permits etc. determined etc. | 93 |
| 78 | Approval and registration of transfers | 93 |
| 79 | Entries in register on devolution of title | 95 |
| 80 | Interests not to be created etc. except by instruments in writing . | 95 |
| 81 | Approval of instruments creating etc. interests | 96 |
| 82 | True consideration to be shown | 97 |
| 83 | Minister not concerned with certain matters | 97 |
| 84 | Power of Minister to require information as to proposed dealings | 98 |
| 85 | Production and inspection of documents | 98 |
| 86 | Inspection of register and documents | 98 |

Contents

| | | |
|-------------------|--|-----|
| 87 | Evidentiary provisions | 99 |
| 88 | Appeals | 99 |
| 89 | Minister not liable to certain actions | 100 |
| 90 | Offences | 100 |
| 91 | Assessment of fee | 100 |
| 92 | Imposition of registration fees | 101 |
| Division 6 | General | |
| 94 | Notices of grants of permits etc. to be published | 103 |
| 95 | Date of effect of permits etc. | 104 |
| 96 | Commencement of works | 104 |
| 97 | Work practices | 105 |
| 98 | Maintenance of property | 107 |
| 99 | Ss 97 and 98 to have effect subject to this Act | 108 |
| 100 | Drilling near boundaries | 108 |
| 101 | Directions | 108 |
| 102 | Compliance with directions | 110 |
| 103 | Exemption | 110 |
| 104 | Surrender of permits etc. | 112 |
| 105 | Cancellation of permits | 113 |
| 106 | Cancellation of permit etc. not affected by other provisions | 115 |
| 107 | Removal of property etc. by permittee etc. | 116 |
| 108 | Removal of property etc. by Minister | 117 |
| 109 | Payment by instalments | 118 |
| 110 | Penalty for late payment of instalments etc. | 119 |
| 111 | Special prospecting authorities | 119 |
| 112 | Access authorities | 121 |
| 113 | Sale of property | 124 |
| 114 | Securities | 125 |
| 115 | Minister etc. may require information to be furnished etc. | 127 |
| 116 | Power to examine on oath | 127 |
| 117 | Failing to furnish information etc. | 128 |
| 118 | Release of information | 128 |
| 119 | Safety zones | 133 |
| 120 | Discovery and use of water | 134 |
| 121 | Survey of wells etc. | 134 |
| 122 | Records etc. to be kept | 134 |

| | | |
|-------------------|--|-----|
| 123 | Scientific investigations | 135 |
| 124 | Interference with other rights | 135 |
| 124A | Interfering with offshore petroleum installation or operations . . . | 136 |
| 125 | Inspectors | 136 |
| 126 | Powers of inspectors | 137 |
| 127 | Property in petroleum | 138 |
| 128 | Suspension of rights conferred by permit | 138 |
| 129 | Certain payments to be made by State to Commonwealth | 138 |
| 130 | Determination to be disregarded in certain cases | 139 |
| 131 | Continuing offences | 139 |
| 132 | Persons concerned in commission of offences | 140 |
| 133 | Provisions in respect of offences | 140 |
| 134 | Orders for forfeiture in respect of certain offences | 141 |
| 135 | Disposal of forfeited goods | 142 |
| 136 | Time for bringing proceedings for offences | 142 |
| 137 | Judicial notice | 142 |
| 138 | Service | 142 |
| Division 7 | Fees and royalties | |
| 139 | Permit fees | 144 |
| 140 | Licence fees | 144 |
| 140A | Application of GST to permit and licence fees | 144 |
| 141 | Pipeline licence fees | 144 |
| 142 | Time of payment of fees | 145 |
| 143 | Royalty | 145 |
| 144 | Reduction of royalty in certain cases | 146 |
| 145 | Royalty not payable in certain cases | 147 |
| 146 | Ascertainment of wellhead | 147 |
| 147 | Ascertainment of value | 148 |
| 148 | Ascertainment of quantity of petroleum recovered | 148 |
| 149 | Payment of royalty | 148 |
| 150 | Penalty for late payment | 148 |
| 151 | Fees and penalties debts due to the State | 149 |
| Part 3A | National Offshore Petroleum Safety Authority | |
| Division 1 | Preliminary | |
| 151A | Definitions for pt 3A | 149 |
| 151B | Occupational health and safety | 150 |

Contents

| | | |
|-------------------|---|-----|
| 151C | Listed OHS laws | 150 |
| 151D | Regulation-making power—occupational health and safety | 150 |
| Division 2 | Functions and powers of the Safety Authority | |
| 151E | Safety Authority’s functions | 151 |
| 151F | Safety Authority’s ordinary powers | 152 |
| 151G | Judicial notice of seal | 152 |
| Division 3 | Safety Authority Board | |
| 151H | Functions of the Board | 152 |
| 151I | Powers of the Board | 153 |
| 151J | Validity of decisions | 154 |
| Division 4 | Chief executive officer and staff of the Safety Authority | |
| 151K | CEO acts for Safety Authority | 154 |
| 151L | Working with the Board | 154 |
| 151M | Delegation by CEO | 154 |
| 151N | Secondments to Safety Authority | 155 |
| Division 5 | Other Safety Authority provisions | |
| 151O | Minister may require the Safety Authority to prepare reports or give information | 155 |
| 151P | Directions to Safety Authority | 156 |
| 151Q | Reviews of operations of Safety Authority | 156 |
| 151R | Liability for acts and omissions | 157 |
| Part 4 | Miscellaneous | |
| 152 | Regulation-making power | 158 |
| Schedule 1 | Convention on the continental shelf | 160 |
| Schedule 2 | Area that includes the adjacent area | 166 |
| Schedule 3 | Occupational health and safety | 172 |
| Part 1 | Preliminary | |
| 1 | Objects | 172 |
| 2 | Definitions for sch 3 | 172 |
| 3 | Facilities | 175 |
| 4 | Operator must ensure presence of operator’s representative . . . | 178 |
| 5 | Health and safety of persons using an accommodation facility . . | 178 |
| 6 | Contractor | 178 |
| Part 2 | Occupational health and safety | |
| Division 1 | Duties relating to occupational health and safety | |
| 7 | Duties of operator | 179 |

| | | |
|----------------------|---|-----|
| 8 | Duties of persons in control of parts of facility or particular work | 181 |
| 9 | Duties of employers | 182 |
| 10 | Duties of manufacturers in relation to plant and substances | 183 |
| 11 | Duties of suppliers of facilities, plant and substances | 185 |
| 12 | Duties of persons erecting facility or installing plant | 187 |
| 13 | Duties of persons in relation to occupational health and safety . | 187 |
| 14 | Reliance on information supplied or results of research | 188 |
| Division 2 | Regulations relating to occupational health and safety | |
| 15 | Regulations relating to occupational health and safety | 190 |
| Part 3 | Workplace arrangements | |
| Division 1 | Designated work groups | |
| Subdivision 1 | Establishment of designated work groups | |
| 16 | Establishment of designated work groups by request | 192 |
| 17 | Establishment of designated work groups at initiative of operator | 193 |
| Subdivision 2 | Variation of designated work groups | |
| 18 | Variation of designated work groups by request | 193 |
| 19 | Variation of designated work groups at initiative of operator | 195 |
| Subdivision 3 | General | |
| 20 | Referral of disagreement to reviewing authority | 196 |
| 21 | Manner of grouping members of the workforce | 196 |
| Division 2 | Health and safety representatives | |
| Subdivision 1 | Selection of health and safety representatives | |
| 22 | Selection of health and safety representatives | 197 |
| 23 | Election of health and safety representatives | 197 |
| 24 | List of health and safety representatives | 198 |
| 25 | Members of designated work group must be notified of selection etc. of health and safety representative | 199 |
| 26 | Term of office | 199 |
| 27 | Training of health and safety representatives | 200 |
| 28 | Resignation etc. of health and safety representatives | 200 |
| 29 | Disqualification of health and safety representatives | 201 |
| 30 | Deputy health and safety representatives | 202 |
| Subdivision 2 | Powers of health and safety representatives | |
| 31 | Powers of health and safety representatives | 203 |
| 32 | Assistance by consultant | 204 |
| 33 | Information | 205 |

Contents

| | | |
|----------------------|---|-----|
| 34 | Obligations and liabilities of health and safety representatives . . . | 206 |
| 35 | Provisional improvement notices | 206 |
| 36 | Effect of provisional improvement notice | 208 |
| Subdivision 3 | Duties of the operator and other employers in relation to health and safety representatives | |
| 37 | Duties of the operator and other employers in relation to health and safety representatives | 210 |
| Division 3 | Health and safety committees | |
| 38 | Health and safety committees | 212 |
| 39 | Functions of health and safety committees | 213 |
| 40 | Duties of the operator and other employers in relation to health and safety committees | 214 |
| Division 4 | Emergency procedures | |
| 41 | Action by health and safety representatives | 215 |
| 42 | Directions to perform other work | 217 |
| Part 4 | Inspections | |
| Division 1 | Powers, functions and duties of OHS inspectors | |
| 43 | Powers, functions and duties of OHS inspectors | 218 |
| Division 2 | Inspections | |
| 44 | Inspections | 218 |
| Division 3 | Powers of OHS inspectors in relation to the conduct of inspections | |
| Subdivision 1 | Power of entry | |
| 45 | Power of entry—general | 219 |
| 46 | Inspector’s additional entry power for facility | 220 |
| 47 | Inspector’s additional entry power for particular regulated business premises | 220 |
| Subdivision 2 | Procedure for entry | |
| 48 | Entry with consent | 221 |
| 49 | Application for warrant | 222 |
| 50 | Issue of warrant | 222 |
| 51 | Application by electronic communication and duplicate warrant | 223 |
| 52 | Defect in relation to a warrant | 225 |
| 53 | Warrants—procedure before entry | 225 |
| 54 | Entry of facility | 226 |
| 55 | Entry of particular regulated business premises | 226 |
| Subdivision 3 | Powers after entering a place | |
| 56 | Application of sdiv 3 | 227 |

| | | |
|----------------------|---|-----|
| 57 | General powers—facility | 227 |
| 58 | General powers—other places | 228 |
| 59 | Obstructing or hindering OHS inspector | 228 |
| Subdivision 4 | Other powers | |
| 60 | Definition for sdiv 4 | 228 |
| 61 | Power to require assistance and information | 228 |
| 62 | Power to require the answering of questions and the production of documents or articles | 229 |
| 63 | Privilege against self-incrimination | 230 |
| 64 | Power to take possession of plant, take samples of substances etc. | 231 |
| 65 | Power to direct that workplace etc. not be disturbed | 232 |
| 66 | Power to issue prohibition notices | 234 |
| 67 | Compliance with prohibition notice | 235 |
| 68 | Power to issue improvement notices | 235 |
| 69 | Compliance with improvement notice | 237 |
| 70 | Notices not to be tampered with or removed | 237 |
| Division 4 | Reports on inspections | |
| 71 | Reports on inspections | 238 |
| Division 5 | Appeals | |
| 72 | Appeals | 239 |
| 73 | Powers of reviewing authority on appeal | 242 |
| Part 5 | General | |
| 74 | Notifying and reporting accidents and dangerous occurrences | 242 |
| 75 | Records of accidents and dangerous occurrences to be kept | 243 |
| 76 | Codes of practice | 244 |
| 77 | Use of codes of practice in proceedings | 244 |
| 78 | Interference with equipment etc. | 244 |
| 79 | Members of workforce not to be levied | 245 |
| 80 | Victimisation | 245 |
| 81 | Institution of prosecutions | 246 |
| 82 | Role of Commonwealth DPP | 247 |
| 83 | Conduct of directors, employees and agents | 247 |
| 84 | Act not to give rise to other liabilities etc. | 248 |
| 85 | Circumstances preventing compliance may be defence to prosecution 249 | |
| 86 | Approval of forms | 249 |

Contents

| | | |
|----|---|-----|
| 87 | Regulation making power—sch 3 generally | 249 |
|----|---|-----|

Petroleum (Submerged Lands) Act 1982

An Act to make provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources of, and to conveying petroleum resources (wherever recovered) across, certain submerged lands adjacent to the coasts of Queensland, and for other purposes

Preamble

Whereas in accordance with international law Australia as a coastal State has sovereign rights over the Continental Shelf beyond the limits of Australian territorial waters for the purpose of exploring it and exploiting its natural resources:

And whereas Australia is a party to the Convention on the Continental Shelf signed at Geneva on 29 April 1958 in which those rights are defined:

And whereas by the *Seas and Submerged Lands Act 1973* (Cwlth) it is declared and enacted that the sovereignty in respect of the territorial sea of Australia and in respect of the airspace over it and in respect of its seabed and subsoil, and the sovereignty in respect of certain internal waters of Australia and in respect of the airspace over those waters and in respect of the seabed and subsoil beneath those waters, is vested in and exercisable by the Crown in right of the Commonwealth:

And whereas the Parliaments of the States and the Legislative Assembly of the Northern Territory have certain legislative powers in respect of the seabed and subsoil referred to in the last preceding recital and the Parliament of the Commonwealth has vested in the Crown in right of each of the States and the Crown in right of the Northern Territory certain proprietary rights in respect of that seabed and subsoil:

And whereas it has been agreed between the Commonwealth, the States and the Northern Territory that, in place of the scheme provided for by an agreement between the Commonwealth and the States dated 16 October 1967—

- (a) legislation of the Parliament of the Commonwealth in respect of the exploration for and the exploitation of the petroleum resources of submerged lands should be limited to the resources of lands beneath waters that are beyond the outer limits of the territorial sea adjacent to the States and the Northern Territory (being outer limits based, unless and until otherwise agreed, on the breadth of that sea being 3n miles), and that the States and the Northern Territory should share in the administration of that legislation; and
- (b) legislation of the Parliament of each State should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the State as is on the landward side of the waters referred to in paragraph (a); and
- (c) legislation of the Legislative Assembly of the Northern Territory should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the Northern Territory as is on the landward side of the waters referred to in paragraph (a); and
- (d) the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands referred to above that are on the seaward side of the inner limits of the territorial sea of Australia.

Part 1 Preliminary

Division 1 Interpretation, application and construction of Act

1 Short title

This Act may be cited as the *Petroleum (Submerged Lands) Act 1982*.

4 Definitions

(1) In this Act—

access authority means an access authority under part 3.

application for a primary licence means an application under section 40(1) or (2).

application for a secondary licence means an application under section 40(3).

approved means approved by the Minister.

block means a block constituted as provided by section 17.

Board, for part 3A, see section 151A.

CEO, for part 3A, see section 151A.

Commonwealth Act—

(a) for part 1, division 2, see section 9; and

(b) otherwise, means the *Offshore Petroleum Act 2006* (Cwlth).

Commonwealth Minister means the Minister of the Commonwealth for the time being administering the Commonwealth Act.

Commonwealth offshore area, for a State other than Queensland, or for the Northern Territory, means the offshore

area of the State or Territory for the purposes of the *Offshore Petroleum Act 2006* (Cwlth).

Commonwealth offshore area, for Queensland means the offshore area of Queensland under the *Offshore Petroleum Act 2006* (Cwlth), section 7, including the Coral Sea area within the meaning of that section.

construct includes place and ***construction*** has a corresponding meaning.

corresponding law means an Act of another State or a law in force in a Territory giving effect to the agreement between the Governments of the Commonwealth, the States and the Northern Territory referred to in the preamble to this Act.

facility, for part 3A, see section 151A.

good oilfield practice means all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum, or in operations for the recovery of petroleum, as the case may be.

graticular section means a section referred to in section 17.

inspector means a person appointed under section 125.

interstate Minister, for part 3A, see section 151A.

licence means a production licence for petroleum under part 3.

licence area means the area constituted by the blocks that are the subject of a licence.

licensee means the registered holder of a licence.

listed OHS laws see section 151C.

location means a block or blocks in respect of which a declaration under section 37 is in force.

natural resources has the same meaning as in the Convention.

offshore petroleum operations means operations, including diving operations, that—

(a) relate to—

- (i) the exploration for petroleum; or
 - (ii) the recovery, processing, storage, offloading or piped conveyance of petroleum; and
- (b) if the operations are diving operations—take place in the adjacent area; and
- (c) if the operations are not diving operations—take place at a facility.

OHS inspector means a person appointed as an OHS inspector under the Commonwealth Act.

operation means an activity to which part 3 applies.

partly cancelled means—

- (a) in relation to a permit or licence—cancelled as to 1 or more but not all of the blocks the subject of the permit or licence; and
- (b) in relation to a pipeline licence—cancelled as to a part of the pipeline the subject of the licence.

partly determined, in relation to a permit, means determined as to 1 or more but not all of the blocks the subject of the permit.

permit means an exploration permit for petroleum under part 3.

permit area means the area constituted by the blocks that are the subject of a permit.

permittee means the registered holder of a permit.

petroleum means—

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of 1 or more hydrocarbons, whether in a gaseous, liquid or solid state, and 1 or more of the following, that is to say,

hydrogen sulphide, nitrogen, helium and carbon dioxide;

and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir.

petroleum pool means a naturally occurring discrete accumulation of petroleum.

pipeline means the whole or part of a pipe or a system of pipes in the adjacent area for conveying petroleum, whether the petroleum is petroleum recovered from the adjacent area or not, but does not include a pipe or system of pipes—

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

pipeline licence means a licence under part 3 to construct and operate a pipeline.

pipeline licensee means the registered holder of a pipeline licence.

prescribed means prescribed by the regulations.

primary entitlement, in relation to a permittee, means the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under section 40(1).

primary licence means a licence granted on an application under section 40(1) or (2).

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

register means the register kept in pursuance of part 3, division 5.

registered holder, in relation to a permit, licence, pipeline licence or access authority, means the person whose name is for the time being shown in the register as being the holder of the permit, licence, pipeline licence or access authority.

royalty period, in relation to a permit or licence, means—

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

Safety Authority means the National Offshore Petroleum Safety Authority established by the Commonwealth Act.

secondary licence means a licence granted on an application under section 40(3).

secondary line means a pipe or system of pipes for any purpose referred to in paragraphs (a), (b), (c) and (d) of the definition of *pipeline*.

special prospecting authority means a special prospecting authority under part 3.

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

terminal station means a pumping station, a tank station or a valve station declared to be a terminal station under section 63 or under the Commonwealth Act or a corresponding law.

the adjacent area means, subject to subsection (2), so much of the area the boundary of which is described in schedule 2 as is within the territorial sea of Australia, and the territorial sea adjacent to any island forming part of Queensland.

the applied provisions means the provisions of the laws in force in Queensland and of any instrument made under any of those laws which apply in the adjacent area pursuant to section 14.

the Convention means the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on 29 April 1958, being the Convention a copy of which in the English language is set out in schedule 1.

the Joint Authority means the Commonwealth–Queensland Offshore Petroleum Joint Authority established by the Commonwealth Act.

the relinquished area means—

- (a) in relation to a permit or licence that has expired—the area constituted by the blocks in respect of which the permit or licence was in force but has not been renewed; and
- (b) in relation to a permit that has been wholly determined or partly determined—the area constituted by the blocks as to which the permit was so determined; and
- (c) in relation to a permit or licence that has been wholly cancelled or partly cancelled—the area constituted by the blocks as to which the permit or licence was so cancelled; and
- (d) in relation to a pipeline licence that is no longer in force—the part of the adjacent area in which the pipeline was constructed; and
- (e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled—the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and
- (f) in relation to a special prospecting authority or access authority that has been surrendered or cancelled, or has expired—the area constituted by the blocks in respect of which that authority was in force.

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

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

water line means a pipe or system of pipes for conveying water in connection with petroleum exploration operations or operations for the recovery of petroleum.

well means a hole in the seabed or subsoil made by drilling, boring or any other means in connection with exploration for petroleum or operations for the recovery of petroleum but does not include a seismic shot hole.

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

wholly determined, in relation to a permit, means determined as to all the blocks the subject of the permit.

- (2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3n miles, the definition of *the adjacent area* in subsection (1) continues to have effect as if the breadth of the territorial sea of Australia had continued to be 3n miles.
- (4) In this Act, a reference to the term of a permit, licence, pipeline licence, special prospecting authority or access authority is a reference to the period during which the permit, licence, pipeline licence, special prospecting authority or access authority remains in force and a reference to the date of expiration of a permit, licence, pipeline licence, special prospecting authority or access authority is a reference to the date on which the permit, licence, pipeline licence, special prospecting authority or access authority ceases to have effect.
- (5) In this Act, a reference to a year of the term of a permit, licence or pipeline licence is a reference to a period of 1 year commencing on the date from and including which the permit, licence or pipeline licence, as the case may be, has effect or on any anniversary of that date.

- (6) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first mentioned permit to commence on the day after the date of expiration of the first mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first mentioned permit.
- (7) In this Act, a reference to the renewal, or to the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first mentioned licence or on the day after the date of expiration of the licence granted upon a previous renewal of the first mentioned licence.
- (8) In this Act, a reference to the renewal, or to the grant of a renewal, of a pipeline licence in respect of a pipeline is a reference to the grant of a pipeline licence in respect of that pipeline to commence on the day after the date of expiration of the first mentioned pipeline licence or on the day after the date of expiration of the pipeline licence granted upon a previous renewal of the first mentioned pipeline licence.
- (9) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.
- (10) In this Act, a reference to a permit, licence, pipeline licence or access authority is a reference to the permit, licence, pipeline licence or access authority as varied for the time being under this Act.
- (11) The power conferred by this Act to make, grant or issue any instrument shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.
- (12) For the purposes of this Act and the regulations—
 - (a) the space above or below the adjacent area shall be deemed to be in that area; and

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- (b) the space above or below an area that is part of the adjacent area shall be deemed to be in that part.

5 Effect of territorial sea baseline changes on pipeline licence

- (1) This section applies if—
- (a) a pipeline licence has been granted under this Act on the basis that an area is within the adjacent area; and
 - (b) the territorial sea baseline is changed, or because new data is obtained or existing data is reconsidered, the location of the baseline is reassessed; and
 - (c) because of the change or reassessment, the area—
 - (i) is no longer within the adjacent area; and
 - (ii) falls within the Commonwealth offshore area for a State or the Northern Territory.
- (2) While the pipeline licence is in force, this Act applies to the area so far as the pipeline licence is concerned as if the area were within the adjacent area.

Editor's note—

Under the provisions of the Commonwealth Act, that Act does not apply to the area after the change or reassessment.

- (3) In subsection (1)—

territorial sea baseline has the meaning given under the *Seas and Submerged Lands Act 1973* (Cwlth) by proclamation in gazette No. S29 (Cwlth) of 9 February 1983 at pages 2 to 14.

6 Application of Act

This Act applies to all natural persons, whether Australian citizens or not and whether resident in Queensland or not, and to all corporations, whether incorporated or carrying on business in Queensland or not.

6A Relationship of Act to National Gas (Queensland) Law

If there is an inconsistency between a provision of this Act and the *National Gas (Queensland) Law*, the Law prevails to the extent of the inconsistency.

6B Declaration for Commonwealth Act

The following are declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth)—

- (a) an access authority;
- (b) a licence;
- (c) a permit;
- (d) a pipeline licence.

7 Petroleum pool extending into 2 licence areas

- (1) The provisions of this section have effect for the purposes of this Act and of licences.
- (2) Where a wellhead is situated in a licence area and the well from that wellhead is inclined so as to enter a petroleum pool, being a pool that does not extend to that licence area, at a place within an adjoining licence area of the same licensee, any petroleum recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.
- (3) Where a petroleum pool is partly in 1 licence area and partly in an adjoining licence area of the same licensee and petroleum is recovered from that pool through a well or wells in 1 or both of the licence areas, there shall be deemed to have been recovered in each of the licence areas, under the licence in respect of that area, such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and the respective proportions shall be determined in accordance with subsection (4).

- (4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee or the Minister.
- (5) Where a petroleum pool is partly in a licence area and partly in an area (*the Commonwealth licence area*) in which the licensee has authority under the Commonwealth Act to explore for, or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the Commonwealth licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (6).
- (6) The proportion to be determined for the purposes of subsection (5) may be determined by agreement between the licensee, the Joint Authority and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee, the Joint Authority or the Minister.
- (7) Where a petroleum pool is partly in a licence area and partly in an area (*the other licence area*) in which the licensee has authority, under a corresponding law, to explore for or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the other licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (8).
- (8) The proportion to be determined for the purposes of subsection (7) may be determined by agreement between the licensee, the Minister and the Minister administering the corresponding law or, in the absence of agreement, may be

determined by the Supreme Court on the application of any of those persons.

(9) Where—

- (a) a petroleum pool is partly in a licence area and partly in another area, being an area which is outside the adjacent area and in which the licensee has, under the Commonwealth Act or a corresponding law, authority to explore for, or recover, petroleum; and
- (b) petroleum is recovered from that pool; and
- (c) the Supreme Court of another State or of the Northern Territory makes a determination, under the Commonwealth Act or a corresponding law, of the proportion of the petroleum recovered from that pool that is, for the purposes of the Commonwealth Act or the corresponding law, to be deemed to have been recovered from the other area;

the Supreme Court shall not make a determination under this section that is inconsistent with the determination of the Supreme Court of the other State or of the Northern Territory.

(10) Where—

- (a) a petroleum pool is partly in a licence area and partly in another area, whether in the adjacent area or not, in respect of which another person has authority, whether under this Act, the Commonwealth Act or a corresponding law, to explore for or recover petroleum; and
- (b) a unit development agreement in accordance with section 59 is in force between the licensee and that other person; and
- (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both;

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

- (11) In this section a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit, a permittee, or a permit area.

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

- (1) Where, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the earth and a major (equatorial) radius of 6378160m and a flattening of $100/29825$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.
- (2) That station shall be taken to be situated at 133°, and 30.07 of east longitude and at 25°, and 54.55 of south latitude and to have a ground level of 571.2m above the spheroid referred to in subsection (1).

Division 2 Administration of the Commonwealth adjacent area for Queensland

9 Definition for div 2

In this division—

Commonwealth Act means, as the context requires—

- (a) the *Offshore Petroleum Act 2006* (Cwlth); or
- (b) the *Offshore Petroleum (Registration Fees) Act 2006* (Cwlth); or
- (c) *Offshore Petroleum (Safety Levies) Act 2006* (Cwlth); or
- (d) *Offshore Petroleum (Royalty) Act 2006* (Cwlth).

10 Minister as member of Joint Authority

- (1) The Minister may exercise any power which a Commonwealth Act is expressed to authorise the Minister to exercise as a member of the Joint Authority.
- (2) The Minister shall perform any function which a Commonwealth Act is expressed to require the Minister to perform as a member of the Joint Authority.

11 Minister as Designated Authority

The Minister is authorised to perform the functions and exercise the powers which a Commonwealth Act is expressed to require or empower the Designated Authority in respect of the Commonwealth offshore area for Queensland to perform or exercise.

12 Delegations under Commonwealth Act

Where, in the exercise of a power which a Commonwealth Act is expressed to confer upon the Designated Authority in respect of the Commonwealth offshore area for Queensland, the Minister delegates a power to a person who is an officer in the public service or who holds any office in the service of the State of Queensland, the person may exercise the power.

13 Public servants performing functions under Commonwealth Act

An officer in the public service of Queensland shall perform any function which the Minister, as the Designated Authority in respect of the Commonwealth offshore area for Queensland, or as a member of the Joint Authority, requires the officer to perform in relation to a Commonwealth Act.

Part 2 Application of laws

14 Application of laws in area adjacent to State

- (1) Subject to this Act, the provisions of the laws in force in Queensland, whether written or unwritten, and as in force from time to time, and the provisions of any instrument made under any of those laws, apply in the adjacent area as if the adjacent area were part of the State.
- (2) The provisions referred to in subsection (1) apply to and in relation to all acts, omissions, matters, circumstances and things touching, concerning, arising out of or connected with—
 - (a) exploring the sea-bed or subsoil of the adjacent area for petroleum, and exploiting the natural resources consisting of petroleum of the sea-bed or subsoil; or
 - (b) conveying petroleum, wherever recovered, across the adjacent area.
- (3) This section does not—
 - (a) extend to the provisions of any law or instrument—
 - (i) in so far as they expressly provide for the exploration for or operations for the recovery of petroleum; or
 - (ii) in so far as they expressly provide for the construction or operation of pipelines; or
 - (iii) in so far as they are incapable of application in the adjacent area; or
 - (iv) in so far as they are expressed not to extend to or apply in the adjacent area; or
 - (b) operate so as to apply the provisions of any law of the Commonwealth in any part of the adjacent area in which that law applies.
- (4) The regulations may provide that any provisions referred to in subsection (1) that are specified in the regulations do not

apply by reason of this section or apply with prescribed modifications only.

- (5) Regulations made for the purposes of subsection (4) may provide that prescribed provisions be added to or substituted for any of the provisions referred to in subsection (1).

14A Disapplication of State occupational health and safety laws

- (1) The prescribed occupational health and safety laws do not apply in relation to any of the following—
- (a) a facility;
 - (b) a person at a facility;
 - (c) a person near a facility, to the extent the person is affected by—
 - (i) a facility; or
 - (ii) activities taking place at a facility;
 - (d) activities taking place at a facility.
- (2) For subsection (1), a reference to the prescribed occupational health and safety laws is a reference to the provisions of those laws that, if subsection (1) did not apply, would apply in the adjacent area because of section 14, the cooperative scheme under the *Crimes at Sea Act 2001* or the *Acts Interpretation Act 1954*, section 9.
- (3) In this section—

facility see schedule 3, section 2.

prescribed occupational health and safety laws means any of the following to the extent they relate to occupational health and safety—

- (b) the *Electrical Safety Act 2002*;
- (c) the *Explosives Act 1999*;
- (d) the *Petroleum Act 1923*;
- (e) *Work Health and Safety Act 2011*;

- (f) another law of the State that—
 - (i) relates to occupational health and safety, whether or not it also relates to other matters; and
 - (ii) is prescribed for the purpose of this paragraph.
- (4) Unless it is repealed sooner, a regulation made for the purpose of subsection (3)(f) expires 1 year after it commences.
- (5) If a regulation is made for the purpose of subsection (3)(f), a later regulation having the same effect may not be made.
- (6) This section applies despite section 14(1) and (2).

15 Jurisdiction of State courts

- (1) Subject to this section, the several courts of Queensland are invested with jurisdiction in all matters arising under this Act or the regulations.
- (2) The jurisdiction with which courts are invested by subsection (1) is invested within the limits (other than limits having effect by reference to localities) of their several jurisdictions whether those limits are as to subject matter or otherwise.
- (3) The jurisdiction invested in a Magistrates Court or in 1 or more justices of the peace by this section shall not be judicially exercised except by a Magistrates Court constituted by a stipendiary magistrate sitting alone or by a justice who is a stipendiary magistrate.
- (4) This section does not limit the jurisdiction that a court has apart from this section.

Part 3 Mining for petroleum

Division 1 Preliminary

16 Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister delegate to a person any of the Minister's powers or functions under this Act or the regulations other than this power of delegation.
- (2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act or the regulations, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section may be expressed as a delegation to the person for the time being holding, or performing the duties of, a specified office under the Commonwealth, a State or a Territory.
- (4) A delegation under this section made at any time by a person who is at that time the Minister continues in force notwithstanding that at some subsequent time a different person is the Minister or there is no person who is the Minister, but such a delegation may be revoked or varied by any person who is for the time being the Minister.
- (5) A delegation under this section of a power or function does not prevent the exercise of the power or performance of the function by the Minister.
- (6) A copy of each instrument making, varying or revoking a delegation shall be published in the gazette.

17 Graticulation of earth's surface

- (1) For the purposes of this Act, the surface of the earth shall be deemed to be divided—

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- (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of five minutes, or a multiple of five minutes, of longitude; and
 - (b) by the equator and by parallels of latitude that are at a distance from the equator of five minutes, or a multiple of five minutes, of latitude;
- into sections, each of which is bounded—
- (c) by portions of 2 of those meridians that are at a distance from each other of five minutes of longitude; and
 - (d) by portions of 2 of those parallels of latitude that are at a distance from each other of five minutes of latitude.
- (2) For the purposes of this Act—
- (a) a graticular section that is wholly within the adjacent area constitutes a block; and
 - (b) if a part only of a graticular section is, or parts only of a graticular section are, within the adjacent area—the area of that part, or of those parts, constitutes a block.
- (3) In this Act—
- (a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section; and
 - (b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes, or parts only of which constitute, a block.

18 Reservation of blocks

- (1) The Minister may, by instrument published in the gazette, declare that a block specified in the instrument (not being a block in respect of which a permit or licence is in force or over or in which there is a pipeline) shall not be the subject of a permit, licence, special prospecting authority or access

authority and that a pipeline licence shall not be granted in respect of a pipeline over or in that block.

- (2) While a declaration under subsection (1) remains in force in respect of a block, a permit, licence, special prospecting authority or access authority shall not be granted in respect of that block and a pipeline licence shall not be granted in respect of a pipeline over or in that block.

Division 2 Exploration permits for petroleum

19 Exploration for petroleum

A person shall not explore for petroleum in the adjacent area except—

- (a) under and in accordance with a permit; or
- (b) as otherwise permitted by this part.

Maximum penalty—670 penalty units or imprisonment for 5 years.

20 Advertisement of blocks

- (1) The Minister may, by instrument published in the gazette—
- (a) invite applications for the grant of a permit in respect of the block or blocks specified in the instrument; and
 - (b) specify a period within which applications may be made.
- (2) The Minister may, for reasons that the Minister thinks sufficient, in an instrument under subsection (1), direct that section 21(2) or (3) does not apply, or that both of those subsections do not apply, to or in relation to the applications.
- (3) Where an instrument is published under subsection (1) and—
- (a) no application is made within the period specified in the instrument; or
 - (b) after consideration of the applications, a permit—

- (i) is not granted on any of those applications; or
- (ii) is granted in respect of some but not all of the blocks specified in the instrument;

the Minister may cause a notification accordingly to be published in the gazette and may at any subsequent time receive an application for the grant of a permit in respect of some or all of the blocks specified in the instrument, not being blocks in respect of which a permit was granted.

- (4) The Minister shall not receive an application under subsection (3) during any period during which an application may be made in pursuance of an invitation under subsection (1).
- (5) The Minister may, for reasons that the Minister thinks sufficient, upon request in writing served on the Minister, direct that section 21(2) or (3) does not apply, or that both of those subsections do not apply, to or in relation to an application made under subsection (3).

21 Application for permits

- (1) An application under section 20—
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be in respect of not more than 400 blocks; and
 - (d) shall be accompanied by particulars of—
 - (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and
 - (ii) the technical qualifications of the applicant and of the applicant's employees; and
 - (iii) the technical advice available to the applicant; and
 - (iv) the financial resources available to the applicant; and

- (e) may set out other matters that the applicant wishes the Minister to consider; and
 - (f) shall be accompanied by a fee of \$3000.
- (2) The number of blocks specified in the application—
- (a) if 16 blocks or more are available—shall not be less than 16; or
 - (b) if less than 16 blocks are available—shall be the number available.
- (3) The blocks specified in the application shall be blocks that are constituted by graticular sections that—
- (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the applicant's application.
- (5) Where a permit is not granted, an amount equal to $\frac{9}{10}$ of the fee paid in accordance with subsection (1) shall be refunded to the applicant.

22 Grant or refusal of permit in relation to application

- (1) Where an application has been made under section 20, the Minister may—
- (a) by instrument in writing served on the applicant, inform the applicant—
 - (i) that the Minister is prepared to grant to the applicant a permit in respect of the block or blocks specified in the instrument; and
 - (ii) that the applicant will be required to lodge a security for compliance with the conditions to

which the permit, if granted, will from time to time be subject and with the provisions of this part and of the regulations; or

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

- (a) has not made a request under subsection (3); or
- (b) has not lodged with the Minister the security referred to in the instrument;

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

23 Application for permit in respect of surrendered etc. blocks

(1) Where—

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

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

(2) Where an instrument is published under subsection (1) and—

- (a) no application is made within the period specified in the instrument; or
- (b) after consideration of the applications, a permit is not granted;

in respect of the block or blocks specified in the instrument, the Minister may cause a notification accordingly to be published in the gazette and may, at any subsequent time and without invitation under section 20(1), receive an application for the grant of a permit in respect of the block specified in the instrument or, if more than 1 block was specified in the instrument, in respect of 1 or more of the blocks so specified.

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- (3) The Minister shall not receive an application under subsection (2) during any period during which an application may be made in pursuance of an invitation under subsection (1) or section 20(1).
 - (4) An application under this section—
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by the particulars referred to in section 21(1)(d); and
 - (d) shall specify an amount that the applicant is prepared to pay to the Minister, in addition to the fee referred to in section 24(1)(a), in respect of the grant of a permit to the applicant on the application; and
 - (e) may set out any other matters that the applicant wishes the Minister to consider.
 - (5) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the applicant's application.

24 Application fee etc.

- (1) An application under section 23 shall be accompanied by—
 - (a) a fee of \$3000; and
 - (b) a deposit of 10% of the amount specified in the application under section 23(4)(d).
- (2) Where a permit is not granted on the application—
 - (a) an amount equal to $\frac{9}{10}$ of the fee paid in accordance with subsection (1); and
 - (b) subject to subsection (3), the amount of the deposit; shall be refunded to the applicant.

- (3) Where an applicant on whom there has been served an instrument under section 25 does not request the Minister in accordance with section 26 to grant to the applicant the permit referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

25 Consideration of applications

- (1) Where, at the expiration of the period specified in an instrument under section 23(1), only 1 application has been made under that subsection in respect of the block or blocks specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a permit in respect of that block or those blocks.
- (2) Where, at the expiration of the period specified in an instrument under section 23(1), 2 or more applications have been made under that subsection in respect of the block or blocks specified in the instrument, the Minister may reject any or all of the applications and, if the Minister does not reject all of the applications, may—
 - (a) if only 1 application remains unrejected—by instrument in writing served on the applicant; or
 - (b) if 2 or more applications remain unrejected—by instrument in writing served on the applicant, or on 1 of the applicants, whose application has not been rejected and who has specified as the amount that the applicant is prepared to pay in respect of the grant of a permit to the applicant an amount that is not less than the amount specified by any other applicant whose application has not been rejected;

inform the applicant that the Minister is prepared to grant to the applicant a permit in respect of that block or those blocks.

- (3) Where an application is made under section 23(2), the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that the

Minister is prepared to grant to the applicant a permit in respect of the block or blocks specified in the application.

- (4) Where the Minister serves on an applicant an instrument under this section, the Minister shall, by the instrument, inform the applicant that the applicant will be required to lodge a security for compliance with the conditions to which the permit, if granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (5) An instrument under this section shall contain—
 - (a) a summary of the conditions subject to which the permit is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not—
 - (i) make a request under section 26(1); and
 - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an agreement under section 109 in respect of that balance; and
 - (iii) lodge with the Minister the security referred to in the instrument.

26 Request by applicant for grant of permit in respect of advertised blocks

- (1) An applicant on whom there has been served an instrument under section 25 may, within a period of 3 months after the date of service of the instrument on the applicant, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him or her before the expiration of the first mentioned period of 3 months, allows—
 - (a) by instrument in writing served on the Minister, request the Minister to grant to the applicant the permit referred to in the first mentioned instrument; and
 - (b) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an

agreement under section 109 in respect of that balance;
and

- (c) lodge with the Minister the security referred to in the first mentioned instrument.
- (2) Where an applicant on whom there has been served an instrument under section 25—
- (a) has not made a request under subsection (1); or
 - (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to the applicant or entered into an agreement under section 109 in respect of that balance; or
 - (c) has not lodged with the Minister the security referred to in the instrument;

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

- (3) Where the application of an applicant on whom there has been served an instrument under section 25(2) lapses as provided by subsection (2), section 25(2) applies in respect of the application or applications (if any) then remaining unrejected.

27 Grant of permit on request

Where a person on whom there has been served an instrument under section 25—

- (a) has made a request under section 26(1); and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to the applicant or has entered into an agreement under section 109 in respect of that balance; and
- (c) has lodged with the Minister the security referred to in the instrument;

within the period applicable under section 25(1), the Minister shall grant to that person an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

28 Rights conferred by permit

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

29 Term of permit

Subject to this part, a permit remains in force—

- (a) in the case of a permit granted otherwise than by way of the renewal of a permit—for a period of 6 years commencing on the day on which the permit is granted; and
- (b) in the case of a permit granted by way of the renewal of a permit—for a period of 5 years commencing on the day on which the permit is granted.

30 Application for renewal of permit

- (1) Subject to section 31, a permittee may, from time to time, make an application to the Minister for the renewal of the permit in respect of such of the blocks the subject of the permit as are specified in the application.
- (2) An application for the renewal of the permit—
 - (a) shall be in accordance with an approved form; and
 - (b) subject to subsection (3) shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and
 - (c) shall be accompanied by a fee of \$300.
- (3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the permit less than 3 months before, but not in any case after, the date of expiration of the permit.

31 Application for renewal of permit to be in respect of reduced area

- (1) Subject to subsection (3), the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows—
 - (a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder— $\frac{1}{2}$ of that number;
 - (b) where the number of blocks in respect of which the permit is in force is a number that is 1 less or 1 more than a number that is divisible by 4 without remainder— $\frac{1}{2}$ of that last mentioned number.
- (2) A block that is, or is included in, a location and in respect of which the permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1).
- (3) An application for the renewal of a permit may include, in addition to the blocks referred to subsection (1), a block that is, or is included in, a location and in respect of which the permit is in force, or 2 or more such blocks.
- (4) The blocks specified in an application for the renewal of a permit shall be blocks that are constituted by, or are within, graticular sections that—
 - (a) constitute a single area or a number of discrete areas; and
 - (b) are such that each graticular section in the area, or in each area, has a side in common with at least 1 other graticular section in that area.
- (5) Where the number of blocks in respect of which an application for the renewal of a permit may be made is 16 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 16 blocks.
- (6) Where a maximum number of blocks in respect of which an application for the renewal of a permit may be made in

accordance with subsections (1) to (5) is less than 16, the Minister may, by instrument in writing served on the permittee—

- (a) inform the permittee that the number of blocks in respect of which the application may be made is such number, not exceeding 16, as is specified in the instrument; and
 - (b) give such directions as the Minister thinks fit concerning the blocks in respect of which the application may be made.
- (7) The Minister may, for reasons that the Minister thinks sufficient—
- (a) direct that subsections (4) and (5) do not apply to or in relation to a proposed application for the renewal of a permit; and
 - (b) give such directions as the Minister thinks fit concerning the blocks in respect of which that application may be made.

32 Grant or refusal of renewal of permit

- (1) Where a permittee makes an application for the renewal of a permit, the Minister—
- (a) shall, if the permittee has complied with the conditions to which the permit is subject and with the provisions of this part and of the regulations; or
 - (b) may, if the permittee has not so complied and the Minister is satisfied that although the permittee has not so complied, special circumstances exist that justify the granting of the renewal of the permit;
- inform the permittee, by instrument in writing served on the permittee—
- (c) that the Minister is prepared to grant to the permittee the renewal of the permit; and

- (d) that the permittee will be required to lodge a security for compliance with the conditions to which the permit, if the renewal is granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (2) If the permittee has not complied with the conditions to which the permit is subject and with the provisions of this part and of the regulations, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to subsection (3), by instrument in writing served on the permittee, refuse to grant the renewal of the permit.
 - (3) The Minister shall not refuse to grant the renewal of the permit unless—
 - (a) the Minister has, by instrument in writing served on the permittee, given not less than 1 month's notice of his intention to refuse to grant the renewal of the permit; and
 - (b) the Minister has served a copy of the instrument on such other persons (if any) as the Minister thinks fit; and
 - (c) the Minister has, in the instrument—
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and
 - (d) the Minister has taken into account any matters so submitted to the Minister on or before the specified date by the permittee or by a person on whom a copy of the first mentioned instrument has been served.
 - (4) An instrument referred to in subsection (1) shall contain—
 - (a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and

- (b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5) and lodge with the Minister the security referred to in the instrument.
- (5) A permittee on whom there has been served an instrument under subsection (1) may, within a period of 1 month after the date of service of the instrument on the permittee—
 - (a) by instrument in writing served on the Minister request the Minister to grant to the permittee the renewal of the permit; and
 - (b) lodge with the Minister the security referred to in the first mentioned instrument.
- (6) Where a permittee on whom there has been served an instrument under subsection (1)—
 - (a) has made a request under subsection (5); and
 - (b) has lodged with the Minister the security referred to in the instrument;

within the period referred to in subsection (5), the Minister shall grant to the permittee the renewal of the permit.
- (7) Where a permittee on whom there has been served an instrument under subsection (1)—
 - (a) has not made a request under subsection (5); or
 - (b) has not lodged with the Minister the security referred to in the instrument;

within the period referred to in subsection (5), the application lapses upon the expiration of that period.
- (8) Where—
 - (a) an application for the renewal of a permit has been made; and
 - (b) the permit expires—
 - (i) before the Minister grants, or refuses to grant, the renewal of the permit; or

- (ii) before the application lapses as provided by subsection (7);

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

- (c) until the Minister grants, or refuses to grant, the renewal of the permit; or
 - (d) until the application so lapses;
- whichever first happens.

33 Conditions of permit

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

34 Discovery of petroleum to be notified

- (1) Where petroleum is discovered in a permit area, the permittee—
 - (a) shall forthwith inform the Minister of the discovery; and
 - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (2) Where petroleum is discovered in a permit area, the Minister may, from time to time, by instrument in writing served on the

permittee, direct the permittee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any 1 or more of the following—

- (a) the chemical composition and physical properties of the petroleum;
 - (b) the nature of the subsoil in which the petroleum occurs;
 - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Maximum penalty—135 penalty units.

35 Directions by Minister on discovery of petroleum

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

Maximum penalty—135 penalty units.

36 Nomination of block for purposes of declaring location

- (1) Where a permit is in force in respect of a discovery block (not being a block that is, or is included in, a location) the permittee—
- (a) may; or

- (b) shall, if required to do so by the Minister by instrument in writing served on the permittee;
- by instrument in writing served on the Minister nominate a block in respect of which the permit is in force for the purpose of the making of a declaration under section 37.
- (2) Where a permittee who has been required, by instrument in writing served on the permittee under subsection (1), to nominate a block does not, within a period of 3 months after the date of service of the instrument on the permittee, or within such further period as the Minister, on application in writing served on the Minister before the expiration of that period of 3 months, allows, nominate the block, the Minister may, by instrument in writing served on the permittee, nominate the block.
- (3) Where a permittee or the Minister nominates a block under this section, the permittee or the Minister shall specify in the instrument of nomination a discovery block to form part of the location to be declared under section 37, but this subsection does not prevent other discovery blocks in the permit area forming part of the location.
- (4) A block shall not be nominated under subsection (1) or (2)—
- (a) if it is, or is included in, a location; or
- (b) if it is such that, if the block were so nominated and the declaration under section 37 were made, the discovery block specified in the instrument of nomination would not form part of the location.
- (5) Where a discovery block in a permit area immediately adjoins another discovery block and that other discovery block—
- (a) is a block—
- (i) in respect of which the permit is in force; and
- (ii) that is, or is included in, a location; and
- (iii) that was specified under subsection (3) in relation to the declaration of that location; or
- (b) is a block—

- (i) that was specified under subsection (3) in relation to the declaration of a location; and
- (ii) in respect of which the permit has ceased to be in force by reason of the operation of section 44(5);

the permittee shall not, without the consent of the Minister, specify the first mentioned discovery block under subsection (3).

- (6) The Minister may, for reasons that the Minister thinks sufficient, refuse to give consent under subsection (5).
- (7) In this section—

discovery block means a block in which petroleum has been discovered.

37 Declaration of location

- (1) Where a permittee or the Minister has nominated a block under section 36, the Minister shall, by instrument published in the gazette, declare—
 - (a) that block; and
 - (b) such of the blocks that immediately adjoin that block as are blocks in respect of which the permit is in force and are not included in a location;to be a location for the purposes of this part.
- (2) Where the registered holder of a permit that is in force in respect of a block or blocks declared under subsection (1) to be a location, by instrument in writing served on the Minister, requests that, for the reasons specified in the instrument, the declaration be revoked, the Minister may, if the Minister is of the opinion that those reasons are sufficient to justify the Minister doing so, by instrument published in the gazette, revoke the declaration.

38 Immediately adjoining blocks

For the purposes of sections 36 and 37, a block immediately adjoins another block if the graticular section that constitutes or includes that block and the graticular section that constitutes or includes that other block—

- (a) have a side in common; or
- (b) are joined together at 1 point only.

Division 3 Production licences for petroleum

39 Recovery of petroleum in adjacent area

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

- (a) under and in accordance with a licence; or
- (b) as otherwise permitted by this part.

Maximum penalty—670 penalty units or imprisonment for 5 years.

40 Application by permittee for licence

- (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a licence—
 - (a) where 9 blocks constitute the location concerned—in respect of 5 of those blocks; or
 - (b) where 8 or 7 blocks constitute the location concerned—in respect of 4 of those blocks; or
 - (c) where 6 or 5 blocks constitute the location concerned—in respect of 3 of those blocks; or
 - (d) where 4 or 3 blocks constitute the location concerned—in respect of 2 of those blocks; or

- (e) where 2 blocks constitute the location concerned—in respect of 1 of those blocks; or
 - (f) where 1 block constitutes the location concerned—in respect of that block.
- (2) A permittee whose permit is in force in respect of blocks that constitute a location—
- (a) instead of making an application under subsection (1) in respect of the permittee's primary entitlement, may, within the application period, make an application to the Minister for the grant of a licence in respect of a number of those blocks that is less than the permittee's primary entitlement; and
 - (b) may, from time to time within that period, make an application to the Minister for the variation of that licence to include in the licence area a number of those blocks that does not exceed the number (if any) by which the permittee's primary entitlement exceeds the number of blocks in respect of which that licence was granted and the number of blocks (if any) included in that licence by reason of any previous variations of that licence.
- (3) Where—
- (a) a permittee makes an application under subsection (1) in respect of the permittee's primary entitlement; or
 - (b) a permittee to whom a licence has been granted in respect of a number of blocks that is less than the permittee's primary entitlement makes an application under subsection (2) for a variation of that licence, and the number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is the permittee's primary entitlement;

the permittee may, within the application period, make an application to the Minister for the grant of a licence in respect

of any of the other blocks forming part of the location concerned.

- (4) The application period in respect of an application under this section by a permittee is—
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
 - (b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application by the permittee, in writing, served on the Minister before the expiration of the first mentioned period of 2 years, allows.

41 Application for licence

- (1) An application under section 40—
- (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and
 - (d) may set out any other matters that the applicant wishes the Minister to consider; and
 - (e) shall in the case of an application for the grant of a licence be accompanied by a fee of \$600.
- (2) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the period specified in the instrument, further information in writing in connection with the applicant's application.

42 Determination of rate of royalty

- (1) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum recovered, whether under the primary licence or under the secondary licence, being a rate that is not less than 11% or more than 12½% of the value at the wellhead of that petroleum.
- (2) The Minister shall not, under subsection (1), determine the rate at which royalty is to be payable unless the Minister has given to the applicant an opportunity to confer with the Minister concerning that rate.

43 Notification as to grant of licence

- (1) Where an application for the grant of a licence has been made under section 40 and the applicant has furnished any further information required by the Minister under section 41(2), the Minister, by instrument in writing served on the applicant—
 - (a) shall inform the applicant that the Minister is prepared to grant to the applicant a licence in respect of the blocks specified in the application; and
 - (b) may inform the applicant that the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (2) An instrument under subsection (1) shall—
 - (a) contain a summary of the conditions subject to which the licence is to be granted; and
 - (b) if the instrument relates to an application for a secondary licence—specify the rate of royalty determined by the Minister in pursuance of section 42(1); and

- (c) contain a statement to the effect that the application will lapse—
 - (i) if the applicant does not make a request under section 44(1)—in respect of the grant of the licence; or
 - (ii) in a case where the Minister informs the applicant that the applicant will be required to lodge a security as mentioned in subsection (1)(b)—if the applicant does not lodge that security with the Minister.

44 Grant of licence

- (1) An applicant on whom there has been served an instrument under section 43(1) may, within a period of 3 months after the date of service of the instrument on the applicant, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on the Minister before the expiration of the first mentioned period of 3 months, allows—
 - (a) by instrument in writing served on the Minister request the Minister to grant to the applicant the licence referred to in the first mentioned instrument; and
 - (b) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in section 43(1)(b)—lodge that security with the Minister.
- (2) Where an applicant on whom there has been served an instrument under section 43(1)—
 - (a) has made a request under subsection (1); and
 - (b) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in section 43(1)(b)—has lodged that security with the Minister;

within the period applicable under subsection (1), the Minister shall grant to the applicant a production licence for petroleum in respect of the blocks specified in the application.

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- (3) A secondary licence shall not be granted to a permittee in respect of any 1 or more of the blocks that constitute a location unless—
- (a) a primary licence has been granted in respect of a block or blocks forming part of that location; and
 - (b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 45, is the permittee's primary entitlement.
- (4) Where an applicant on whom there has been served an instrument under section 43(1)—
- (a) has not made a request under subsection (1); or
 - (b) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in section 43(1)(b)—has not lodged that security with the Minister;
- within the period applicable under subsection (1), the application lapses upon the expiration of that period.
- (5) From and including the day on which a licence granted under this section has effect, the permit in respect of the blocks in respect of which the licence was granted ceases to be in force in respect of those blocks.

45 Variation of licence area

- (1) Where an application is made under section 40(2) for a variation of a licence, the Minister shall, by instrument in writing served on the licensee, vary the licence to include in the licence area the blocks specified in the application.
- (2) From and including the day from and including which a variation of a licence under this section has effect—
 - (a) the blocks included in the licence area by reason of the variation are, subject to this part, for the remainder of

the term of the licence, blocks in respect of which the licence is in force; and

- (b) the permit that is in force in respect of the blocks so included ceases to be in force in respect of those blocks.

46 Determination of permit as to block not taken up by licensee

- (1) Subject to subsection (2), where—
 - (a) a permittee who may make an application under section 40 in respect of a block does not, within the application period, make the application; or
 - (b) all applications made by a permittee under that section in respect of a block have lapsed;

the permit is determined as to that block and the determination has effect—

- (c) in a case referred to in paragraph (a)—upon the expiration of the application period; and
- (d) in a case referred to in paragraph (b)—
 - (i) upon the expiration of the application period; or
 - (ii) upon the lapsing of the last of the applications referred to in that paragraph;

whichever is the later.

- (2) Where a permittee makes an application for a secondary licence—
 - (a) the permit is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
 - (b) the determination has effect upon the making of the application.
- (3) Where the block or blocks constituting a location are no longer the subject of a permit the Minister shall, by instrument

published in the gazette, revoke the declaration made under section 37(1) in respect of that location.

47 Application for licence in respect of surrendered etc. blocks

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

the Minister may, at any subsequent time, by instrument published in the gazette—

- (c) invite applications for the grant of a licence in respect of that block; and
 - (d) specify a period within which applications may be made.
- (2) The Minister shall, in an instrument under subsection (1), state—
- (a) that an applicant is required to specify an amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the applicant's application; or
 - (b) that an applicant is required to specify a rate of royalty that the applicant would be prepared to pay, if a licence were granted to the applicant on the applicant's application, in respect of petroleum recovered under the licence, being a rate that exceeds 10% of the value at the wellhead of that petroleum.
- (3) Where the Minister, in an instrument under subsection (1), states that an applicant is required to specify a rate of royalty

as mentioned in subsection (2)(b), the Minister may, in that instrument, state that an applicant on whose application the Minister is prepared to grant a licence will also be required to pay to the Minister, in respect of the grant of the licence to the applicant, the amount specified in that behalf in that instrument.

- (4) Where an instrument is published under subsection (1) and—
- (a) no application is made within the period specified in the instrument; or
 - (b) after consideration of the applications, a licence is not granted;

in respect of the block specified in the instrument, the Minister may cause a notification accordingly to be published in the gazette and may, at any subsequent time and without invitation under subsection (1), receive an application for the grant of a licence in respect of that block.

- (5) The Minister shall not receive an application under subsection (4) during any period during which an application may be made in pursuance of an invitation under subsection (1).
- (6) An application under this section—
- (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by the particulars referred to in section 41(1)(c); and
 - (d) in the case of an application under subsection (1)—shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount or the rate of royalty, that the applicant would be prepared to pay; and
 - (e) in the case of an application under subsection (4), shall specify—

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- (i) an amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the application; or
 - (ii) a rate of royalty that the applicant would be prepared to pay in respect of petroleum recovered under the licence, being a rate that exceeds 10% of the value at the wellhead of that petroleum; or
 - (iii) such an amount and such a rate; and
- (f) may set out any other matters that the applicant wishes the Minister to consider.
- (7) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the period specified in the instrument, further information in connection with the applicant's application.

48 Application fee etc.

- (1) An application under section 47 shall be accompanied by—
- (a) a fee of \$3000; and
 - (b) a deposit—
 - (i) if the application is made under section 47(1) or (4) and the applicant has specified an amount that the applicant would be prepared to pay in respect of the grant of a licence to the applicant on the application—of 10% of that amount; or
 - (ii) if the application is made under section 47(1) and the Minister has, in the instrument by which applications were invited, stated an amount that the applicant will be required to pay in respect of the grant of a licence—of 10% of that amount.
- (2) Where a licence is not granted on the application—
- (a) an amount equal to $\frac{9}{10}$ of the fee paid in accordance with subsection (1); and
 - (b) subject to subsection (3), the amount of the deposit;

shall be refunded to the applicant.

- (3) Where an applicant on whom there has been served an instrument under section 49(1) or (3) does not request the Minister, under section 49(6), to grant to the applicant the licence referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

49 Request by applicant for grant of licence

- (1) Where, at the expiration of the period specified in an instrument under section 47(1), only 1 application has been made under that subsection in respect of the block specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that the Minister is prepared to grant the applicant a licence in respect of that block.
- (2) Where, at the expiration of the period specified in an instrument under section 47(1), 2 or more applications have been made under that subsection in respect of the block specified in the instrument the Minister may reject any or all of the applications and, if the Minister does not reject all of the applications, may—
 - (a) if only 1 application remains unrejected—by instrument in writing served on the applicant; or
 - (b) if 2 or more applications remain unrejected—by instrument in writing served on the applicant, or on 1 of the applicants, whose application has not been rejected and who has specified in his or her application an amount, or a rate of royalty, that he or she would be prepared to pay that is not less than the amount, or the rate of royalty, specified in the application of any other applicant whose application has not been rejected;
inform the applicant—
 - (c) that the Minister is prepared to grant to the applicant a licence in respect of that block; and

- (d) that the applicant will be required to pay—
 - (i) the amount specified in the application; or
 - (ii) royalty at the rate specified in the application; or
 - (iii) royalty at the rate specified in the application and the amount specified in the instrument under section 47(1);as the case may be.
- (3) Where an application is made under section 47(4), the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant—
 - (a) that the Minister is prepared to grant to the applicant a licence in respect of that block; and
 - (b) that the applicant will be required to pay—
 - (i) the amount specified in the application; or
 - (ii) royalty at the rate specified in the application; or
 - (iii) the amount, and royalty at the rate, specified in the application;as the case may be.
- (4) The Minister may, by an instrument served on an applicant under subsections (1) to (3), inform the applicant that the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (5) An instrument under subsections (1) to (4) shall contain—
 - (a) a summary of the conditions subject to which the licence is to be granted; and
 - (b) a statement of the balance of the amount (if any) that the applicant will be required to pay in respect of the grant of the licence to the applicant; and
 - (c) a statement to the effect that the application will lapse—

- (i) if the applicant does not make a request under subsection (6); or
 - (ii) in a case where the instrument contains a statement referred to in paragraph (b)—if the applicant does not pay the balance of the amount referred to in that statement or enter into an agreement under section 109 in respect of that balance; or
 - (iii) in a case where the Minister informs the applicant that the applicant will be required to lodge a security as mentioned in subsection (4)—if the applicant does not lodge that security with the Minister.
- (6) An applicant on whom there has been served an instrument under subsections (1) to (5) may, within a period of 3 months after the date of service of the instrument on the applicant, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on the Minister before the expiration of the first mentioned period of 3 months, allows—
 - (a) by instrument in writing served on the Minister, request the Minister to grant to the applicant the licence; and
 - (b) if the first mentioned instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to the applicant—pay that balance or enter into an agreement under section 109 in respect of that balance; and
 - (c) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in subsection (4)—lodge that security with the Minister.
- (7) Where an applicant on whom there has been served an instrument under subsection (1), (2) or (3)—
 - (a) has not made a request under subsection (6); or
 - (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in

respect of the grant of a licence to the applicant—has not paid that balance or entered into an agreement under section 109 in respect of that balance; or

- (c) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in subsection (4)—has not lodged that security with the Minister;

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

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

50 Grant of licence on request

Where an applicant on whom there has been served an instrument under section 49—

- (a) has made a request under section 49(6); and
- (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to the applicant—has paid that balance or entered into an agreement under section 109 in respect of that balance; and
- (c) if the Minister has informed the applicant that the applicant will be required to lodge a security as mentioned in section 49(4), has lodged that security with the Minister;

within the period applicable under section 49(6), the Minister shall grant to the applicant a production licence for petroleum in respect of the block specified in the instrument.

51 Grant of licences in respect of individual blocks

- (1) Where a licence (*the original licence*) is in force in respect of 2 or more blocks (not being blocks that form, or form part of,

a location), the licensee may make an application to the Minister for the grant to the licensee of 2 or more licences in respect of the blocks the subject of the original licence in exchange for the original licence.

- (2) An application under subsection (1)—
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall specify the number of licences required; and
 - (d) shall specify the block or blocks the subject of the original licence in respect of which each licence is sought; and
 - (e) shall be accompanied by a fee of \$300.
- (3) The Minister may, by instrument in writing served on a licensee who has made an application under this section, require the licensee to lodge, in respect of a licence to be granted to the licensee under this section, a security for compliance with the conditions to which the licence is from time to time subject and with the provisions of this part and the regulations.
- (4) Where a licensee—
 - (a) has made an application under this section; and
 - (b) if the Minister has required the licensee to lodge a security as mentioned in the subsection (3)—has lodged that security with the Minister;the Minister shall grant to the licensee production licences for petroleum in accordance with the application.
- (5) A licence granted on an application under this section—
 - (a) remains in force, subject to this part, but notwithstanding section 53, for the remainder of the term of the original licence; and
 - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject.

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

52 Rights conferred by licence

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

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

53 Term of licence

Subject to this part, a licence remains in force—

- (a) in the case of a licence granted otherwise than by way of renewal of a licence—for a period of 21 years commencing on the day on which the licence is granted; and
- (b) in the case of a licence granted by way of the first renewal of a licence—for the period of 21 years commencing on the day on which the licence is granted; and
- (c) in the case of a licence granted by way of the renewal, other than the first renewal, of a licence—for such period, commencing on the day on which the licence is granted, as the Minister determines and specifies in the licence, being a period not exceeding 21 years.

54 Application for renewal of licence

- (1) A licensee may, from time to time, make an application to the Minister for the renewal of the licence.
- (2) An application for the renewal of the licence—
 - (a) shall be in accordance with an approved form; and
 - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months before the day on which the licence ceases to have effect; and
 - (c) shall be accompanied by particulars of the proposals of the licensee for work and expenditure in respect of the licence area; and
 - (d) shall be accompanied by a fee of \$600.
- (3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the licence less than 6 months before, but not in any case after, the day on which the licence ceases to have effect.

55 Grant or refusal of renewal of licence

- (1) Where a licensee who has complied with the conditions to which the licence is subject and with the provisions of this part and of the regulations makes an application under section 54 for the renewal of the licence, the Minister—
 - (a) shall, if the application is in respect of the first renewal of the licence; or
 - (b) may, if the application is in respect of a renewal other than the first renewal of the licence;inform the licensee, by instrument in writing served on the licensee, that the Minister is prepared to grant to the licensee the renewal of the licence.
- (2) Where a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this part and of the regulations makes an application under section 54 for the renewal of the licence, the Minister, if the Minister is satisfied that, although the licensee has not so

complied, special circumstances exist that justify the granting of the renewal of the licence, may inform the licensee, by instrument in writing served on the licensee, that the Minister is prepared to grant to the licensee the renewal of the licence.

- (3) If a licensee has not complied with the conditions to which the licence is subject and with the provisions of this part and of the regulations, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4), by instrument in writing served on the licensee, refuse to grant the renewal of the licence.
- (4) The Minister shall not, under subsection (3), refuse to grant the renewal of a licence unless—
 - (a) the Minister has, by instrument in writing served on the licensee, given not less than 1 month's notice of the Minister's intention to refuse to grant the renewal of the licence; and
 - (b) the Minister has served a copy of the instrument on such other persons (if any) as the Minister thinks fit; and
 - (c) the Minister has, in the instrument—
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and
 - (d) the Minister has taken into account any matters so submitted to the Minister on or before the specified date by the licensee or by a person on whom a copy of the first mentioned instrument has been served.
- (5) Where a licensee makes an application under section 54 in respect of a renewal other than the first renewal of the licence, the Minister may, by instrument in writing served on the licensee, refuse to grant the renewal of the licence.

- (6) The Minister may, by an instrument served on a licensee under subsection (1) or (2) inform the licensee that the licensee will be required to lodge a security for compliance with the conditions to which the licence, if the renewal is granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (7) An instrument under subsection (1) or (2) shall contain—
 - (a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and
 - (b) a statement to the effect that the application will lapse—
 - (i) if the licensee does not make a request under subsection (8);
 - (ii) in a case where the Minister informs the licensee that the licensee will be required to lodge a security as mentioned in subsection (6)—if the licensee does not lodge that security with the Minister.
- (8) A licensee on whom there has been served an instrument under subsection (1) or (2) may, within a period of 1 month after the date of service of the instrument on the licensee—
 - (a) by instrument in writing served on the Minister, request the Minister to grant to the licensee the renewal of the licence; and
 - (b) if the Minister has informed the licensee that the licensee will be required to lodge a security as mentioned in subsection (6)—lodge that security with the Minister.
- (9) Where a licensee on whom there has been served an instrument under subsection (1) or (2)—
 - (a) has made a request under subsection (8); and
 - (b) if the Minister has informed the licensee that the licensee will be required to lodge a security as mentioned in subsection (6)—has lodged that security with the Minister;

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

- (10) Where a licensee on whom there has been served an instrument under subsection (1) or (2)—
- (a) has not made a request under subsection (8); or
 - (b) if the Minister has informed the licensee that the licensee will be required to lodge a security as mentioned in subsection (6)—has not lodged that security with the Minister;

within the period referred to in subsection (8), the application lapses upon the expiration of that period.

- (11) Where—
- (a) an application for the renewal of a licence is made under section 54; and
 - (b) the licence expires—
 - (i) before the Minister grants, or refuses to grant, the renewal of the licence; or
 - (ii) before the application lapses as provided by subsection (10);

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

- (c) until the Minister grants, or refuses to grant, the renewal of the licence; or
 - (d) until the application so lapses;
- whichever first happens.

56 Conditions of licence

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

57 Works to be carried out

- (1) A licensee is required, during the first year of the term of the licence, to carry out in or in relation to the licence area, in connection with exploration for, or operations for the recovery of, petroleum in or from the licence area, approved works to the value of not less than the amount calculated by multiplying the sum of \$300000 by the number of blocks in respect of which the licence is in force.
- (2) A licensee is required, during each subsequent year of the term of the licence, to carry out in or in relation to the licence area, in connection with exploration for, or operations for the recovery of, petroleum in or from the licence area, approved works—
 - (a) if the licensee did not recover petroleum in or from the licence area during the last preceding year of the term of the licence—to the value of not less than the amount calculated by multiplying the sum of \$300000 by the number of blocks in respect of which the licence is in force; or
 - (b) if the licensee did recover petroleum in or from the licence area during the last preceding year of the term of the licence and the amount referred to in paragraph (a) exceeds the value of the petroleum so recovered—to the value of not less than the amount of the excess.
- (3) Where, in respect of a year of the term of his or her licence, a licensee has not complied with subsection (1) or (2), the State is entitled to recover from the licensee, by action against the licensee in a court of competent jurisdiction, an amount equal to the value of the approved works that the licensee was required to carry out in or in relation to the licence area during that year of the term of the licence less the value of any approved works carried out by the licensee in or in relation to that area during that year.
- (4) The Minister may, if the Minister is satisfied that special circumstances exist that justify the Minister doing so, by instrument in writing served on a licensee, exempt the licensee from compliance with the requirements of this

section in respect of the year of the term of the licence specified in the instrument subject to such conditions (if any) as the Minister thinks fit and specifies in the instrument.

- (5) For the purposes of this section the value of any petroleum is the value at the wellhead of that petroleum ascertained in accordance with division 7.

58 Directions as to recovery of petroleum

- (1) Where petroleum is not being recovered in a licence area and the Minister is satisfied that there is recoverable petroleum in that area, the Minister may, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.
- (2) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the recovery of petroleum in the licence area.
- (3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that the Minister thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which the petroleum is being recovered to such rate as the Minister specifies in the instrument.
- (4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area.

59 Unit development

- (1) In this section—

unit development—

- (a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee and partly in a licence area of another licensee or in an area that is not within the adjacent area but in which a person other than the first mentioned licensee is lawfully entitled to carry on operations for the recovery of petroleum from the pool; and
 - (b) means the carrying on of operations for the recovery of petroleum from that pool under cooperative arrangements between the persons entitled to carry on such operations in each of those areas.
- (2) A licensee may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum pool, but such an agreement does not have any force or effect unless it has been approved by the Minister.
- (3) The Minister of the Minister's own motion or on application made to the Minister in writing by—
- (a) a licensee in whose licence area there is a part of a particular petroleum pool; or
 - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside the adjacent area that includes part of a particular petroleum pool that extends into the adjacent area;

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee whose licence area includes part of the petroleum pool to enter into an agreement in writing, within the period specified in the instrument, for or in relation to the unit development of the petroleum pool and to lodge the agreement with the Minister forthwith in accordance with section 81.

- (4) Where—
- (a) a licensee who is directed, under subsection (3), to enter into an agreement for or in relation to the unit development of a petroleum pool does not enter into such an agreement within the specified period; or

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- (b) a licensee enters into such an agreement but the agreement is not lodged with the Minister in accordance with subsection (3) or, if so lodged, is not approved under section 81;

the Minister may, by instrument in writing served on the licensee, direct the licensee to submit to the Minister, within the period specified in the instrument, a scheme for or in relation to the unit development of the petroleum pool.

- (5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by instrument in writing served on the licensee or licensees concerned give to the licensee or licensees such directions, or further directions, as the case may be, as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.
- (8) The Minister shall not give a direction under subsection (6) or (7) unless the Minister has given to the licensee or licensees concerned an opportunity to confer with the Minister concerning the proposed direction.
- (9) Directions under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.

- (10) An agreement under this section is an instrument to which section 81 applies.
- (11) The Minister shall—
 - (a) if a petroleum pool extends, or is reasonably believed by the Minister to extend, from the adjacent area into lands to which the laws of another State or of the Northern Territory relating to the exploitation of petroleum resources apply—consult with the appropriate authority of that State or of the Northern Territory concerning the exploitation of the petroleum pool; or
 - (b) if a petroleum pool extends, or is reasonably believed by the Minister to extend, from the adjacent area into the Commonwealth offshore area for a State, other than Queensland, or for the Northern Territory—consult with the Designated Authority under the Commonwealth Act in respect of that State or the Northern Territory concerning the exploitation of the petroleum pool; or
 - (c) if both paragraphs (a) and (b) apply—comply with both of those paragraphs.
- (12) Where subsection (11) applies in relation to a petroleum pool, the Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool except with the approval of any other authority or Designated Authority required by that subsection to be consulted.

Division 4 Pipeline licences

60 Construction etc. of pipelines etc.

- (1) A person shall not, in the adjacent area—
 - (a) commence or continue the construction, or the alteration or reconstruction, of a pipeline; or
 - (b) operate a pipeline;except under and in accordance with a pipeline licence.

- (2) A person shall not, in the adjacent area—
- (a) commence or continue the construction, or the alteration or reconstruction, of a secondary line or water line; or
 - (b) operate a secondary line or water line;
- except with and in accordance with a consent in writing of the Minister.
- (3) A person shall not, in the adjacent area—
- (a) commence or continue the construction, or the alteration or reconstruction, of a pumping station, tank station or valve station; or
 - (b) operate a pumping station, tank station or valve station;
- except under and in accordance with a pipeline licence or with and in accordance with a consent in writing of the Minister.
- (4) A person shall not, in the adjacent area, commence to operate a pipeline, a secondary line or a water line unless—
- (a) in the case of a pipeline—it has been constructed and tested in accordance with the pipeline licence; and
 - (b) in the case of a secondary line or water line—it has been constructed and tested in accordance with a consent in writing of the Minister; and
 - (c) the Minister has certified in writing that the Minister is satisfied that the pipeline, secondary line or water line, as the case may be, has been so constructed and tested and is fit to be operated.
- (5) A person shall not, in the adjacent area, recommence to operate a pipeline, a secondary line or a water line, the previous operation of which was discontinued, except with and in accordance with a consent in writing of the Minister.
- (6) The Minister may, for reasons that the Minister thinks sufficient, refuse to give a consent or certificate for the purposes of this section and, where the Minister gives a consent, may attach conditions to it.

Maximum penalty—670 penalty units or imprisonment for 5 years.

61 Acts done in an emergency etc.

It is not an offence against section 60—

- (a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline, water line, pumping station, tank station, valve station or secondary line in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline, water line, pumping station, tank station, valve station or secondary line in good order and repair and—
 - (i) as soon as practicable notifies the Minister of the act done; and
 - (ii) complies with any directions given to the person by the Minister; or
- (b) if a person does an act in compliance with a direction under this Act or the regulations.

62 Removal of pipeline etc. constructed in contravention of Act

(1) Where—

- (a) the construction of a pipeline, water line, pumping station, tank station, valve station or secondary line is commenced, continued or completed in contravention of this Act; or
- (b) a pipeline, water line, pumping station, tank station, valve station or secondary line is altered or reconstructed in contravention of this Act;

the Minister may, by instrument in writing served on the appropriate person, direct the person—

- (c) to make such alterations to the pipeline, water line, pumping station, tank station, valve station or secondary line as are specified in the instrument; or

- (d) to move the pipeline, water line, pumping station, tank station, valve station or secondary line to a specified place in, or to remove it from, the adjacent area;
within the period specified in the instrument.
- (2) For the purpose of subsection (1), the appropriate person is—
- (a) if the construction of the pipeline, water line, pumping station, tank station, valve station or secondary line has been completed—the owner of the pipeline, water line, pumping station, tank station, valve station or secondary line; or
- (b) if the construction of the pipeline, water line, pumping station, tank station, valve station or secondary line has not been completed—the person for whom the pipeline, water line, pumping station, tank station, valve station or secondary line is being constructed.
- (3) Where a person on whom there has been served an instrument under subsection (1) does not, within the period specified in the instrument or within such further period (if any) as the Minister, on application in writing served on the person before the expiration of the first mentioned period, allows, comply with the direction, the Minister may do all or any of the things required by the directions to be done.
- (4) Costs and expenses incurred by the Minister under subsection (3) are a debt due by the persons referred to in that subsection to the State and recoverable in a court of competent jurisdiction.

63 Terminal station

The Minister may, by instrument published in the gazette, declare a pumping station, a tank station or a valve station in the adjacent area to be a terminal station.

64 Application for pipeline licence

- (1) An application for a pipeline licence, whether or not the pipeline is to convey petroleum recovered from an area within the adjacent area—
- (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by particulars of—
 - (i) the proposed design and construction of the pipeline; and
 - (ii) the proposed size and capacity of the pipeline; and
 - (iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline; and
 - (iv) the technical qualifications of the applicant and of the applicant's employees; and
 - (v) the technical advice available to the applicant; and
 - (vi) the financial resources available to the applicant; and
 - (vii) any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline; and
 - (d) shall be accompanied by a plan, drawn to an approved scale, showing—
 - (i) the route to be followed by the pipeline; and
 - (ii) the sites of pumping stations, tank stations, and valve stations to be used in connection with the pipeline; and
 - (iii) the site of any pumping station, tank station or valve station that the applicant desires to be declared under section 63 to be a terminal station in connection with the pipeline; and

- (e) may set out any other matters that the applicant wishes the Minister to consider; and
 - (f) shall be accompanied by a fee of \$3000.
- (2) Where a notice is published in the gazette—
- (a) of an application for a pipeline licence to construct and operate a pipeline to convey petroleum recovered in a petroleum licence area by a person other than by the holder of the production licence for petroleum in the area (the *licensee*); or
 - (b) of an application by a person other than the pipeline operator under the Commonwealth Act or a corresponding law for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area of a production licence under the Commonwealth Act or a corresponding law;

the licensee or, as the case may be, the pipeline operator under the Commonwealth Act or a corresponding law may, within a period of 3 months after the date of publication of the notice, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him or her before the expiration of the first mentioned period of 3 months, allows, make an application for a pipeline licence referred to in paragraph (a) or (b), as the case requires, and in the application request that the application referred to in the notice be rejected.

- (3) Where—
- (a) a notice referred to in subsection (2) is published in the gazette; and
 - (b) a pipeline licence is granted to the licensee or to the pipeline operator under the Commonwealth Act or a corresponding law on an application under subsection (2);

the Minister shall, by instrument in writing served on the applicant, reject the application referred to in the notice.

- (4) The Minister may, at any time, by instrument in writing served on a person who has made an application under subsection (1), require the person to furnish, within the time specified in the instrument, further information in writing in connection with the person's application.
- (5) In this section—
pipeline operator under the Commonwealth Act or a corresponding law has the same meaning as in section 65.

65 Grant or refusal of pipeline licence

- (1) Where a person makes an application in accordance with section 64, the Minister—
- (a) shall, if the application is—
- (i) in respect of the construction in the adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area in respect of which the applicant is the licensee and the licensee has complied with the conditions to which the licence is subject and with the provisions of this part and of the regulations; or
- (ii) by a pipeline operator under the Commonwealth Act or a corresponding law; or
- (b) may, if the application is—
- (i) for a pipeline licence to construct and operate in the adjacent area a pipeline to convey petroleum recovered from outside the adjacent area and has not been rejected under section 64(3); or
- (ii) by any other person and has not been rejected under section 64(3);
- inform the applicant, by instrument in writing served on the applicant, that the Minister is prepared to grant a pipeline licence to the applicant.
- (2) Where a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this

part and of the regulations makes an application in accordance with section 64 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in the licensee area, the Minister, if the Minister is satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of a pipeline licence, may inform the licensee, by instrument in writing served on the licensee, that the Minister is prepared to grant a pipeline licence to the licensee.

- (3) If a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this part and of the regulations makes an application in accordance with section 64 for a pipeline licence, and if the Minister is not satisfied that special circumstances exist that justify the granting of a pipeline licence, the Minister shall, subject to subsection (4), by instrument in writing served on the licensee, refuse to grant a pipeline licence.
- (4) The Minister shall not, under subsection (3), refuse to grant a pipeline licence to a licensee unless—
 - (a) the Minister has, by instrument in writing served on the licensee, given not less than 1 month's notice of the Minister's intention to refuse to grant the pipeline licence; and
 - (b) the Minister has served a copy of the instrument on such other persons (if any) as the Minister thinks fit; and
 - (c) the Minister has, in the instrument—
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and
 - (d) the Minister has taken into account any matters so submitted to the Minister on or before the specified date

by the licensee or by a person on whom a copy of the first mentioned instrument has been served.

- (5) Where a person other than the licensee or the pipeline operator under the Commonwealth Act or a corresponding law makes an application in accordance with section 64 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area or, as the case may be, a licence area of a production licence under the Commonwealth Act or corresponding law, the Minister may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.
- (6) Where the Minister is required, or proposes, to serve on a person an instrument under subsection (1) or (2) the Minister shall, by the instrument, inform that person that the person will be required to lodge a security for compliance with the conditions to which the pipeline licence, if granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (7) An instrument under subsection (1) or (2)—
 - (a) shall specify the route to be followed by the pipeline; and
 - (b) shall contain a summary of the conditions subject to which the pipeline licence is to be granted; and
 - (c) shall contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection (9) and lodge with the Minister the security referred to in the instrument.
- (8) The route to be specified in an instrument under subsection (1) or (2) shall be—
 - (a) the route shown in the plan accompanying the application; or
 - (b) if the Minister is of the opinion that, for any reason, that route is not appropriate—a route that, in the opinion of the Minister, is appropriate.

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- (9) A person on whom there has been served an instrument under subsection (1) or (2) may, within a period of 3 months after the date of service of the instrument on the person, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on the Minister before the expiration of the first mentioned period of 3 months, allows—
- (a) by instrument in writing served on the Minister, request the Minister to grant to the person the pipeline licence; and
 - (b) lodge with the Minister the security referred to in the instrument so served on the person.
- (10) Where a person on whom there has been served an instrument under subsection (1) or (2)—
- (a) has made a request under subsection (9); and
 - (b) has lodged with the Minister the security referred to in the instrument;
- within the period applicable under subsection (9), the Minister shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the instrument.
- (11) Where a person on whom there has been served an instrument under subsection (1) or (2)—
- (a) has not made a request under subsection (9); or
 - (b) has not lodged with the Minister the security referred to in the instrument;
- within the period applicable under subsection (9), the application lapses upon the expiration of that period.
- (12) Where a pipeline licence is not granted on an application, an amount equal to $\frac{9}{10}$ of the fee paid in accordance with section 64(1)(f) shall be refunded to the applicant.
- (13) In this section—
- pipeline operator under the Commonwealth Act or a corresponding law*** means a person who is entitled under the Commonwealth Act or a corresponding law to carry on operations for the recovery of petroleum in an area outside the

adjacent area and who the Minister is satisfied is or will be entitled to construct a pipeline from the first mentioned area to the boundary of the adjacent area.

66 Rights conferred by pipeline licence

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

- (a) to construct in the adjacent area—
 - (i) a pipeline of the design, construction, size and capacity specified in the pipeline licence along the route, and in the position in relation to the seabed in the adjacent area, so specified; and
 - (ii) the pumping stations, tank stations and valve stations so specified in the positions so specified; and
- (b) to operate that pipeline and those pumping stations, tank stations, and valve stations; and
- (c) to carry on such operations, to execute such works and to do all such other things in the adjacent area as are necessary for or incidental to the construction and operation of that pipeline and of those pumping stations, tank stations and valve stations.

67 Term of the pipeline licence

- (1) Subject to this part, a pipeline licence remains in force—
 - (a) for a period of 21 years; or
 - (b) where the Minister is of the opinion that having regard to the dates of expiration of the licences that relate to the licence areas from which petroleum is, or is to be, conveyed by means of the pipeline, it is not necessary for the pipeline licence to remain in force for a period of 21 years—for such period less than 21 years as the

Minister determines and specifies in the pipeline licence.

- (2) The period for which a pipeline licence remains in force commences on the day on which the pipeline licence is granted.

68 Application for renewal of pipeline licence

- (1) A pipeline licensee may, from time to time, make an application to the Minister for the renewal of the pipeline licence.
- (2) An application for the renewal of the pipeline licence—
 - (a) shall be in accordance with an approved form; and
 - (b) subject to subsection (3), shall be made in an approved manner not less than 6 months before the day on which the pipeline licence ceases to have effect; and
 - (c) shall be accompanied by a fee of \$600.
- (3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the pipeline licence less than 6 months before, but not in any case after, the day on which the pipeline licence ceases to have effect.

69 Grant or refusal of renewal of pipeline licence

- (1) Where the pipeline licensee makes an application for the renewal of the pipeline licence under section 68, the Minister—
 - (a) shall, if the pipeline licensee has complied with the conditions to which the pipeline licence is subject and with the provisions of this part and of the regulations; or
 - (b) may, if the pipeline licensee has not so complied and the Minister is satisfied that, although the pipeline licensee has not so complied, special circumstances exist that justify the granting of the renewal of the pipeline licence;

inform the pipeline licensee, by instrument in writing served on the pipeline licensee—

- (c) that the Minister is prepared to grant to the pipeline licensee the renewal of the pipeline licence; and
 - (d) that the pipeline licensee will be required to lodge a security for compliance with the conditions to which the pipeline licence, if the renewal is granted, will from time to time be subject and with the provisions of this part and of the regulations.
- (2) If a pipeline licensee who has not complied with the conditions to which the pipeline licence is subject and with the provisions of this part and of the regulations makes an application under section 68 for the renewal of the pipeline licence, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the pipeline licence, the Minister shall, subject to subsection (3), by instrument in writing served on the pipeline licensee, refuse to grant the renewal of the pipeline licence.
- (3) The Minister shall not refuse to grant the renewal of the pipeline licence unless—
- (a) the Minister has, by instrument in writing served on the pipeline licensee, given not less than 1 month's notice of the Minister's intention to refuse to grant the renewal of the pipeline licence; and
 - (b) the Minister has served a copy of the instrument on such other persons (if any) as the Minister thinks fit; and
 - (c) the Minister has, in the instrument—
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the pipeline licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and

- (d) the Minister has taken into account any matters so submitted to the Minister on or before the specified date by the pipeline licensee or by a person on whom a copy of the first mentioned instrument has been served.
- (4) An instrument under subsection (1) shall contain—
- (a) a summary of the conditions to which the pipeline licence, on the grant of the renewal, is to be subject; and
- (b) a statement to the effect that the application will lapse if the pipeline licensee does not make a request under subsection (5) and lodge with the Minister the security referred to in the instrument.
- (5) A pipeline licensee on whom there has been served an instrument under subsection (1) may, within a period of 1 month after the date of service of the instrument on the licensee—
- (a) by instrument in writing served on the Minister, request the Minister to grant to the licensee the renewal of the pipeline licence; and
- (b) lodge with the Minister the security referred to in the first mentioned instrument.
- (6) Where a pipeline licensee on whom there has been served an instrument under subsection (1)—
- (a) has made a request under subsection (5); and
- (b) has lodged with the Minister the security referred to in the instrument;
- within the period referred to in subsection (5), the Minister shall grant to the licensee the renewal of the pipeline licence.
- (7) Where a pipeline licensee on whom there has been served an instrument under subsection (1)—
- (a) has not made a request under subsection (5); or
- (b) has not lodged with the Minister the security referred to in the instrument;

within the period referred to in subsection (5), the application lapses upon the expiration of that period.

- (8) Where—
- (a) an application for the renewal of a pipeline licence is made under section 68; and
 - (b) the pipeline licence expires—
 - (i) before the Minister grants, or refuses to grant, the renewal of the pipeline licence; or
 - (ii) before the application lapses as provided by subsection (7);

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

- (c) until the Minister grants, or refuses to grant, the renewal of the pipeline licence; or
 - (d) until the application so lapses;
- whichever first happens.

70 Conditions of pipeline licence

- (1) A pipeline licence may be granted subject to such conditions as the Minister thinks fit and specifies in the pipeline licence.
- (2) The conditions referred to in subsection (1) may include a condition that the pipeline licensee shall complete the construction of the pipeline within the period specified in the pipeline licence.
- (3) This section extends to a pipeline licence granted by way of the renewal of a pipeline licence and, in the case of a pipeline licence so granted, the conditions may include conditions varying or adding to the conditions of the previous licence and conditions requiring reconstruction or modification of the pipeline or of associated works.

71 Variation of pipeline licence on application of pipeline licensee

- (1) A pipeline licensee may, at any time, make an application to the Minister for the variation of the pipeline licence.
- (2) An application under this section—
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by particulars of the proposed variation; and
 - (d) shall specify the reasons for the proposed variation; and
 - (e) shall be accompanied by a fee of \$300.
- (3) The Minister may, at any time, by instrument in writing served on a person who has made an application under this section require the person to furnish, within the period specified in the instrument, further information in writing in connection with the person's application.
- (4) The Minister shall, in a notice published in the gazette of an application under this section, specify a period within which a person may submit to the Minister, in writing, any matters that the person wishes the Minister to consider in connection with the application.
- (5) After considering any matters submitted to him or her under subsection (4) the Minister may, by instrument in writing, vary the pipeline licence to such extent as the Minister thinks necessary or may refuse to vary the pipeline licence.

72 Variation of pipeline licence by Minister

- (1) The Minister may—
 - (a) at the request of—
 - (i) a Minister of this State or a Minister of State of the Commonwealth; or
 - (ii) a body established by a law of the Commonwealth or of the State; and

- (b) if, in the Minister's opinion, it is in the public interest so to do;

by instrument in writing served on a person who is a pipeline licensee or the holder of an instrument of consent under section 60 direct that person to make such changes in the design, construction, route or position of the pipeline, or of a water line, pumping station, tank station, valve station or secondary line to which the pipeline licence or instrument of consent relates, as are specified in the first mentioned instrument, within the period specified in the first mentioned instrument, and, if the person so directed is a pipeline licensee, shall vary the pipeline licence accordingly.

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

Maximum penalty—670 penalty units or imprisonment for 5 years.

- (3) Where the Minister gives a direction under subsection (1), and the person to whom the direction was given has complied with the direction, that person may bring an action in the Supreme Court against the Minister of this State or Minister of State of the Commonwealth or body making the request.
- (4) The Supreme Court shall hear the action, without a jury, and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.
- (5) If the Supreme Court determines that it is just that such a payment ought to be made, the Supreme Court shall determine the amount of the payment and give judgment accordingly.

73 Common carrier

The Minister may, by instrument in writing served on a pipeline licensee, direct the pipeline licensee to be a common carrier of petroleum in respect of the pipeline and thereupon the pipeline licensee is a common carrier of petroleum in respect of the pipeline.

74 Ceasing to operate pipeline

- (1) Except with the consent in writing of the Minister and subject to compliance with such conditions (if any) as are specified in the instrument of consent, a pipeline licensee shall not cease to operate the pipeline.

Maximum penalty—670 penalty units or imprisonment for 5 years.

- (2) It is not an offence against subsection (1) if the failure of the pipeline licensee to operate the pipeline—
- (a) was in the ordinary course of operating the pipeline; or
 - (b) was for the purpose of repairing or maintaining the pipeline; or
 - (c) was in an emergency in which there was a likelihood of loss or injury.

Division 5 Registration of instruments

75 Register of certain instruments to be kept

For the purposes of this part, the Minister shall keep a register of permits, licences, pipeline licences and access authorities granted by the Minister.

76 Particulars to be entered in register

- (1) The Minister shall enter in the register a memorial in respect of each permit, licence, pipeline licence or access authority—
- (a) specifying the name of the holder of the permit, licence, pipeline licence or access authority; and
 - (b) in the case of a permit or licence—setting out an accurate description (including, where convenient, a map) of the permit area or licence area; and
 - (c) in the case of an access authority—setting out an accurate description (including, where convenient, a

- map) of the area in respect of which the access authority is in force; and
- (d) in the case of a pipeline licence—setting out a description of the route of the pipeline; and
 - (e) specifying the term of the permit, licence, pipeline licence or access authority; and
 - (f) setting out such other matters and things as are required by this part to be entered in the register; and
 - (g) setting out such further matters relating to the registered holder or to the terms and conditions of the permit, licence, pipeline licence or access authority as the Minister deems proper and expedient in the public interest.
- (2) The Minister shall enter in the register a memorial of—
- (a) any instrument varying, cancelling, surrendering or otherwise affecting a permit, licence, pipeline licence or access authority; and
 - (b) any instrument under section 59(5), (6) or (7); and
 - (c) any agreement under section 109; and
 - (d) any instrument varying or revoking an instrument referred to in paragraph (a) or (b).
- (3) It is a sufficient compliance with the requirements of subsection (1) or (2) if the Minister enters a copy of the permit, licence, pipeline licence, access authority or instrument in the register.
- (4) A permit, licence, pipeline licence, access authority or instrument—
- (a) shall be deemed to be registered as soon as a memorial complying with subsection (1) or (2), as the case may be, or a copy of the permit, licence, pipeline licence, access authority or instrument, has been entered in the register; and
 - (b) is of no force until it has been so registered.

- (5) The Minister shall endorse on the memorial or copy of the permit, licence, pipeline licence, access authority or instrument a memorandum of the date upon which the memorial or copy was entered in the register.

77 Memorials to be entered of permits etc. determined etc.

Where—

- (a) a permit ceases to be in force in respect of a block in respect of which a licence is granted; or
- (b) a permit has been wholly determined or partly determined; or
- (c) a permit, licence, pipeline licence or access authority has expired;

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

78 Approval and registration of transfers

- (1) A transfer of a permit, licence, pipeline licence or access authority is of no force until it has been approved by the Minister and registered as provided by this section.
- (2) A registered holder who desires to transfer a permit, licence, pipeline licence or access authority to another person, or to himself or herself and another person jointly, may lodge with the Minister an application for approval of the transfer of the permit, licence, pipeline licence or access authority.
- (3) The application shall be accompanied by an instrument of transfer of the permit, licence, pipeline licence or access authority duly executed by the transferor and transferee, together with a copy of that instrument.
- (4) On the receipt of the application the Minister shall enter a memorandum in the register of the date on which the application was lodged with the Minister and may make such other notation in the register as the Minister deems appropriate.

- (5) The Minister shall not approve the transfer unless it is an absolute transfer of the whole of the transferor's interest in the permit, licence, pipeline licence or access authority.
- (6) Subject to subsection (5), the Minister may—
 - (a) in the case of a transfer of a permit, licence or pipeline licence—by instrument in writing served on the transferor—
 - (i) inform the transferor that the Minister is prepared to approve the transfer and that the transferee will be required to lodge a security for compliance with the conditions to which the permit, licence or pipeline licence is from time to time subject and with the provisions of this part and of the regulations; or
 - (ii) refuse the application; and
 - (b) in the case of the transfer of an access authority—
 - (i) approve the transfer; or
 - (ii) by instrument in writing served on the transferor, refuse the application.
- (7) Where—
 - (a) the Minister has, under subsection (6), informed the transferor that the transferee will be required to lodge a security; and
 - (b) the transferee has lodged that security with the Minister; the Minister shall approve the transfer.
- (8) Where, in the case of the transfer of a licence, the Minister is prepared to approve the transfer and is of the opinion that the transferee should not be required to lodge a security as mentioned in subsection (6), that subsection and subsection (7) do not apply to or in relation to the transfer and the Minister may, subject to subsection (5), approve the transfer.
- (9) If the Minister approves the transfer the Minister shall forthwith endorse on the instrument of transfer and on the

copy a memorandum of approval and, on payment of the fee provided by section 92, enter in the register a memorandum of the transfer and the name of the transferee.

- (10) The transfer shall be deemed to be registered as soon as a memorandum of the transfer and the name of the transferee has, under subsection (9), been entered in the register and, upon that memorandum being so entered, the transferee becomes the registered holder of the permit, licence, pipeline licence or access authority to which the instrument of transfer relates.
- (11) The copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and is subject to inspection in accordance with this division.
- (12) The instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application.

79 Entries in register on devolution of title

- (1) A person upon whom the rights of a registered holder of a permit, licence, pipeline licence or access authority have devolved by operation of law may apply in writing to the Minister to have the person's name entered in the register as the holder of the permit, licence, pipeline licence or access authority.
- (2) The Minister shall, if the Minister is satisfied that the rights of the holder have devolved upon the applicant by operation of law and on payment of a fee of \$30 enter the name of the applicant in the register as the holder of the permit, licence, pipeline licence or access authority and, upon that entry being so made, the applicant becomes the registered holder of the permit, licence, pipeline licence or access authority.

80 Interests not to be created etc. except by instruments in writing

A legal or equitable interest in or affecting an existing or future permit, licence, pipeline licence or access authority is

not capable of being created assigned affected or dealt with, whether directly or indirectly, except by an instrument in writing.

81 Approval of instruments creating etc. interests

- (1) This section applies to an instrument by which a legal or equitable interest in or affecting an existing or future permit, licence, pipeline licence or access authority is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section 78 applies.
- (2) An instrument to which this section applies is of no force until—
 - (a) the instrument has been approved by the Minister; and
 - (b) an entry has been made in the register by the Minister in accordance with subsection (7).
- (3) A party to an instrument to which this section applies or a person having an interest in or in relation to a permit, licence, pipeline licence or access authority by reason of such an instrument may lodge with the Minister an application for approval of the instrument.
- (4) The application shall be accompanied by the instrument and by a copy of the instrument.
- (5) On receipt of the application, the Minister shall enter a memorandum in the register of the date on which the application was lodged with the Minister and may make such other notation in the register as the Minister deems appropriate.
- (6) The Minister may approve or refuse to approve the instrument.
- (7) If the Minister approves the instrument, the Minister shall forthwith endorse on the original instrument and on the copy a memorandum of approval and, on payment of the fee provided by section 92, make an entry of the approval of the instrument in the register on the memorial relating to, or on

the copy of, the permit, licence, pipeline licence or access authority to which the instrument relates.

- (8) The copy of the instrument endorsed with the memorandum of approval shall be retained by the Minister and is subject to inspection in accordance with this division.
- (9) The original instrument endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval.
- (10) If the Minister refuses the application, the Minister shall make a notation of the refusal in the register.

82 True consideration to be shown

- (1) A party to a transfer referred to in section 78 or to an instrument to which section 81 applies shall not, with intent to defraud, execute the transfer or instrument if the transfer or instrument does not fully and truly set forth the true consideration for the transfer or instrument and all other facts and circumstances (if any) affecting the amount of the fee payable in respect of the transfer or instrument under section 92.

Maximum penalty—135 penalty units.

- (2) Where a person is convicted of an offence against subsection (1), the Minister may make a fresh determination of the amount of the fee payable under section 92 in respect of the memorandum relating to the transfer or instrument.
- (3) Section 91(2) and (3) apply in relation to a determination under subsection (2) as they apply in relation to a determination under section 91(1).

83 Minister not concerned with certain matters

Neither the Minister nor a person acting under the Minister's direction or authority, is concerned with the effect in law of any instrument lodged with the Minister in pursuance of this division nor does the approval of such an instrument give to it

any force, effect or validity that it would not have had if this division had not been enacted.

84 Power of Minister to require information as to proposed dealings

- (1) The Minister may require the person lodging an instrument for approval under this division to furnish to the Minister in writing such information concerning the instrument, or the transaction to which the instrument relates, as the Minister considers necessary or advisable.
- (2) A person who is so required to furnish information shall not furnish information that is false or misleading in a material particular.

Maximum penalty—70 penalty units.

85 Production and inspection of documents

- (1) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an instrument lodged with the Minister for approval under this division or to the transaction to which such an instrument relates.
- (2) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1).

Maximum penalty—70 penalty units.

86 Inspection of register and documents

- (1) Subject to subsection (2), the register and all instruments registered, or subject to inspection, under this division shall at all convenient times be open for inspection by any person upon payment of a fee of \$6.
- (2) The Minister may refuse to allow a memorial or a copy of a permit, licence, pipeline licence or access authority to be inspected without the written consent of the registered holder.

87 Evidentiary provisions

- (1) The register shall be received by all courts as evidence of all matters required or authorised by this division to be entered in the register.
- (2) The Minister may, on payment of a fee calculated at the rate of \$1.50 per page, supply copies of or extracts from the register or of or from any instrument lodged with the Minister under this division certified by writing under the Minister's hand, and such a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.
- (3) The Minister may, on payment of a fee of \$15, by instrument in writing under the Minister's hand certify that an entry, matter or thing required or permitted by or under this division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

88 Appeals

- (1) The Supreme Court may on the application of a person aggrieved by—
 - (a) the omission of an entry from the register; or
 - (b) an entry made in the register without sufficient cause; or
 - (c) an entry wrongly existing in the register; or
 - (d) an error or defect in an entry in the register;make such order as it thinks fit directing the rectification of the register.
- (2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.
- (3) Notice of an application under this section shall be given to the Minister, who may appear and be heard, and shall appear if so directed by the Supreme Court.

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

89 Minister not liable to certain actions

Subject to section 88 neither the Minister, the Minister's delegate, nor a person acting under the direction or authority of the Minister or the Minister's delegate is liable to an action suit or proceeding for or in respect of an act or matter bona fide done or omitted to be done in exercise or purported exercise of any power or authority conferred by this division.

90 Offences

A person who wilfully—

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

is guilty of an offence.

Maximum penalty—70 penalty units.

91 Assessment of fee

- (1) The Minister may determine the amount of the fee payable under section 92 in respect of any memorandum.
- (2) A person dissatisfied with a determination of the Minister under subsection (1) may appeal to the Supreme Court against the determination.
- (3) Upon the hearing of the appeal, the Supreme Court may affirm, reverse or modify the determination of the Minister.

92 Imposition of registration fees

- (1) There is payable to the Minister in respect of—
 - (a) a memorandum of transfer entered in the register under section 78; or
 - (b) a memorandum of approval of an instrument entered in the register under section 81;a fee at the rate of $1\frac{1}{2}\%$ of—
 - (c) the value of the consideration for the transfer, or for the instrument by which the interest was created, assigned, affected or dealt with, respectively; or
 - (d) the value of the permit, licence or pipeline licence transferred, or of the interest created, assigned, affected or dealt with by the instrument, respectively;whichever is the greater.
- (2) Where, but for this subsection, the amount of the fee imposed by subsection (1) in respect of any memorandum would be less than \$300 the amount of the fee imposed in respect of that memorandum is \$300.
- (3) For the purpose of calculating the fee payable under subsection (1) in respect of a memorandum of transfer of a permit or a memorandum of approval of an instrument by which an interest in a permit was created, assigned, affected or dealt with, the value, as determined by the Minister, of any approved exploration works to be carried out in pursuance of the agreement for the transfer or in pursuance of the instrument, as the case may be, shall be deducted—
 - (a) where the fee is to be calculated in accordance with subsection (1)(c)—from the value referred to in that paragraph; and
 - (b) where the fee is to be calculated in accordance with subsection (1)(d)—from the value referred to in that paragraph.
- (4) Where—

- (a) the transfer of a permit or licence or an instrument by which an interest in a permit or licence was created, assigned, affected or dealt with was entered into for the purpose of giving effect to a prior agreement; and
- (b) a party to the transfer or the instrument is the holder of a certificate in respect of the transfer or instrument under subsection (6)(a);

no fee is payable under subsection (1) or (2) in respect of the memorandum of that transfer or the memorandum of approval of that instrument, as the case may be, but there is payable in respect of the memorandum of that transfer or the memorandum of approval of that instrument a fee of \$3000.

(5) Where—

- (a) 2 or more parties to the transfer of a permit, licence or pipeline licence or an instrument by which an interest in a permit, licence or pipeline licence was created, assigned, affected or dealt with are corporations, that, under the Corporations Act, section 50, are related to each other; and
- (b) any of those parties is the holder of a certificate in respect of the transfer or instrument under subsection (6)(b);

no fee is payable under subsection (1) or (2) in respect of the memorandum of that transfer or the memorandum of approval of that instrument, as the case may be, but there is payable in respect of the memorandum of that transfer or the memorandum of approval of that instrument a fee of \$3000.

(6) Where the Minister is satisfied—

- (a) that a prior agreement referred to in subsection (4) was not entered into, or is not proposed to be entered into, substantially for the purpose of avoiding or reducing the registration fees that would, but for the issue of a certificate under this paragraph, be payable under subsection (1) or (2) in respect of a memorandum of transfer or a memorandum of approval of an instrument (being a transfer or instrument entered into or to be

entered into for the purpose of giving effect to the prior agreement), the Minister may, on an application in writing made to the Minister at any time by a person who is or proposes to be a part to the prior agreement, grant a certificate that the Minister is so satisfied; or

- (b) that a transfer or instrument referred to in subsection (5)—
 - (i) was or is proposed to be entered into solely for the purpose of the reorganisation or the better administration of the related corporations or any of them; and
 - (ii) was not entered into, or is not proposed to be entered into, substantially for the purpose of avoiding or reducing the registration fees that would, but for the grant of a certificate under this paragraph, be payable under subsection (1) or (2);

the Minister may, on an application in writing made to the Minister at any time by any of those related corporations, grant a certificate that the Minister is so satisfied.

Division 6 General

94 Notices of grants of permits etc. to be published

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

- (a) the grant, and the grant of the renewal, of a permit, licence or pipeline licence; and
- (b) the variation of a licence or pipeline licence; and
- (c) the surrender or cancellation of a permit or licence as to all or some of the blocks in the permit area or licence area; and
- (d) the determination of a permit as to a block or blocks; and

- (e) an application for a pipeline licence or for the renewal or variation of a pipeline licence; and
 - (f) the surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline; and
 - (g) the expiry of a permit, licence or pipeline licence;
- under this part to be published in the gazette.

95 Date of effect of permits etc.

- (1) A permit, licence or pipeline licence has effect from and including the day specified for the purpose in the permit, licence or pipeline licence.
- (2) The surrender or cancellation of a permit or licence as to all or some of the blocks in the permit area or licence area has effect from and including the day on which notice of the surrender or cancellation is published in the gazette.
- (3) The surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline has effect from and including the day on which notice of the surrender or cancellation is published in the gazette.
- (4) A variation of a licence or pipeline licence has effect from and including the day on which notice of the variation is published in the gazette.

96 Commencement of works

- (1) Where a permit, licence or pipeline licence is granted subject to a condition that works or operations specified in the permit, licence or pipeline licence are to be carried out, the permittee, licensee or pipeline licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, licence or pipeline licence, as the case may be, has effect.
- (2) The Minister may, for reasons that the Minister thinks sufficient, by instrument in writing served on a permittee, licensee or pipeline licensee—

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- (a) exempt him or her from compliance with the requirements of subsection (1); and
 - (b) direct him or her to commence to carry out the works or operations specified in the permit, licence or pipeline licence, as the case may be, within such period after the day on which the permit, licence or pipeline licence, as the case may be, has effect as is specified in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Maximum penalty—135 penalty units.

97 Work practices

- (1) A permittee or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area or licence area in a proper and competent manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in those operations in or about the permit area or licence area.
- (2) In particular, and without limiting the generality of subsection (1), but subject to any authorisation or requirement given or made by or under this Act or regulations or directions under this Act, a permittee or licensee shall—
 - (a) control the flow and prevent the waste or escape in the permit area or licence area of petroleum or water; and
 - (b) prevent the escape in the permit area or licence area of any mixture of water or drilling fluid with petroleum or any other matter; and
 - (c) prevent damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which the permit or licence is not in force; and
 - (d) keep separate—

- (i) each petroleum pool discovered in the permit area or licence area; and
 - (ii) such of the sources of water (if any) discovered in that area as the Minister, by instrument in writing served on that person, directs; and
 - (e) prevent water or other matter entering any petroleum pool through wells in the permit area or licence area except when required by, and in accordance with, good oilfield practice.
- (3) A pipeline licensee shall operate the pipeline in a proper and competent manner and shall secure the safety, health and welfare of persons engaged in operations in connection with the pipeline.
- (4) In particular and without limiting the generality of subsection (3), a pipeline licensee shall prevent the waste or escape of petroleum or water from the pipeline or from any secondary line, pumping station, tank station, valve station or water line.
- (5) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and competent manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in those operations in or about that area.
- (6) Without limiting the generality of any provision of this Act relating to conditions, the conditions subject to which a permit, licence, pipeline licence, special prospecting authority or access authority is granted may include a condition requiring the holder to effect and maintain, to the satisfaction of the Minister, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, in pursuance of the permit, licence or authority, including expenses of complying with directions, with respect to the clean up or other remedying of the effects of the escape of petroleum.

- (7) It is a defence if a person charged with failing to comply with a provision of this section, or a defendant in an action arising out of a failure by the defendant to comply with a provision of this section, proves that he or she took all reasonable steps to comply with that provision.

Maximum penalty—135 penalty units.

98 Maintenance of property

- (1) In this section—

operator means a permittee, licensee, pipeline licensee or holder of a special prospecting authority or access authority.

the operations area—

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

Maximum penalty—135 penalty units.

99 Ss 97 and 98 to have effect subject to this Act

Sections 97 and 98 have effect subject to—

- (a) any other provisions of this Act; and
- (b) the regulations; and
- (c) a direction under section 101; and
- (d) any other law.

100 Drilling near boundaries

- (1) A permittee or licensee shall not make a well any part of which is less than 300m from a boundary of the permit area or licence area, as the case may be, except with the consent in writing of the Minister and in accordance with such conditions (if any) as are specified in the instrument of consent.
- (2) Where a permittee or licensee does not comply with subsection (1), the Minister may, by instrument in writing served on the permittee or licensee, as the case may be, direct the permittee or licensee to do 1 or more of the following, within the period specified in the instrument—
 - (a) to plug the well;
 - (b) to close off the well;
 - (c) to comply with such directions relating to the making or maintenance of the well as are specified in the instrument.
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Maximum penalty—135 penalty units.

101 Directions

- (1) The Minister may, by instrument in writing served on a person referred to in subsection (2), give to that person a direction as

to any matter with respect to which regulations may be made under section 152.

- (2) Directions under subsection (1) may be given to the following persons—
 - (a) a permittee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority;
 - (b) a servant, agent or person acting on behalf of a person referred to in paragraph (a);
 - (c) a person performing work or services under a contract with a person referred to in paragraph (a);
 - (d) a servant or agent of a person referred to in paragraph (c).
- (3) The Minister shall not give a direction of a standing or permanent nature except after consultation with the Minister of State for the time being administering the Commonwealth Act, but the validity of a direction of the Minister shall not be called in question by reason only of a failure to comply with this subsection.
- (4) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.
- (5) A direction under this section has effect and shall be complied with notwithstanding anything in the regulations or the applied provisions.
- (6) A direction under this section may be expressed to apply to every person included in a specified class of persons referred to in subsection (2) and the instrument by which a direction so expressed is given shall be deemed to be served on a person included in that class if a copy of the instrument was, at the time of the alleged failure of that person to comply with the direction, exhibited in a prominent position at a place in the adjacent area frequented by that person.
- (7) A person to whom a direction in force under subsection (1) is applicable shall comply with the direction.

Maximum penalty in respect of subsection (7)—135 penalty units.

102 Compliance with directions

- (1) Where a person does not comply with a direction given to the person under this part or the regulations the Minister may do all or any of the things required by the direction to be done.
- (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given to the State and are recoverable in a court of competent jurisdiction.
- (3) It is a defence if a person charged with failing to comply with a direction given to the person under this part or under the regulations or a defendant in an action under subsection (2) proves that he or she took all reasonable steps to comply with the direction.

103 Exemption

- (1) Notwithstanding subsection (2), where—
 - (a) a permit, licence or pipeline licence is, under this part, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, licence or pipeline licence; or
 - (b) a licence is varied under section 45; or
 - (c) a licensee enters into an agreement under section 59 or a direction is given to a licensee under that section; or
 - (d) a permit or licence is partly cancelled, partly determined or surrendered as to 1 or more but not all of the blocks in respect of which it is in force; or
 - (e) a pipeline licence is varied under section 71 or 72; or
 - (f) a direction is given to a pipeline licensee under section 73; or
 - (g) a pipeline licence is partly cancelled; or

- (h) an access authority is granted in respect of a block the subject of a permit or licence, or an access authority as in force in respect of such a block is varied; or
- (i) a permittee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority applies, by instrument in writing served on the Minister—
 - (i) for a variation or suspension of; or
 - (ii) for exemption from compliance with;
any of the conditions to which the permit, licence, pipeline licence, special prospecting authority or access authority is subject; or
- (j) the Minister under this part or the regulations gives a direction or consent to a permittee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority;

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

- (k) vary or suspend; or
 - (l) exempt the permittee, licensee, pipeline licensee or the holder of the special prospecting authority or access authority from compliance with;
any of the conditions to which the permit, licence, pipeline licence, special prospecting authority or access authority is subject, upon such conditions, if any, as the Minister determines and specifies in the instrument.
- (2) Subsection (1) does not authorise the making of an instrument to the extent that it would affect the term of a permit, licence or pipeline licence.
 - (3) Where, in pursuance of subsection (1), the Minister suspends, or exempts the permittee from compliance with, any of the conditions to which a permit is subject, the Minister may, if the Minister considers that circumstances make it reasonable to do so, in the instrument of suspension or exemption or by a later instrument in writing served on the permittee, extend the

term of the permit by a period not exceeding the period of suspension or exemption.

104 Surrender of permits etc.

- (1) The registered holder of an instrument, being a permit, licence or pipeline licence, may, at any time, by application in writing served on the Minister, apply for consent to surrender the instrument—
 - (a) in the case of a permit or licence—as to all or some of the blocks in respect of which it is in force; or
 - (b) in the case of a pipeline licence—as to the whole or a part of the pipeline in respect of which it is in force.
- (2) Subject to subsection (3), the Minister shall not give his or her consent to a surrender of an instrument under subsection (1) unless the registered holder—
 - (a) has paid all fees and amounts payable by the registered holder under this Act, or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts; and
 - (b) has complied with the conditions to which the instrument is subject and with the provisions of this part and of the regulations; and
 - (c) has, to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorised by the instrument, or has made arrangements that are satisfactory to the Minister with respect to that property; and
 - (d) has, to the satisfaction of the Minister, plugged or closed off all wells made in that area by any person engaged or concerned in the operations authorised by the instrument; and
 - (e) subject to this part and to the regulations, has made provision, to the satisfaction of the Minister, for the

conservation and protection of the natural resources in that area; and

- (f) has, to the satisfaction of the Minister, made good any damage to the seabed or subsoil in that area caused by any person engaged or concerned in the operations authorised by the instrument;

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

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

the area to which the surrender relates means—

- (a) in relation to a surrender of a permit or licence—the area constituted by the blocks as to which the permit or licence is proposed to be surrendered; and
- (b) in relation to a surrender of a pipeline licence—the part of the adjacent area in which the pipeline, or the part of the pipeline, as to which the pipeline licence is proposed to be surrendered is constructed.

105 Cancellation of permits

- (1) Where a permittee, licensee or pipeline licensee—
- (a) has not complied with a condition to which the permit, licence or pipeline licence is subject; or

- (b) has not complied with a direction given to him or her under this part by the Minister; or
- (c) has not complied with a provision of this part or of the regulations; or
- (d) has not paid any amount payable by him or her under this Act, within a period of 3 months after the day on which the amount became payable;

the Minister may, on that ground, by instrument in writing served on the permittee, licensee or pipeline licensee, as the case may be—

- (e) in the case of a permit or licence—cancel the permit or licence as to all or some of the blocks in respect of which it is in force; or
 - (f) in the case of a pipeline licence—cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.
- (2) The Minister shall not, under subsection (1), cancel a permit, licence or pipeline licence as to all or some of the blocks, or as to the whole or a part of the pipeline, in respect of which it is in force on a ground referred to in that subsection unless—
- (a) the Minister has, by instrument in writing served on the permittee, licensee or pipeline licensee, as the case may be, given not less than 1 month's notice of the Minister's intention so to cancel the permit, licence or pipeline licence on that ground; and
 - (b) the Minister has served a copy of the instrument on such other persons (if any) as the Minister thinks fit; and
 - (c) the Minister has, in the instrument, specified a date on or before which the permittee, licensee or pipeline licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he or she wishes the Minister to consider; and
 - (d) the Minister has taken into account—

- (i) any action taken by the permittee, licensee or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
- (ii) any matters so submitted to the Minister on or before the specified date by the permittee, licensee or pipeline licensee or by a person on whom a copy of the first mentioned instrument has been served.

106 Cancellation of permit etc. not affected by other provisions

- (1) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled on the ground that the registered holder of the permit, licence or pipeline licence has not complied with a provision of this part or of the regulations notwithstanding that he or she has been convicted of an offence by reason of his or her failure to comply with the provisions.
- (2) A person who was the registered holder of a permit, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he or she has not complied with a provision of this part or of the regulations may be convicted of an offence by reason of his or her failure to comply with the provision, notwithstanding that the permit, licence or pipeline licence has been so cancelled.
- (3) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled on the ground that the registered holder of the permit, licence or pipeline licence has not paid an amount payable by him or her under this Act within a period of 3 months after the day on which the amount became payable, notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.
- (4) A person who was the registered holder of a permit, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he or she has not

paid an amount payable by him or her under this Act within a period of 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount, notwithstanding that the permit, licence or pipeline licence has been so cancelled.

107 Removal of property etc. by permittee etc.

- (1) Where a permit, licence or pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the permittee, licensee or pipeline licensee, direct that person to do any 1 or more of the following things—
 - (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the permit, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;
 - (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations;
 - (c) subject to this part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;
 - (d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in that area caused by any person engaged or concerned in those operations.
- (2) The Minister may, by instrument in writing served on a permittee, licensee or pipeline licensee, direct him or her to do any 1 or more of the following things—
 - (a) to remove or cause to be removed from the permit area, licence area or part of the adjacent area in which the pipeline is constructed, as the case may be, all property

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- brought into that area or part by any person engaged or concerned in the operations authorised by the permit, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;
- (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area or part by any person engaged or concerned in those operations;
 - (c) subject to this part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area or part;
 - (d) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in that area or part caused by any person engaged or concerned in those operations.
- (3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction—
- (a) in the case of a direction given under subsection (1)—within the period specified in the instrument by which the direction was given; or
 - (b) in the case of a direction given under subsection (2)—on or before the date of expiration of the permit, licence or pipeline licence concerned.

Maximum penalty—135 penalty units.

108 Removal of property etc. by Minister

Where a permit, licence or pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired, and a direction under section 107 has not been complied with, or an arrangement under that section has not been carried out, in relation to the relinquished area—

- (a) the Minister may do all or any of the things required by the direction or arrangement to be done; and

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

109 Payment by instalments

- (1) The Minister and a person who may request, or has requested, that a permit under section 27 or a licence under section 50 be granted to him or her may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the permit or licence, together with interest at the rate that is the specified rate from time to time on so much of that amount as from time to time remains unpaid.
- (2) For the purposes of subsection (1), the specified rate is 10% per annum or, if a lower rate is prescribed, that lower rate.
- (3) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not be greater than 21 years.
- (4) Where a person enters into an agreement under this section for or in relation to the payment of an amount in respect of the grant or a permit or licence, any instalment or interest that is due under the agreement and has not been paid is payable by the registered holder of the permit or licence, as the case may be.

110 Penalty for late payment of instalments etc.

- (1) Where the liability of a person under section 109 to pay an amount, being an instalment or any interest, is not discharged at or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of $\frac{1}{3}$ of 1% per day upon so much of the first mentioned amount as from time to time remains unpaid, to be computed from the time when the first mentioned amount became payable until it is paid.
- (2) The Minister may, in a particular case, for reasons that the Minister thinks sufficient, remit the whole or part of an amount payable under this section.

111 Special prospecting authorities

- (1) Where—
 - (a) applications have been invited under section 23 for the grant of a permit in respect of a block or blocks; or
 - (b) applications have been invited under section 47 for the grant of a licence in respect of a block or blocks;a person may make an application to the Minister for the grant of a special prospecting authority in respect of that block or any of those blocks.
- (2) An application under this section—
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations.
- (3) The Minister—
 - (a) may grant to the applicant a special prospecting authority subject to such conditions as the Minister thinks fit and specifies in the authority; or
 - (b) may refuse to grant the application.

- (4) A special prospecting authority, while it remains in force, authorises the holder, subject to this Act and the regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the petroleum exploration operations so specified.
- (5) Nothing in a special prospecting authority authorises the holder to make a well.
- (6) A special prospecting authority has effect from and including the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.
- (7) A special prospecting authority—
 - (a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and
 - (b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by instrument in writing served on the holder.
- (8) Where a special prospecting authority has been surrendered or cancelled, or has expired, the Minister may, by instrument in writing served on the person who was the holder of the special prospecting authority, direct that person to do any 1 or more of the following things—
 - (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property;
 - (b) subject to this part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;
 - (c) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in that area caused by any person engaged or concerned in those operations.

- (9) A person to whom a direction is given under subsection (8) shall comply with the direction.
- Maximum penalty—135 penalty units.
- (10) Section 108 applies to and in relation to a special prospecting authority as if—
- (a) a reference in that section to a permit were a reference to a special prospecting authority; and
 - (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (8).

112 Access authorities

- (1) A permittee or licensee may make an application to the Minister for the grant of an access authority to enable the permittee or licensee to carry on in an area, being part of the adjacent area that is not part of the permit area or licence area, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area or licence area.
- (2) An application under this section—
- (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall specify the operations that the applicant proposes to carry on and the area in which the applicant proposes to carry on those operations; and
 - (d) may set out any other matters that the applicant wishes the Minister to consider.
- (3) The Minister may—
- (a) if the Minister is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper performance of the duties, of a permittee or licensee who has made an application under this section, grant to the permittee or licensee an access

- authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and
- (b) at any time, by instrument in writing served on the registered holder of an access authority so granted, vary the access authority.
- (4) The Minister shall not grant an access authority on an application under this section in respect of a block that is the subject of a permit or licence of which the registered holder is a person other than the applicant, or vary an access authority as in force in respect of a block that is the subject of a permit or licence of which the registered holder is a person other than the registered holder of the access authority, unless—
- (a) the Minister has, by instrument in writing served on that person, given not less than 1 month's notice of the Minister's intention to grant or vary, as the case may be, the access authority; and
- (b) the Minister has served a copy of the instrument—
- (i) on such other persons (if any) as the Minister thinks fit; and
- (ii) in a case where the Minister intends to vary an access authority—on the registered holder of the access authority; and
- (c) the Minister has, in the instrument—
- (i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and
- (ii) specified a date on or before which a person on whom the instrument, or a copy of the instrument, is served may, by instrument in writing served on the Minister submit any matters that the person wishes the Minister to consider; and
- (d) the Minister has taken into account any matters so submitted to him or her on or before the specified date by a person on whom the first mentioned instrument, or a copy of that instrument, has been served.

- (5) An access authority, while it remains in force, authorises the holder, subject to this Act and the regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.
- (6) Nothing in an access authority authorises the holder to make a well.
- (7) An access authority has effect from and including the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Minister for a further period.
- (8) An access authority—
 - (a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and
 - (b) may be cancelled by the Minister at any time by instrument in writing served on the holder and on any person in whose permit area or licence area operations may be carried on in pursuance of the access authority.
- (9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by instrument in writing served on the person who was the holder of the access authority, direct that person to do any 1 or more of the following things—
 - (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property;
 - (b) subject to this part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;
 - (c) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in that area caused by any person engaged or concerned in those operations.

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

Maximum penalty—135 penalty units.

- (11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit or licence of which the holder is not the registered holder, furnish to the registered holder of that permit or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations carried on in that block during that month and of the facts ascertained from those operations.

Maximum penalty—70 penalty units.

- (12) Section 108 applies to and in relation to an access authority as if—

- (a) a reference in that section to a permit were a reference to an access authority; and
- (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (9).

113 Sale of property

- (1) Where a direction under section 108 has not been complied with in relation to any property, the Minister may do all or any of the following things—
- (a) remove, in such manner as the Minister thinks fit, all or any of that property from the relinquished area concerned;
- (b) dispose of, in such manner as the Minister thinks fit, all or any of that property;
- (c) if the Minister has served a copy of the instrument by which the direction was given on a person whom the Minister believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as

the Minister thinks fit, all or any of that property that belongs, or that the Minister believes to belong, to that person.

- (2) The Minister may deduct from the proceeds of a sale under subsection (1) of property that belongs, or that the Minister believes to belong, to a particular person—
- (a) all or any part of any costs and expenses incurred by the Minister under that subsection in relation to that property; and
 - (b) all or any part of any costs and expenses incurred by the Minister in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by that person; and
 - (c) all or any part of any fees or amounts due and payable under this Act by that person.
- (3) Costs and expenses incurred by the Minister under subsection (1)—
- (a) if incurred in relation to the removal, disposal or sale of property—are a debt due by the owner of the property to the State; or
 - (b) if incurred in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by a person who is or was a permittee, licensee, pipeline licensee or holder of a special prospecting authority or access authority—are a debt due by that person to the State;
- and, to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction.
- (4) Subject to subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

114 Securities

- (1) A security referred to in this part—

- (a) shall be—
 - (i) in the case of a security referred to in division 2—in the sum of \$15000; and
 - (ii) in the case of a security referred to in division 3—in the sum of \$150000; and
 - (iii) in the case of a security referred to in division 4—in the sum of \$60000; and
 - (b) shall be given in such manner and form as are approved; and
 - (c) may, subject to that approval, be by cash deposit or such other method as the Minister allows or partly by cash deposit and partly by such other method as the Minister allows.
- (2) A security given in accordance with a form approved by the Minister although it is not sealed binds the person subscribing it as if it were sealed.
- (3) Whenever a security under this part is put in suit, the production of the security, without further proof, entitles the Minister to judgment against the person appearing to have executed the security, for the amount of the person's stated liability or for such lesser amount as is claimed, unless that person proves compliance with the conditions of the security or that the security was not executed by the person or release or satisfaction.
- (4) If it appears to the court that a noncompliance with a condition of a security under this part has occurred, the security shall not be deemed to have been discharged or invalidated, and the subscriber shall not be deemed to have been released or discharged from liability, by reason of—
- (a) any extension of time or other concession; or
 - (b) any consent to, or acquiescence in, a previous noncompliance with a condition; or
 - (c) any failure to bring suit against the subscriber upon the occurrence of a previous noncompliance with the condition.

- (5) If there are several subscribers to the security, they are bound, unless the security otherwise provides, jointly and severally and for the full amount.

115 Minister etc. may require information to be furnished etc.

- (1) Where the Minister or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in the adjacent area, the Minister may, by instrument in writing served on that person, require that person—
- (a) to furnish to the Minister in writing, within the period and in the manner specified in the instrument, any such information; or
 - (b) to attend before the Minister or a person specified in the instrument, at such time and place as is so specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are so specified.
- (2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate the person or make the person liable to a penalty, but the information so furnished or the person's answer to the question is not admissible in evidence against the person in proceedings other than proceedings for an offence against section 117.

116 Power to examine on oath

- (1) The Minister or an inspector may administer an oath to a person required to attend before the Minister in pursuance of section 115 and may examine that person on oath.

- (2) Where a person attending before the Minister or an inspector in pursuance of section 115 conscientiously objects to taking an oath the person may make an affirmation that the person conscientiously objects to taking an oath and that the person will state the truth, the whole truth and nothing but the truth to all questions asked him or her.
- (3) An affirmation made under subsection (2) is of the same force and effect, and entails the same penalties, as an oath.

117 Failing to furnish information etc.

A person shall not—

- (a) refuse or fail to comply with a requirement in an instrument under section 115 to the extent to which the person is capable of complying with it; or
- (b) in purported compliance with such a requirement, furnish information that is to the person's knowledge false or misleading in a material particular; or
- (c) when attending before the Minister or an inspector in pursuance of such a requirement, make a statement or produce a document that is to the person's knowledge false or misleading in a material particular.

Maximum penalty—135 penalty units.

118 Release of information

- (1) The Minister may, at any time, make available to a Minister of this State or to a Minister of State of the Commonwealth or of another State—
 - (a) any information contained in a report, return or other document relating to a block that has been furnished to the Minister; and
 - (b) any cores or cuttings from, or samples of, the seabed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister.

(2) The Minister or a Minister of this State may, at any time after the relevant day—

- (a) make publicly known; or
- (b) on request by a person and, if the Minister or the Minister of this State so requires, on payment of a fee of \$15 per day, make available to that person;

any information that has been furnished to the Minister or has been made available to the Minister of this State under subsection (1), being information that relates to the seabed or subsoil, or to petroleum in a block, but not including any matter contained in a report, return or document that in the opinion of the Minister or the Minister of this State, is a conclusion drawn, in whole or in part from, or an opinion based in whole or in part on, any such information.

(3) The Minister or a Minister of this State may, at any time after the relevant day—

- (a) make publicly known any particulars of; or
- (b) on request by a person and, if the Minister or the Minister of this State so requires, on payment of a fee of \$15 per day, permit that person to inspect;

any cores or cuttings from, or samples of, the seabed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister or have been made available to the Minister of this State under subsection (1).

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

- (a) where—
 - (i) a permit is in force in respect of the block; and
 - (ii) the block is not a block that is, or is included in, a location;

the relevant day is the day on which the period of 5 years that commenced on the day on which the report, return, other document, core, cutting or sample was furnished to the Minister expires;

- (b) where—
- (i) a licence is in force in respect of the block; and
 - (ii) the block is not a block that is, or is included in, a location;

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

- (c) where a permit or licence is not in force in respect of the block but—
- (i) a permit or licence has been surrendered or determined as to the block; and
 - (ii) at the time of the surrender or determination, the block was, or was included in, a location; and
 - (iii) a notification in respect of the block has been published under section 23(2) or section 47(4);

the relevant day is the day on which the period of 6 months that commenced on the day on which the notification was published expires;

- (d) where the report, return, other document, core, cutting or sample was furnished to the Minister during the period during which a permit or licence was in force in respect of the block and—
- (i) the block is not a block that is, or is included in, a location and the permit or licence is surrendered or cancelled as to the block; or
 - (ii) the block is, or is included in, a location and the permit or licence is cancelled as to the block; or
 - (iii) the permit or licence expires but is not renewed in respect of the block;

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

- (e) where—
 - (i) the report, return, other document, core, cutting or sample was furnished to the Minister during a period during which a permit or licence was not in force in respect of the block; and
 - (ii) a permit or licence is not in force in respect of the block;

the relevant day is such day as the Minister determines.

- (5) Where—
 - (a) a report, return, other document, core, cutting or sample referred to in subsection (1) was furnished to the Minister—
 - (i) during or in respect of a period during which a permit or licence was in force in respect of the block; or
 - (ii) during or in respect of a period during which a special prospecting authority or access authority was in force in respect of the block but during which a permit or licence was not in force in respect of the block; and
 - (b) the permittee, licensee or holder of the special prospecting authority or access authority or, if the permit, licence, special prospecting authority or access authority has ceased to be in force, the person who was the holder of the permit, licence, special prospecting authority or access authority—
 - (i) has made publicly known any information contained in the report, return or other document or has consented in writing to any of that information being made publicly known; or
 - (ii) has made publicly known any particulars of that core, cutting or sample or has consented in writing to any particulars of that core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection;

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

- (c) make publicly known that information or, on request by another person and, if the Minister or the Minister of this State so requires, on payment of a fee of \$15 per day, make that information available to that other person; or
- (d) make publicly known those particulars or, on request by any other person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, permit that other person to inspect that core, cutting or sample;

as the case may be.

- (6) Except as provided by the preceding provisions of this section or for the purposes of the administration of this Act and the regulations, the Minister, or another Minister to whom any information, core, cutting or sample has been made available under subsection (1), shall not—
 - (a) make publicly known, or make available to any person (not being a Minister of this State or a Minister of State of the Commonwealth or a Minister of State of another State), any information contained in a report, return or other document referred to in any of those provisions; or
 - (b) make publicly known any particulars of, or permit any person (not being a Minister referred to in paragraph (a)) to inspect, any core, cutting or sample so referred to.
- (7) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.
- (8) For the purposes of this section—
 - (a) cores and cuttings, and well data, logs, sample descriptions and other documents, relating to the drilling of a well, shall be deemed to have been furnished to the

Minister not later than 1 month after the drilling of the well was, in the opinion of the Minister, substantially completed; and

- (b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been furnished to the Minister not later than 1 year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.
- (9) In this section a reference to a Minister of State of another State includes a reference to a Minister of State of the Northern Territory.

119 Safety zones

- (1) For the purposes of protecting a well or structure, or any equipment, in the adjacent area, the Minister may, by instrument published in the gazette, prohibit—
- (a) all vessels; or
 - (b) all vessels other than specified vessels; or
 - (c) all vessels other than the vessels included in specified classes of vessels;
- from entering or remaining in a specified area (a *safety zone*) surrounding the well, structure or equipment without the consent in writing of the Minister.
- (2) A safety zone specified in an instrument under subsection (1) may extend to a distance of 500m around the well, structure or equipment specified in the instrument measured from each point of the outer edge of the well, structure or equipment.
- (3) Where a vessel enters or remains in a safety zone specified in an instrument under subsection (1) in contravention of the instrument, the owner and the person in command or in charge of the vessel are each guilty of an offence against this section and are punishable, upon conviction, by a maximum penalty of 1300 penalty units or 10 years imprisonment.

120 Discovery and use of water

Where water is discovered in a permit area or in a licence area, the permittee or licensee, as the case may be, shall, within a period of 1 month after the date of the discovery, furnish to the Minister in writing particulars of the discovery.

Maximum penalty—135 penalty units.

121 Survey of wells etc.

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

Maximum penalty—135 penalty units.

122 Records etc. to be kept

- (1) The Minister may, by instrument in writing served on a person carrying on operations in the adjacent area under a permit, licence, pipeline licence, special prospecting authority access authority or instrument of consent under section 123, direct that person to do any 1 or more of the following things—
 - (a) to keep such accounts, records and other documents in connection with those operations as are specified in the instrument;

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

Maximum penalty—135 penalty units.

123 Scientific investigations

- (1) The Minister may, by instrument in writing, consent to the carrying on in the adjacent area by any person of petroleum exploration operations in the course of a scientific investigation.
- (2) An instrument of consent under subsection (1) may be made subject to such conditions (if any) as are specified in the instrument.
- (3) An instrument of consent in force under section (1) authorises the person specified in the instrument, subject to section 124 and in accordance with the conditions (if any) to which the instrument is subject, to carry on, in the adjacent area, petroleum exploration operations so specified in the course of the scientific investigation so specified.

124 Interference with other rights

A person carrying on operations in the adjacent area under a permit, licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 60(2) or (3) or 123 shall carry on those operations in a manner that does not interfere with—

- (a) navigation; or
- (b) fishing; or

- (c) the conservation of the resources of the sea and seabed;
or
- (d) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or by way of construction or operation of a pipeline;

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of that first mentioned person.

Maximum penalty—135 penalty units.

124A Interfering with offshore petroleum installation or operations

- (1) A person must not wilfully—
 - (a) cause damage to, or interfere with, a structure or vessel in the adjacent area that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or
 - (b) interfere with operations or activities being carried out, or works being executed, on, or by means of, or in connection with, a structure or vessel mentioned in paragraph (a).

Maximum penalty—660 penalty units or 10 years imprisonment.

- (2) In this section—

structure means a fixed, moveable or floating structure or installation and includes, for example, a pipeline, pumping station, tank station or valve station.

125 Inspectors

- (1) The Minister may, by instrument in writing, appoint a person to be an inspector for the purposes of this Act and the regulations.

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- (2) The Minister may furnish to an inspector a certificate stating that he or she is an inspector for the purposes of this Act and the regulations.
 - (3) Where the appointment of a person under this section expires or is revoked, that person shall forthwith surrender the certificate furnished to the person under this section to the Minister or, if the Minister, by instrument in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Maximum penalty—10 penalty units.

126 Powers of inspectors

- (1) For the purposes of this Act and the regulations, an inspector, at all reasonable times and on production of the certificate furnished to the inspector under section 125—
 - (a) shall have access to any part of the adjacent area and to any structure, ship, aircraft or building in that area that, in the inspector's opinion, has been, is being or is to be used in connection with petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in that area; and
 - (b) may inspect and test any equipment that, in the inspector's opinion, has been, is being or is to be used in that area in connection with any of those operations; and
 - (c) may enter any structure, ship, aircraft, building or place in that area or in the State, in which, in the inspector's opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.
- (2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any ship, aircraft or equipment referred to in subsection (1), shall provide an inspector with all reasonable facilities and assistance for the effective exercise of the inspector's powers under this section.

- (3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his or her powers under this section.

Maximum penalty—70 penalty units.

127 Property in petroleum

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

128 Suspension of rights conferred by permit

- (1) Where the Minister is satisfied that it is necessary to do so in the public interest, the Minister shall, by instrument in writing served on the permittee, suspend, either for a specified period or indefinitely, all or any of the rights conferred by the permit.
- (2) Where any rights are suspended in accordance with subsection (1), any conditions required to be complied with in the exercise of those rights are also suspended.
- (3) The Minister may, by instrument in writing served on the permittee, terminate a suspension of rights under subsection (1).
- (4) Where rights conferred by a permit are suspended in accordance with subsection (1), the Minister may, by the instrument of suspension or by a later instrument in writing served on the permittee, extend the term of the permit by a period not exceeding the period of the suspension.

129 Certain payments to be made by State to Commonwealth

The Treasurer shall, not later than the last day of each month of the year, pay to the Commonwealth amounts ascertained in accordance with the formula—

4A
B

where—

A is the amount of royalty payable under this Act, together with the amount (if any) payable under this Act by reason of late payment of that royalty, by a permittee or licensee in respect of petroleum recovered in the adjacent area under the permit or licence and received by the Minister during the preceding month;

B is the percentage rate at which royalty is payable under this Act by the permittee or licensee in respect of that petroleum;

and the Consolidated Fund is hereby, to the necessary extent, appropriated accordingly.

130 Determination to be disregarded in certain cases

Where a determination has been made by the Minister under section 143 in relation to a well, that determination shall be disregarded in ascertaining the value of *B* for the purposes of section 129.

131 Continuing offences

- (1) Where an offence is committed by a person by reason of the person's failure to comply, within the period specified in a direction given to the person under this Act or the regulations, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.
- (2) Where an offence is committed by a person by reason of the person's failure to comply with a requirement made by this Act or the regulations, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.

- (3) Where, under subsection (1) or (2), an offence is to be deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is to be deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding \$10000.

132 Persons concerned in commission of offences

Without derogating from the provisions of section 7 of the Criminal Code, a person who by act or omission is in any way directly or indirectly knowingly concerned in, or party to the commission of any offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

133 Provisions in respect of offences

- (1) In this section—

prescribed offence means an offence against this Act in respect of which the penalty may include a term of imprisonment.
- (2) Prescribed offences are misdemeanours within the meaning of the Criminal Code and the provisions of that code apply in relation to those offences and in relation to attempts to commit any of those offences.
- (2A) Unless a contrary intention appears, offences against this Act, other than prescribed offences, are simple offences.
- (2B) A person who attempts to commit an offence against this Act that is a simple offence is guilty of a simple offence and is punishable as if the person had committed the offence.
- (3) When a person is charged before justices with a prescribed offence and it appears to the justices that the nature of the offence is such that the offender may be adequately punished upon summary conviction the justices may deal with the charge summarily if the person charged and the prosecutor consent to their so doing.

- (4) However—
- (a) a court of summary jurisdiction shall have jurisdiction to deal summarily with a charge of a prescribed offence under this subsection notwithstanding that more than 1 year has elapsed from the time the matter of complaint to which the charge relates arose;
 - (b) the maximum penalty that a court of summary jurisdiction may impose in relation to an offence for which the person charged is dealt with summarily under this subsection is 135 penalty units or 2 years imprisonment.

134 Orders for forfeiture in respect of certain offences

- (1) Where a person is convicted by the Supreme Court of an offence against section 19, 39 or 60 the Court may, in addition to imposing a fine, make 1 or more of the following orders—
- (a) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence;
 - (b) an order for the forfeiture of specified equipment used in the commission of the offence;
 - (c) an order—
 - (i) for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence; or
 - (ii) for the payment by that person to the State of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed; or
 - (iii) for the payment by that person to the State of an amount equal to the value at the wellhead, assessed by the Court, of the quantity, so assessed, of petroleum so recovered or conveyed or for the payment of such part of that amount as the Court, having regard to all the circumstances, thinks fit.

- (2) Where the Court is satisfied that an order made under subsection (1)(c)(i) can not, for any reason, be enforced, the Court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subsection (1)(c)(ii) or (iii).
- (3) The Court may, before making an order under this section, require notice to be given to, and hear, such persons as the Court thinks fit.

135 Disposal of forfeited goods

Goods in respect of which an order is made under section 134 shall be dealt with as the Attorney-General directs and, pending the Attorney-General's direction, may be detained in such custody as the Court directs.

136 Time for bringing proceedings for offences

Proceedings in respect of an offence against this Act (being an offence arising under this part) or the regulations may be brought at any time.

137 Judicial notice

- (1) All courts shall take judicial notice of the signature of a person who is, or has been, the Minister or a delegate of the Minister and of the fact that that person is, or has been, the Minister or a delegate of the Minister.
- (2) In this section—
court includes all persons authorised by the law of the State or by consent of parties to receive evidence.

138 Service

- (1) A document required or permitted by this Act to be served on a person other than the Minister or a corporation may be served—

- (a) by delivering the document to that person personally; or
 - (b) by prepaying and posting the document as a letter addressed to that person at the person's last known place of residence or business or, if the person is carrying on business at 2 or more places, at 1 of those places; or
 - (c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently not less than 16 years of age; or
 - (d) by leaving the document at the last known place of business of that person, or if the person is carrying on business at 2 or more places, at 1 of those places, with some person apparently in the service of that person and apparently not less than 16 years of age.
- (2) A document required or permitted by this Act to be served on the Minister may be served by prepaying and posting the document as a letter addressed to such officer or person as the Minister, by instrument published in the gazette, specifies, at such place as the Minister specifies.
- (3) A document required by this Act to be served upon a person, being a corporation, may be served—
- (a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at 2 or more places, at 1 of those places; or
 - (b) by leaving it at that place, or at 1 of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.
- (4) Where a document required by this Act to be served is posted as a letter in accordance with this section, service shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

Division 7 Fees and royalties

139 Permit fees

There is payable to the Minister by a permittee in respect of each year of the term of the permit—

- (a) a fee of \$300; or
- (b) a fee calculated at the rate of \$15 for each of the blocks to which the permit relates at the commencement of that year;

whichever is the greater.

140 Licence fees

There is payable to the Minister by a licensee, in respect of each year of the term of the licence, a fee calculated at the rate of \$9000 for each of the blocks to which the licence relates at the commencement of that year.

140A Application of GST to permit and licence fees

If a fee payable under section 139 or 140 is for a supply for which GST is payable, the fee payable is the total of—

- (a) the fee that would have been payable if the fee were not for a supply for which GST is payable; and
- (b) 10% of the fee that would have been payable if the fee were not for a supply for which GST is payable.

141 Pipeline licence fees

There is payable to the Minister by a pipeline licensee, in respect of each year of the term of the pipeline licence, a fee of \$40 in respect of each kilometre or portion of a kilometre of the length of the pipeline at the commencement of that year.

142 Time of payment of fees

A fee under section 139, 140 or 141 is payable within 1 month after—

- (a) in the case of the first year of the term of the permit, licence or pipeline licence—the day on which that term commenced; and
- (b) in the case of a year of the term of the permit, licence or pipeline licence other than the first—the anniversary of that day.

143 Royalty

- (1) A permittee or licensee shall, subject to this division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the permittee or licensee in the permit area or licence area.
- (2) Subject to subsections (3) to (8) and the provisions of section 144, the prescribed rate in respect of petroleum recovered under a permit or licence is 10% of the value at the wellhead of the petroleum.
- (3) The prescribed rate in respect of petroleum recovered under a secondary licence is the percentage determined by the Minister in pursuance of section 42(1) in respect of petroleum so recovered.
- (4) Where a secondary licence is granted to the holder of a primary licence, the prescribed rate in respect of petroleum recovered under the primary licence is, as from the commencement of the next royalty period after the day from which the secondary licence has effect, the same percentage as is applicable in respect of petroleum recovered under the secondary licence.
- (5) Where—
 - (a) a licence is granted on an application under section 47; and

- (b) the instrument served on the applicant under section 49 contains a statement that the applicant will be required to pay, in respect of petroleum recovered under that licence, royalty at the rate specified in that statement;
- the prescribed rate in respect of petroleum recovered under that licence is the percentage specified in that statement.
- (6) Where a licence is granted on an application under section 51(1), the prescribed rate in respect of petroleum recovered under that licence is the same percentage as was applicable in respect of petroleum recovered under the original licence as defined by that subsection.
- (7) The prescribed rate in respect of petroleum recovered in the licence area referred to in a licence granted by way of renewal of a licence is the percentage that would be the prescribed rate of the licence so granted were the continuation in force of the previous licence.
- (8) A reference in this section or in a permit or licence to royalty at the prescribed rate or royalty at the rate that is for the time being the prescribed rate shall be read as a reference to royalty at the rate that is or was the prescribed rate applicable in accordance with the provisions of this Act as in force from time to time.

144 Reduction of royalty in certain cases

- (1) Where the Minister is satisfied that the rate of recovery of petroleum from a well has become so deduced that, having regard to the rate or rates of royalty applicable under section 143, further recovery of petroleum from that well would be uneconomic, the Minister may, by instrument in writing, determine that the royalty in respect of all or any of the petroleum recovered from that well on or after a date specified in the determination shall be at such rate (being a rate lower than the rate that would be applicable under section 143) as the Minister specifies.

- (2) The prescribed rate in respect of petroleum to which a determination under subsection (1) is applicable is the rate specified in the determination.
- (3) The Minister may, by instrument in writing, revoke or vary a determination under subsection (1) and the revocation or variation applies to petroleum recovered on or after such date as is specified in the instrument.

145 Royalty not payable in certain cases

- (1) Royalty under this Act—
 - (a) is not payable in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained; and
 - (b) is not payable in respect of petroleum that is used by the permittee or licensee, as approved by the Minister, for the purposes of petroleum exploration operation or operations for the recovery of petroleum; and
 - (c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.
- (2) Where petroleum that has been recovered by a permittee or licensee is, with the approval of the Minister, returned to a natural reservoir, royalty under this Act is not payable in respect of that petroleum by reason of that recovery but this subsection does not affect the liability of that or any other permittee or licensee to pay royalty in respect of petroleum that is recovered from that natural reservoir.

146 Ascertainment of wellhead

For the purposes of this Act, the wellhead, in relation to any petroleum, is such valve station as is agreed between the permittee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such

valve station as is determined by the Minister as being that wellhead.

147 Ascertainment of value

For the purposes of this Act, the value at the wellhead of any petroleum is such amount as is agreed between the permittee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such amount as is determined by the Minister as being that value.

148 Ascertainment of quantity of petroleum recovered

For the purposes of this Act, the quantity of petroleum recovered by a permittee or licensee from a well during a period shall be taken to be—

- (a) the quantity measured during that period by a measuring device approved by the Minister and installed at the wellhead or at such other place as the Minister approves; or
- (b) where no such measuring device is so installed, or the Minister is not satisfied that the quantity of petroleum recovered by the permittee or licensee from that well has been properly or accurately measured by such a measuring device—the quantity determined by the Minister as being the quantity recovered by the permittee or licensee from that well during that period.

149 Payment of royalty

Royalty under this Act in respect of petroleum recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.

150 Penalty for late payment

- (1) Where a fee or an amount of royalty under this Act is not paid under this division at or before the time when the fee or the

amount of royalty is payable there is payable to the Minister by the permittee, licensee or pipeline licensee an additional amount calculated at the rate of $\frac{1}{3}$ of 1% per day upon the amount of the fee or royalty from time to time remaining unpaid to be computed from the time when the amount became payable until it is paid.

- (2) An additional amount in respect of royalty is not payable under subsection (1) in respect of any period before the expiration of 7 days after the value of the petroleum was agreed or determined under section 147.

151 Fees and penalties debts due to the State

A fee royalty or other amount payable under this division is a debt due by the permittee, licensee or pipeline licensee to the State and is recoverable in a court of competent jurisdiction.

Part 3A National Offshore Petroleum Safety Authority

Division 1 Preliminary

151A Definitions for pt 3A

In this part—

Board means the National Offshore Petroleum Safety Authority Board under the Commonwealth Act.

CEO means the chief executive officer of the Safety Authority.

facility see schedule 3.

interstate Minister means the Minister of a State, other than Queensland, or the Northern Territory who is authorised for the time being under the law of the State or Territory to

[s 151B]

perform the functions of a Designated Authority under the Commonwealth Act.

151B Occupational health and safety

Schedule 3 has effect.

151C Listed OHS laws

The following provisions are the *listed OHS laws*—

- (a) section 124A, to the extent it relates to—
 - (i) damage to, or interference with, a facility; or
 - (ii) interference with operations or activities being carried out, or works being executed, on, by means of, or in connection with, a facility;
- (b) schedule 3;
- (c) a regulation made for schedule 3;
- (d) a regulation made for section 151D;
- (e) another regulation relating to occupational health and safety matters prescribed for this paragraph.

151D Regulation-making power—occupational health and safety

- (1) Regulations may make provision in relation to the occupational health and safety of persons at or near a facility who are under the control of a person who is carrying on an operation.
- (2) Without limiting subsection (1), a regulation may—
 - (a) require a person who is carrying on an operation to establish and maintain a system of management to secure the occupational health and safety of persons mentioned in the subsection; and
 - (b) provide for the requirements with which the system must comply.

Division 2 Functions and powers of the Safety Authority

151E Safety Authority's functions

The Safety Authority has the following functions—

- (a) the functions conferred on it by or under this Act in relation to offshore petroleum operations;
- (b) to promote the occupational health and safety of persons engaged in offshore petroleum operations;
- (c) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations under this Act;
- (d) to investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations; and
- (e) to report, as appropriate, to the Minister and the Commonwealth Minister on the investigations mentioned in paragraph (d);
- (f) to advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations;
- (g) to make reports, including recommendations, to the Minister and the Commonwealth Minister on issues relating to the occupational health and safety of persons engaged in offshore petroleum operations;
- (h) to cooperate with—
 - (i) the Minister and State agencies having functions relating to offshore petroleum operations; and
 - (ii) Commonwealth agencies having functions relating to offshore petroleum operations.

151F Safety Authority's ordinary powers

- (1) The Safety Authority has power to do all things necessary or convenient to be done in performing its functions.
- (2) The Safety Authority's powers include, but are not limited to, the following powers—
 - (a) the power to acquire, hold and dispose of real and personal property;
 - (b) the power to enter into contracts;
 - (c) the power to lease the whole or part of any land or building for the purposes of the Safety Authority;
 - (d) the power to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Safety Authority;
 - (e) the power to conduct research and development projects and to cooperate with others in those projects;
 - (f) the power to apply for and hold patents and exploit patents;
 - (g) the power to do anything incidental to any of its functions.

151G Judicial notice of seal

All courts, judges and persons acting judicially must—

- (a) take judicial notice of the imprint of the seal of the Safety Authority appearing on a document; and
- (b) presume that the document was duly sealed.

Division 3 Safety Authority Board

151H Functions of the Board

- (1) The Board has the following functions—

- (a) to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;
 - (b) to give advice, and make recommendations, to each of the following about 1 or more prescribed matters—
 - (i) the Minister;
 - (ii) the Commonwealth Minister;
 - (iii) interstate Ministers;
 - (iv) the body known as the Ministerial Council on Mineral and Petroleum Resources;
 - (c) the other functions, if any, stated in a written notice given by the Commonwealth Minister to the Chair of the Board.
- (2) As soon as practicable after the Board gives advice, or makes recommendations, under subsection (1)(b) to a Minister or body mentioned in subsection (1)(b)(i), (iii) or (iv), the Board must give the Commonwealth Minister a written copy of the advice or recommendations.
- (3) In this section—
- prescribed matters* means the following matters—
- (a) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations;
 - (b) the performance by the Safety Authority of its functions.

151I Powers of the Board

The Board has power to do all things necessary or convenient to be done in performing its functions.

151J Validity of decisions

The performance of the functions, or the exercise of the powers, of the Board is not affected only because of there being a vacancy or vacancies in the membership of the Board.

Division 4 Chief executive officer and staff of the Safety Authority

151K CEO acts for Safety Authority

Anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

151L Working with the Board

- (1) The CEO must request the Board's advice on strategic matters relating to the performance of the Safety Authority's functions.
- (2) The CEO must have regard to the advice given to him or her by the Board, whether or not the advice was given in response to a request.
- (3) The CEO must—
 - (a) keep the Board informed of the Safety Authority's operations; and
 - (b) give the Board such reports, documents and information in relation to those operations as the Chair of the Board requires.

151M Delegation by CEO

- (1) A public service employee may perform any function and exercise any power delegated to the employee by the CEO under the Commonwealth Act.

-
- (2) In performing a function or exercising a power under the delegation, the delegate must comply with the directions of the CEO.

151N Secondments to Safety Authority

A public service employee may assist the Safety Authority in performing its functions or exercising its powers under this Act, the Commonwealth Act, or a corresponding law.

Division 5 Other Safety Authority provisions

151O Minister may require the Safety Authority to prepare reports or give information

- (1) The Minister may, by written notice given to the Safety Authority, require the Safety Authority to—
- (a) prepare a report about 1 or more stated matters relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the report to each of the following persons within the period stated in the notice—
 - (i) the Minister;
 - (ii) each interstate Minister;
 - (iii) the Commonwealth Minister.
- (2) The Minister may, by written notice given to the Safety Authority, require the Safety Authority to—
- (a) prepare a document setting out stated information relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and
 - (b) give a copy of the document to each of the following persons within the period stated in the notice—
 - (i) the Minister;

- (ii) each interstate Minister;
 - (iii) the Commonwealth Minister.
- (3) The Safety Authority must comply with a requirement under subsection (1) or (2).

151P Directions to Safety Authority

- (1) The Minister may request the Commonwealth Minister to give a direction, under section 150YX of the Commonwealth Act, to the Safety Authority that relates wholly or principally to the Safety Authority's operations in the adjacent area.
- (2) The Commonwealth Minister must use his or her best endeavours to make a decision on the request within 30 days after receiving the request.
- (3) If the Commonwealth Minister refuses the request, the Commonwealth Minister must give the Minister a written statement setting out the reasons for the refusal.
- (4) The Safety Authority must comply with a direction given by the Commonwealth Minister at the Minister's request under this section.

151Q Reviews of operations of Safety Authority

- (1) The Minister must cause reviews to be conducted of the operations of the Safety Authority in relation to the adjacent area.
- (2) The Minister must cause to be prepared a report of a review under subsection (1).
- (3) The first review is to relate to the 3 year period beginning on 1 January 2005, and is to be completed within 6 months, or a longer period allowed by the Minister, after the end of the 3 year period.
- (4) Subsequent reviews are to relate to successive 3 year periods, and must be completed within 6 months, or a longer period allowed by the Minister, after the end of the 3 year period to which the review relates.

- (5) A review under this section may be conducted in conjunction with a review under the Commonwealth Act or a corresponding law, or both.
- (6) Without limiting the matters to be covered by a review under subsection (1), the review must include an assessment of the effectiveness of the Safety Authority in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
- (7) The Minister must cause a copy of the report of a review under subsection (1) to be tabled in the Legislative Assembly within 15 sitting days after the report of the review is completed.
- (8) For this section, a review is completed when the report of the review is made available to the Minister.

151R Liability for acts and omissions

- (1) This section applies to the following persons—
 - (a) the Safety Authority;
 - (b) the CEO;
 - (c) an OHS inspector;
 - (d) a person acting under the direction or authority of the Safety Authority or the CEO.
- (2) A person to whom this section applies is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the performance of a function under a listed OHS law;
or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under a listed OHS law.

Part 4 Miscellaneous

152 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for the following—
 - (a) the exploration for petroleum and the carrying on of operations and the execution of works for that purpose;
 - (b) the recovery of petroleum and the carrying on of operations and the execution of works for that purpose;
 - (c) conserving and preventing the waste of the natural resources, whether petroleum or otherwise, of the adjacent area;
 - (d) the construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations and the carrying on of operations, and the execution of works, for any of those purposes;
 - (e) the construction, erection, maintenance, operation or use of installations or equipment;
 - (f) the control of the flow or discharge, and the prevention of the escape, of petroleum, water or drilling fluid, or a mixture of water or drilling fluid with petroleum or any other matter;
 - (g) the clean up or other remedying of the effects of the escape of petroleum;
 - (h) the prevention of damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which a permit or licence is not in force;
 - (i) the keeping separate of—
 - (i) each petroleum pool discovered in a permit area or licence area; and
 - (ii) each source of water discovered in a permit area or licence area;

- (j) the prevention of water or other matter from entering a petroleum pool through wells;
 - (k) the prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station;
 - (l) the maintaining in good condition and repair of all structures, equipment and other property in the adjacent area used or intended to be used for or in connection with the exploration for or the exploitation of petroleum in the adjacent area;
 - (m) the removal from the adjacent area of structures equipment and other property brought into the adjacent area for or in connection with exploration for or the exploitation of petroleum that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum in the adjacent area.
- (3) The regulations may prescribe, in relation to the exploration for, and the exploitation of, the natural resources (being petroleum) of the adjacent area, matters for carrying out or giving effect to the Convention.
- (4) The regulations may provide, in respect of an offence against the regulations, for the imposition of—
- (a) a fine not exceeding \$10000; or
 - (b) a fine not exceeding that amount for each day on which the offence occurs.

Schedule 1 Convention on the continental shelf

section 4(1)

*The States Parties to this Convention
have agreed as follows:*

ARTICLE 1

For the purpose of these articles, the term “continental shelf” is used as referring (a) to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the sea-bed and subsoil or similar submarine areas adjacent to the coasts of islands.

ARTICLE 2

- 1 The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
- 2 The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
- 3 The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
- 4 The natural resources referred to in these articles consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary

species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

ARTICLE 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

ARTICLE 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

ARTICLE 5

- 1 The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.
- 2 Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.
- 3 The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point on their outer edge. Ships of all nationalities must respect these safety zones.

- 4 Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.
- 5 Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.
- 6 Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.
- 7 The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.
- 8 The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

ARTICLE 6

- 1 Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

- 2 Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
- 3 In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

ARTICLE 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

ARTICLE 8

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 9

This Convention shall, until 31st October, 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

ARTICLE 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The

instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 11

- 1 This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
- 2 For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 12

- 1 At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.
- 2 Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 13

- 1 After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
- 2 The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8—

- (a) of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;
- (b) of the date on which this Convention will come into force, in accordance with article 11;
- (c) of requests for revision in accordance with article 13;
- (d) of reservations to this Convention, in accordance with article 12.

ARTICLE 15

The original of this Convention, of which the Chinese, English, French, Russian and Spanish Texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April, one thousand nine hundred and fifty-eight.

(Here follow the signatures on behalf of the parties to the Agreement, including Australia.)

Schedule 2 Area that includes the adjacent area

section 4(1)

The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland and runs thence north-easterly along the geodesic to a point of latitude 15° south, longitude 138° east, thence northerly along the meridian of longitude 138° east to its intersection by the parallel of latitude 14° south, thence easterly along that parallel to its intersection by the meridian of longitude 139° east, thence northerly along that meridian to its intersection by the parallel of latitude 11° south, thence north-westerly along the geodesic to a point of latitude 10° south, longitude 139° east, thence north-westerly along the geodesic to a point of latitude 10° south, longitude 139° east, thence north-easterly along the rhumb line to a point of latitude 10° south, longitude 139° east, thence north-easterly along the rhumb line to a point of latitude 9° south, longitude 140° east, thence south-easterly along the geodesic to a point of latitude 9° south, longitude 140° east, thence north-easterly along the geodesic to a point of latitude 9° south, longitude 141° east, thence north-easterly along the geodesic to a point of latitude 9° south, longitude 141° east, thence along the line formed by a series of arcs of circles having a radius of 3n mile and drawn successively from the following points—

| | latitude (south) | longitude (east) |
|-------|-----------------------------|-----------------------------|
| (i) | 9° | 141°31' |
| (ii) | 9°32'02" | 141°31'54" |
| (iii) | 9°31'56" | 141°31'58" |
| (iv) | 9°31'51" | 141°32'02" |

| | latitude (south) | longitude (east) |
|--------|-----------------------------|-----------------------------|
| (v) | 9°31'29" | 141°32'17" |
| (vi) | 9°31'27" | 141°32'19" |
| (vii) | 9°31'24" | 141°32'21" |
| (viii) | 9°30'40" | 141°33'32" |
| (ix) | 9°30'08" | 141°34'01" |
| (x) | 9°30'01" | 141°34'05" |
| (xi) | 9°29'57" | 141°34'08" |
| (xii) | 9°29'51" | 141°34'14" |
| (xiii) | 9°29'51" | 141°34'19" |
| (xiv) | 9°29'58" | 141°36'13", |

so as to pass successively to the north-west and north of Deliverance Island, to a point of latitude 9°27'48" south, longitude 141°38'20" east, thence north-easterly along the geodesic to a point of latitude 9°15'43" south, longitude 142°03'30" east, thence north-easterly along the geodesic to a point of Latitude 9°12'50" South, Longitude 142°06'25" East, thence north-easterly along the geodesic to a point of latitude 9°11'51" south, longitude 142°08'33" east, thence south-easterly along the geodesic to a point of latitude 9°11'58" south, longitude 142°10'18" east, thence north-easterly along the geodesic to a point of latitude 9°11'22" south, longitude 142°12'54" east, thence south-easterly along the geodesic to a point of latitude 9°11'34" south, longitude 142°14'08" east, thence south-easterly along the geodesic to a point of latitude 9°13'53" south, longitude 142°16'26" east, thence south-easterly along the geodesic to a point of latitude 9°16'04" south, longitude 142°20'41" east, thence south-easterly along the geodesic to a point of latitude 9°22'04" south, longitude 142°29'41" east, thence north-easterly along the geodesic to a point of latitude

Schedule 2

9°21'48" south, longitude 142°31'29" east, thence south-easterly along the geodesic to a point of latitude 9°22'33" south, longitude 142°33'28" east, thence north-easterly along the geodesic to a point of latitude 9°21'25" south, longitude 142°35'29" east, thence north-easterly along the geodesic to a point of latitude 9°20'21" south, longitude 142°41'43" east, thence north-easterly along the geodesic to a point of latitude 9°20'16" south, longitude 142°43'53" east, thence north-easterly along the geodesic to a point of latitude 9°19'26" south, longitude 142°48'18" east, thence north-easterly along the geodesic to a point of latitude 9°09'06" south, longitude 143°47'17" east, thence along the line formed by the arc of a circle, having a radius of 3n mile and drawn from the point of latitude 9°10'28" south, longitude 143°49'59" east, so as to pass to the north-west of Black Rocks, to its first point of intersection by, and thence along, the line formed by a series of arcs of circles having a radius of 3n mile and drawn successively from the following points—

| | latitude (south) | longitude (east) |
|--------|-----------------------------|-----------------------------|
| (i) | 9° | 143°52'19" |
| (ii) | 9°08'33" | 143°52'22" |
| (iii) | 9°08'26" | 143°52'32" |
| (iv) | 9°08'24" | 143°52'41" |
| (v) | 9°08'23" | 143°52'48" |
| (vi) | 9°08'24" | 143°52'54" |
| (vii) | 9°08'27" | 143°53'06" |
| (viii) | 9°08'32" | 143°53'12" |
| (ix) | 9°08'43" | 143°53'19" |
| (x) | 9°08'48" | 143°53'19" |
| (xi) | 9°08'52" | 143°53'17" |

| | latitude (south) | longitude (east) |
|-------|-----------------------------|-----------------------------|
| (xii) | 9°09'00" | 143°53'13", |

so as to pass successively to the north and east of Bramble Cay, to a point of latitude 9°10'49" south, longitude 143°55'38" east, thence south-easterly along the geodesic to a point of latitude 9°18'44" south, longitude 144°06'06" east, thence along the line formed by a series of arcs of circles having a radius of 3n mile and drawn successively from the following points—

| | latitude (south) | longitude (east) |
|--------|-----------------------------|-----------------------------|
| (i) | 9° | 144°07'28" |
| (ii) | 9°21'25" | 144°07'38" |
| (iii) | 9°21'26" | 144°07'44" |
| (iv) | 9°21'29" | 144°07'50" |
| (v) | 9°21'31" | 144°07'55" |
| (vi) | 9°21'44" | 144°08'24" |
| (vii) | 9°21'45" | 144°08'27" |
| (viii) | 9°21'49" | 144°08'33" |
| (ix) | 9°21'54" | 144°08'37", |

so as to pass to the north of Anchor Cay, to its first point of intersection by, and thence along the line formed by a series of arcs of circles having a radius of 3n mile and drawn successively from the following points—

| | latitude (south) | longitude (east) |
|------|-----------------------------|-----------------------------|
| (i) | 9° | 144°12' |
| (ii) | 9°23'02" | 144°12'55" |

Schedule 2

| | latitude (south) | longitude (east) |
|--------|-----------------------------|-----------------------------|
| (iii) | 9°23'02" | 144°13'23" |
| (iv) | 9°23'04" | 144°13'29" |
| (v) | 9°23'06" | 144°13'33" |
| (vi) | 9°23'09" | 144°13'40" |
| (vii) | 9°23'13" | 144°13'44" |
| (viii) | 9°23'30" | 144°13'59" |
| (ix) | 9°23'40" | 144°14'11" |
| (x) | 9°23'44" | 144°14'18" |
| (xi) | 9°23'50" | 144°14'25" |
| (xii) | 9°23'59" | 144°14'30", |

so as to pass to the north of East Cay to a point of latitude 9°22'04" south, longitude 144°16'51" east, thence north-easterly along the geodesic to a point of latitude 9°00'00" south, longitude 144°45'00" east, thence easterly along the parallel of latitude 9° south to its intersection by the meridian of longitude 145°13' east, thence south-easterly along the geodesic to a point of latitude 9°15' south, longitude 145°20' east, thence south-easterly along the geodesic to a point of latitude 10°45' south, longitude 145°40' east, thence south-easterly along the geodesic to a point of latitude 12°10' south, longitude 146°25' east, thence south-easterly along the geodesic to a point of latitude 12°50' south, longitude 147°40' east, thence southerly along the meridian of longitude 147°40' east to its intersection by the parallel of latitude 14° south, thence westerly along that parallel to its intersection by the meridian of longitude 146°55' east, thence southerly along that meridian to its intersection by the parallel of latitude 17°05' south, thence easterly along that parallel to its intersection by the meridian of longitude 147°45' east, thence southerly along that meridian to its intersection by the parallel of latitude 18°30' south, thence easterly along that parallel to

its intersection by the meridian of longitude 150°50' east, thence southerly along that meridian to its intersection by the parallel of latitude 20° south, thence easterly along that parallel to its intersection by the meridian of longitude 151°30' east, thence southerly along that meridian to its intersection by the parallel of latitude 20°25' south, thence easterly along that parallel to its intersection by the meridian of longitude 153°05' east, thence southerly along that meridian to its intersection by the parallel of latitude 22°50' south, thence easterly along that parallel to its intersection by the meridian of longitude 153°40' east, thence southerly along that meridian to its intersection by the parallel of latitude 23°15' south, thence easterly along that parallel to its intersection by the meridian of longitude 154° east, thence southerly along that meridian to its intersection by the parallel of latitude 23°50' south, thence easterly along that parallel to its intersection by the meridian of longitude 155°15' east, thence southerly along that meridian to its intersection by the parallel of latitude 25° south, thence easterly along that parallel to its intersection by the meridian of longitude 158°35' east, thence south-easterly along the geodesic to a point of latitude 27°30'35" south, longitude 160° east, thence westerly along the geodesic to a point of latitude 27°48' south, longitude 154°22' east, thence south-westerly along the geodesic to a point of latitude 27°58' south, longitude 154° east, thence south-westerly along the geodesic between the last mentioned point and the trigonometrical station known as Point Danger near Point Danger to its intersection by the coastline at mean low water, thence along the coastline of the State at mean low water to the point of commencement.

Schedule 3 Occupational health and safety

section 151B

Part 1 Preliminary

1 Objects

The objects of this schedule are, in relation to facilities in the adjacent area—

- (a) to secure the occupational health and safety and welfare of persons at or near those facilities; and
- (b) to protect persons at or near those facilities from risks to occupational health and safety arising out of the activities being conducted at those facilities; and
- (c) to ensure expert advice is available on occupational health and safety matters in relation to those facilities; and
- (d) to promote an occupational environment for members of the workforce at those facilities that is adapted to their needs relating to health and safety; and
- (e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at those facilities.

2 Definitions for sch 3

In this schedule—

accident includes the contraction of a disease.

associated offshore place, in relation to a facility, means an offshore place near the facility where activities, including diving activities, relating to the construction, installation, operation, maintenance or decommissioning of the facility take place, but does not include any of the following—

-
- (a) another facility;
 - (b) a supply vessel, offtake tanker, anchor handler or tugboat;
 - (c) a vessel or structure that is declared by the regulations not to be an associated offshore place.

contract includes an arrangement or understanding.

contractor has the meaning given by section 6.

dangerous occurrence means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition.

designated work group means—

- (a) a group of members of the workforce at a facility that is established as a designated work group under section 16 or 17; or
- (b) that group as varied under section 18 or 19.

employee, in relation to an employer, means an employee of that employer.

employer means an employer who carries on an activity at a facility.

facility means a facility within the meaning of section 3, and—

- (a) includes a facility being constructed or installed; and
- (b) except for the definition *associated offshore place*, includes an associated offshore place in relation to a facility.

group member, in relation to a designated work group at a facility, means a person who is—

- (a) a member of the workforce at the facility; and
- (b) included in the designated work group.

improvement notice means an improvement notice issued under section 68(1).

inspection means an inspection conducted under part 4 and includes an investigation or inquiry.

member of the workforce, in relation to a facility, means an individual who does work at the facility, whether—

- (a) as an employee of the operator of the facility or another person; or
- (b) as a contractor of the operator or of another person.

operator, in relation to a facility or proposed facility, means the person who, under the regulations, is taken to be the operator of the facility or proposed facility.

operator's representative at a facility means a person present at the facility in compliance with the obligations imposed on the operator under section 4.

own includes own jointly or own in part.

plant includes machinery or equipment, or a tool, or a component.

premises includes each of the following—

- (a) a structure or building;
- (b) a place, whether or not enclosed or built on;
- (c) a part of a thing mentioned in paragraph (a) or (b).

prescribed person, for part 4, division 3, subdivision 4, see section 60.

prohibition notice means a prohibition notice issued under section 66(1).

proposed facility means a facility proposed to be constructed, installed or operated.

recovery, in relation to petroleum, includes all processes directly or indirectly associated with its recovery.

registered organisation means an organisation within the meaning of the *Workplace Relations Act 1996* (Cwlth).

regulated business premises means—

- (a) a facility; or

- (b) premises that are—
- (i) occupied by a person who is the operator of a facility; or
 - (ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations.

regulations means regulations made for the purposes of this schedule.

reviewing authority means the Australian Industrial Relations Commission.

work means work offshore that is directly or indirectly related to the construction, installation, operation, maintenance or decommissioning of a facility.

workforce representative means—

- (a) in relation to a person who is a member of the workforce at a facility—a registered organisation of which the person is a member, if the person is qualified to be a member of that organisation because of the work the person performs at the facility; or
- (b) in relation to a designated work group or a proposed designated work group—a registered organisation of which a person who is, or is likely to be, in the work group is a member, if the person is qualified to be a member of that organisation because of the work the person performs, or will perform, at the facility.

work group employer, in relation to a designated work group at a facility, means an employer of 1 or more group members, but does not include the operator of the facility.

workplace, in relation to a facility, means the whole facility or a part of the facility.

3 Facilities

- (1) A vessel or structure is taken to be a facility for the purposes of this schedule while that vessel or structure—
 - (a) is located at a site in the adjacent area; and

- (b) is being used, or prepared for use, at the site for any of the following purposes—
 - (i) the recovery of petroleum, the processing of petroleum, or the storage and offloading of petroleum, or any combination of those activities;
 - (ii) the provision of accommodation for persons working on another facility, whether connected by a walkway to the other facility or not;
 - (iii) drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process;
 - (iv) laying pipes for petroleum, including any manufacturing of the pipes, or doing work on an existing pipe;
 - (v) the erection, dismantling or decommissioning of a vessel or structure mentioned in any of subparagraphs (i) to (iv);
 - (vi) another purpose related to offshore petroleum operations that is prescribed for the purpose of this subparagraph.
- (2) Subsection (1) applies to a vessel or structure—
 - (a) whether it is floating or fixed; and
 - (b) whether or not it is capable of independent navigation.
- (3) Subsection (1) has effect subject to subsections (6) and (7).
- (4) A vessel or structure used for a purpose mentioned in subsection (1)(b)(i) includes—
 - (a) any wells and associated plant and equipment by means of which petroleum processed or stored at the vessel or structure is recovered; and
 - (b) any pipe or system of pipes through which petroleum is conveyed from a well to the vessel or structure; and
 - (c) any secondary line associated with the vessel or structure.

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- (5) For subsection (1), a vessel or structure that is located offshore for the purpose of laying pipes as described in subsection (1)(b)(iv) is taken to be located at a site, despite the fact that the vessel or structure moves as the pipe laying process proceeds.
- (6) Despite subsection (1), a vessel or structure is taken not to be a facility for the purposes of this schedule if the vessel or structure is any of the following—
- (a) an offtake tanker;
 - (b) a tug or an anchor handler;
 - (c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore;
 - (d) a vessel or structure used for any purpose such that it is declared by the regulations not to be a facility.
- (7) In deciding when a vessel or structure that has the potential to be used for 1 or more of the purposes mentioned in subsection (1)(b) is in fact being so used, the vessel or structure is taken—
- (a) to commence to be so used only at the time when it arrives at the site where it is to be so used and any activities necessary to make it operational at that site are begun; and
 - (b) to cease to be so used when operations cease, and the vessel or structure has been returned either to a navigable form or to a form in which it can be towed to another place.
- (8) Each of the following is taken to be a facility for the purposes of this schedule—
- (a) a pipeline subject to a pipeline licence;
 - (b) if a pipeline subject to a pipeline licence conveys petroleum recovered from a well without the petroleum having passed through another facility—the pipeline, together with—
 - (i) the well and associated plant and equipment; and

(ii) a pipe or system of pipes through which petroleum is conveyed from that well to that pipeline.

(9) In subsection (8)(b)—
facility does not include a pipeline.

4 Operator must ensure presence of operator's representative

(1) The operator of a facility must ensure that, at all times when 1 or more individuals are present at a facility, there is also present an individual (the *operator's representative at the facility*) who has day-to-day management and control of operations at the facility.

Maximum penalty—75 penalty units.

(2) The operator of a facility must ensure that the name of the operator's representative at the facility is displayed in a prominent place at the facility.

Maximum penalty—75 penalty units.

(3) Subsection (1) does not imply that, if the operator is an individual, the operator's representative at the facility may not be, from time to time, the operator.

5 Health and safety of persons using an accommodation facility

To remove doubt, it is declared that a reference in this schedule to the occupational health and safety of a person includes a reference to the health and safety of a person using an accommodation facility provided for the accommodation of persons working on another facility.

6 Contractor

For this schedule, an individual is taken to be a *contractor* of another person (the *relevant person*) if the individual does work at a facility under a contract for services between—

(a) the relevant person; and

- (b) either—
 - (i) the individual; or
 - (ii) the employer of the individual.

Part 2 Occupational health and safety

Division 1 Duties relating to occupational health and safety

7 Duties of operator

- (1) The operator of a facility must take all reasonably practicable steps to ensure—
 - (a) the facility is safe and without risk to the health of any person at or near the facility; and
 - (b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Maximum penalty—1470 penalty units.

- (2) Without limiting subsection (1), the operator of a facility must do each of the following—
 - (a) provide and maintain a physical environment at the facility that is safe and without risk to health;
 - (b) provide and maintain adequate facilities for the welfare of all members of the workforce at the facility;
 - (c) ensure any plant, equipment, materials and substances at the facility are safe and without risk to health;
 - (d) implement and maintain systems of work at the facility that are safe and without risk to health;

- (e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility;
- (f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the occupational health and safety of persons at the facility;
- (g) monitor the occupational health and safety of all members of the workforce and keep records of that monitoring;
- (h) provide appropriate medical and first aid services at the facility;
- (i) develop, in consultation with members of the workforce and workforce representatives, a policy relating to occupational health and safety that—
 - (i) will enable the operator and the members of the workforce to co-operate effectively in promoting and developing measures to ensure the occupational health and safety of persons at the facility; and
 - (ii) will provide adequate mechanisms for reviewing the effectiveness of the measures; and
 - (iii) provides for the making of an agreement that complies with subsections (4) and (5).

Maximum penalty—1470 penalty units.

- (3) Subsection (2)(i) does not require the operator of a facility to engage in consultations with a workforce representative unless a member of the workforce at the facility has requested the workforce representative to be involved in those consultations.
- (4) The agreement mentioned in subsection (2)(i)(iii) must be between—
 - (a) on the 1 hand—the operator; and
 - (b) on the other hand—

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- (i) the members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement—the workforce representative.
 - (5) The agreement mentioned in subsection (2)(i)(iii) must provide appropriate mechanisms for continuing consultation between—
 - (a) on the 1 hand—the operator; and
 - (b) on the other hand—
 - (i) the members of the workforce; and
 - (ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion—the workforce representative.
 - (6) The agreement may provide for other matters agreed between the parties to it.

8 Duties of persons in control of parts of facility or particular work

- (1) A person who is in control of any part of a facility, or of any particular work carried out at a facility, must take all reasonably practicable steps to ensure—
 - (a) that part of the facility, or the place where that work is carried out, is safe and without risk to health; and
 - (b) if the person is in control of particular work—the work is carried out in a manner that is safe and without risk to health.

Maximum penalty—1470 penalty units.

- (2) Without limiting subsection (1), a person who is in control of any part of a facility, or of any particular work carried out at a facility, must do each of the following—

- (a) ensure the physical environment at that part of the facility, or at the place where the work is carried out, is safe and without risk to health;
- (b) ensure any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health;
- (c) implement and maintain systems of work at that part of the facility, or in carrying out work at that place, that are safe and without risk to health;
- (d) ensure a means of access to, and egress from, that part of the facility or that place that is safe and without risk to health;
- (e) provide all members of the workforce located at that part of the facility or engaged on that work, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Maximum penalty—1470 penalty units.

9 Duties of employers

- (1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Maximum penalty—1470 penalty units.

- (2) Without limiting subsection (1), an employer must do each of the following—
 - (a) provide and maintain a working environment that is safe for employees and without risk to their health;
 - (b) ensure any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health;
 - (c) implement and maintain systems of work that are safe and without risk to health;

- (d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health;
- (e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Maximum penalty—1470 penalty units.

- (3) A person (the *principal*) has, in relation to a contractor of the principal, the same obligations that an employer has under subsections (1) and (2) in relation to an employee of the employer, but only in relation to—
 - (a) matters over which the principal has control; or
 - (b) matters over which—
 - (i) the principal would have had control apart from express provision to the contrary in a contract; and
 - (ii) the principal would, in the circumstances, usually be expected to have had control.
- (4) An employer must take all reasonable steps to—
 - (a) monitor the health and safety of employees; and
 - (b) keep records of that monitoring.

Maximum penalty—1470 penalty units.

10 Duties of manufacturers in relation to plant and substances

- (1) A manufacturer of plant that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps—
 - (a) to ensure the plant is so designed and constructed as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover,

and to eliminate or minimise, any risk to health and safety that may arise from the use of the plant; and

- (c) to make available, in connection with the use of the plant at a facility, adequate written information about—
 - (i) the use for which it is designed and has been tested; and
 - (ii) details of its design and construction; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was designed and tested, it will be safe and without risk to health.

Maximum penalty—300 penalty units.

- (2) A manufacturer of a substance that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps—
 - (a) to ensure the substance is so manufactured as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the substance; and
 - (c) to make available, in connection with the use of the substance at a facility, adequate written information concerning—
 - (i) the use for which it is manufactured and has been tested; and
 - (ii) details of its composition; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was manufactured and tested, it will be safe and without risk to health; and
 - (iv) the first aid and medical procedures that should be followed if the substance causes injury.

Maximum penalty—300 penalty units.

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- (3) Subsection (4) applies if—
- (a) plant or a substance is imported into Australia by a person (the *importer*) who is not its manufacturer; and
 - (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia.
- (4) The importer is taken, for this section, to be the manufacturer of the plant or substance.
- (5) This section does not affect the operation of another law of the State that imposes an obligation on a manufacturer in relation to defective goods or in relation to information to be supplied in relation to goods.

11 Duties of suppliers of facilities, plant and substances

- (1) A supplier of a facility, or of any plant or substance the supplier ought reasonably to expect will be used by members of the workforce at a facility, must take all reasonably practicable steps—
- (a) to ensure that, at the time of supply, the facility, or the plant or substance, is in such condition as to be, when properly used, safe and without risk to health; and
 - (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health or safety that may arise from the condition of the facility, plant or substance; and
 - (c) to make available to the prescribed person adequate written information, in connection with the use of the facility, plant or substance, as the case requires, about each of the following—
 - (i) the condition of the facility, plant or substance at the time of supply;
 - (ii) any risk to the health and safety of members of the workforce at the facility to which the condition of

the facility, plant or substance may give rise unless it is properly used;

- (iii) the steps that need to be taken to eliminate that risk;
- (iv) in the case of a substance, the first aid and medical procedures that should be followed if the condition of the substance causes injury to a member of the workforce at the facility.

Maximum penalty—300 penalty units.

- (2) Subsection (3) applies if—
 - (a) a person (the *ostensible supplier*) supplies to a person—
 - (i) a facility; or
 - (ii) any plant or substance that is to be used by members of the workforce at a facility; and
 - (b) the ostensible supplier—
 - (i) carries on the business of financing the acquisition or the use of goods by other persons; and
 - (ii) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the *actual supplier*), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and
 - (iii) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied.
- (3) If this subsection applies, a reference in subsection (1) to a supplier is, in relation to the facility, plant or substance mentioned in subsection (2), taken to be a reference to the actual supplier and not a reference to the ostensible supplier.
- (4) This section does not affect the operation of another law of the State that imposes an obligation about the sale or supply of

goods or about the information to be supplied in relation to goods.

(5) In this section—

prescribed person means—

- (a) in relation to a facility—the operator of the facility; and
- (b) in relation to plant or a substance—the person to whom the plant or substance is supplied.

12 Duties of persons erecting facility or installing plant

(1) A person who erects or installs a facility, or erects or installs any plant at a facility, must take all reasonably practicable steps to ensure the facility or plant is not erected or installed in a way that makes it unsafe or constitutes a risk to health.

Maximum penalty—300 penalty units.

(2) This section does not affect the operation of another law of the State that imposes an obligation about the erection or installation of structures or goods or the supply of services.

13 Duties of persons in relation to occupational health and safety

(1) A person at a facility must, at all times, take all reasonably practicable steps—

- (a) to ensure the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the occupational health and safety of the person or of another person at or near the facility; and
- (b) in relation to any obligation imposed on the operator or on another person by or under a listed OHS law, to co-operate with the operator or the other person to the extent necessary to enable the operator or the other person to fulfil the obligation; and
- (c) to use prescribed equipment in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Maximum penalty—75 penalty units.

- (2) Despite subsection (1), the choice or manner of use, or choice and manner of use, of prescribed equipment of the kind mentioned in subsection (5), definition *prescribed equipment*, paragraph (b), is a matter that may be, consistently with each listed OHS law—
 - (a) agreed on between the equipment supplier and any relevant health and safety representative; or
 - (b) agreed on by a health and safety committee.
- (3) If an agreement of the kind mentioned in subsection (2)(a) or (b) provides a process for choosing equipment of a particular kind that is to be provided by the equipment supplier, action must not be taken against a person for failure to use the equipment unless the equipment has been chosen in accordance with that process.
- (4) If an agreement of the kind mentioned in subsection (2)(a) or (b) provides a process for deciding the manner of use of equipment of a particular kind, action must not be taken against a person for failure to use the equipment in the manner required by the equipment supplier unless the manner has been decided in accordance with that process.
- (5) In this section—

prescribed equipment means equipment that is—

 - (a) supplied to the person by the operator, an employer of the person or another person having control of work at a facility (the *equipment supplier*); and
 - (b) necessary to protect the occupational health and safety of the person, or of another person at or near the facility.

14 Reliance on information supplied or results of research

- (1) For the application of section 7, 8 or 9 to the use of plant or a substance, a person on whom an obligation is imposed under any of the sections is regarded as having taken reasonably practicable steps as required by the relevant section, in relation to the use of the plant or substance, to the extent—

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- (a) the person ensured, so far as practicable, that its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to occupational health and safety in its use; and
 - (b) it was reasonable for the person to rely on that information.
- (2) For the application of section 10 or 11 to carrying out research, testing or examination of a facility, or any plant or substance, a person on whom an obligation is imposed under either of those sections is regarded as having taken reasonably practicable steps as required by the relevant section, in relation to carrying out the research, testing or examination of the facility, plant or substance, to the extent—
- (a) the research, testing or examination has already been carried out by or on behalf of someone else; and
 - (b) it was reasonable for the person to rely on the research, testing or examination.
- (3) For the application of section 12 to the erection of a facility or the erection or installation of plant at a facility, a person on whom an obligation is imposed under the section is regarded as having taken reasonably practicable steps as required by the section to the extent—
- (a) the person ensured, so far as is reasonably practicable, that the erection of the facility, or the erection or installation of the plant, was—
 - (i) in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation; and
 - (ii) consistent with the occupational health and safety of persons at the facility; and
 - (b) it was reasonable for the person to rely on the information.
- (4) Nothing in this section limits the generality of what constitutes reasonably practicable steps as required by section 7, 8, 9, 10, 11 or 12.

Division 2 Regulations relating to occupational health and safety

15 Regulations relating to occupational health and safety

- (1) The regulations may provide for any matter affecting, or likely to affect, the occupational health and safety of persons at a facility.
- (2) A regulation made under subsection (1) may provide for any or all of the following—
 - (a) prohibiting or restricting the performance of all work or particular work at a facility;
 - (b) prohibiting or restricting the use of all plant or particular plant at a facility;
 - (c) prohibiting or restricting the carrying out of all processes or a particular process at a facility;
 - (d) prohibiting or restricting the storage or use of all substances or particular substances at a facility;
 - (e) specifying the form in which information required to be made available under section 10(1)(c) or 11(1)(c) is to be made available;
 - (f) prohibiting, except in accordance with licences granted under the regulations, the use of particular plant or particular substances at a facility;
 - (g) providing for—
 - (i) the issue, variation, renewal, transfer, suspension and cancellation of those licences; and
 - (ii) the conditions to which the licences may be subject;
 - (h) regulating the maintenance and testing of plant used at a facility;
 - (i) regulating the labelling or marking of substances used at a facility;

- (j) regulating the transport of particular plant or particular substances for use at a facility;
- (k) prohibiting the performance, at a facility, of particular activities or work except—
 - (i) by persons who satisfy requirements under the regulations about qualifications, training or experience; or
 - (ii) under the supervision required under the regulations;
- (l) requiring particular action to avoid accidents or dangerous occurrences;
- (m) providing for, or prohibiting, particular action in the event of accidents or dangerous occurrences;
- (n) providing for the employment at a facility of persons to perform particular duties relating to the maintenance of occupational health and safety at the facility;
- (o) regulating the provision and use, at a facility, of protective clothing and equipment, safety equipment and rescue equipment;
- (p) providing for monitoring the health of members of the workforce at a facility and the conditions at the facility;
- (q) requiring employers to keep records of matters related to the occupational health and safety of employees;
- (r) providing for the provision of first aid equipment and facilities at facilities.

Part 3 Workplace arrangements

Division 1 Designated work groups

Subdivision 1 Establishment of designated work groups

16 Establishment of designated work groups by request

- (1) A request to the operator of a facility to enter into consultations to establish designated work groups in relation to the members of the workforce at the facility may be made by—
 - (a) a member of the workforce; or
 - (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator—the workforce representative.
- (2) The operator of a facility must, within 14 days after receiving a request under subsection (1), enter into consultations with—
 - (a) if a member of the workforce made a request to establish designated work groups—
 - (i) the member of the workforce; and
 - (ii) if the member requests that the operator enter into consultations with a workforce representative in relation to the member—the workforce representative; and
 - (iii) each employer, if any, of members of the workforce; and
 - (b) if a workforce representative made a request to establish designated work groups—
 - (i) if a member of the workforce requests that the operator enter into consultations with that workforce representative—the workforce representative; and

- (ii) each employer of members of the workforce.
- (3) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

17 Establishment of designated work groups at initiative of operator

- (1) If, at any time, the operator of a facility considers that designated work groups should be established, the operator must enter into consultations with—
 - (a) all members of the workforce; and
 - (b) if a member of the workforce requests that the operator enter into consultations with a workforce representative in relation to the member—the workforce representative; and
 - (c) each employer, if any, of members of the workforce.
- (2) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

Subdivision 2 Variation of designated work groups

18 Variation of designated work groups by request

- (1) A request to the operator of a facility to enter into consultations to vary designated work groups that have already been established in relation to the members of the workforce at the facility may be made by—
 - (a) a member of the workforce; or

- (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator—the workforce representative.
- (2) The operator of a facility must, within 14 days after receiving a request under subsection (1), enter into consultations with—
 - (a) if a member of the workforce made a request to vary designated work groups—
 - (i) the member of the workforce; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer, if any, in relation to each designated work group affected by the proposed variation; and
 - (b) if a workforce representative made a request to vary designated work groups—
 - (i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group—the workforce representative; and
 - (ii) the health and safety representative of each designated work group affected by the proposed variation; and
 - (iii) each work group employer, if any, in relation to each designated work group affected by the proposed variation.
- (3) Subsection (4) applies if—
 - (a) consultations take place about the variation of designated work groups that have already been established; and
 - (b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified.

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- (4) Within 14 days after the completion of the consultations the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

19 Variation of designated work groups at initiative of operator

- (1) If the operator of a facility believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with—
- (a) the health and safety representative of each designated work group affected by the proposed variation; and
 - (b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with a workforce representative in relation to the group—the workforce representative; and
 - (c) each work group employer, if any, in relation to each designated work group affected by the proposed variation.
- (2) Subsection (3) applies if—
- (a) consultations take place about the variation of designated work groups that have already been established; and
 - (b) as a result of the consultations, it has been decided that the variation of some or all of those designated work groups is justified.
- (3) Within 14 days after the completion of the consultations the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

Subdivision 3 General

20 Referral of disagreement to reviewing authority

- (1) If, in the course of consultations under section 16, 17, 18 or 19, there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a designated work group, a party may, for the purpose of facilitating that consultation, refer the matter of disagreement to the reviewing authority.
- (2) If the matter of a disagreement is referred to the reviewing authority, the parties to the disagreement must complete the consultation in accordance with the resolution of the matter by the reviewing authority.

21 Manner of grouping members of the workforce

- (1) Consultations about the establishment or variation of a designated work group must be directed principally at deciding the manner of grouping members of the workforce—
 - (a) that best and most conveniently enables their interests relating to occupational health and safety to be represented and safeguarded; and
 - (b) that best takes account of the need for any health and safety representative selected for the designated work group to be accessible to each group member.
- (2) The parties to the consultations must have regard, in particular, to each of the following—
 - (a) the number of members of the workforce at the facility to which the consultation relates;
 - (b) the nature of each type of work performed by the members;
 - (c) the number and grouping of the members who perform the same or similar types of work;
 - (d) the workplaces where each type of work is performed;

- (e) the nature of any risks to health and safety at each of the workplaces;
 - (f) any overtime or shift working arrangement at the facility.
- (3) The designated work groups must be established or varied in a way that, so far as practicable, each of the members of the workforce at a facility is in a designated work group.
- (4) All the members of the workforce at a facility may be in 1 designated work group.

Division 2 Health and safety representatives

Subdivision 1 Selection of health and safety representatives

22 Selection of health and safety representatives

- (1) One health and safety representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the health and safety representative for a designated work group unless the person is a member of the workforce included in the group.
- (3) A person is taken to have been selected as the health and safety representative for a designated work group if—
- (a) all the members of the workforce in the group unanimously agree to the selection; or
 - (b) the person is elected as the health and safety representative of the group under section 23.

23 Election of health and safety representatives

- (1) This section applies if—
- (a) there is a vacancy in the office of health and safety representative for a designated work group; and

- (b) within a reasonable time after the vacancy occurs, a person has not been selected under section 22(3)(a).
- (2) The operator of the facility must invite nominations from all group members for election as the health and safety representative of the group.
- (3) If the office of health and safety representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Safety Authority may direct the operator to invite nominations.
- (4) If there is more than 1 candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.
- (5) An election conducted or arranged to be conducted under subsection (4) must be conducted under a regulation made for the purposes of this subsection if this is requested by the lesser of—
 - (a) 100 members of the workforce normally in the designated work group; or
 - (b) a majority of the members of the workforce normally in the designated work group.
- (6) If there is only 1 candidate for election at the close of the nomination period, the person is taken to have been elected.
- (7) A person can not be a candidate in the election if he or she is disqualified under section 29.
- (8) All the members of the workforce in the designated work group are entitled to vote in the election.
- (9) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Safety Authority.

24 List of health and safety representatives

The operator of a facility must—

- (a) prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising members of the workforce performing work at the facility; and
- (b) ensure the list is available for inspection, at all reasonable times, by—
 - (i) members of the workforce at the facility; and
 - (ii) OHS inspectors.

25 Members of designated work group must be notified of selection etc. of health and safety representative

The operator of a facility must—

- (a) notify members of a designated work group in relation to the facility of a vacancy in the office of health and safety representative for the designated work group within a reasonable time after the vacancy arises; and
- (b) notify those members of the name of any person selected, whether under section 22(3)(a) or (b), as health and safety representative for the designated work group within a reasonable time after the selection is made.

26 Term of office

- (1) A health and safety representative for a designated work group holds office—
 - (a) if, in consultations that took place under section 16, 17, 18 or 19, the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office—for the agreed period; or
 - (b) if paragraph (a) does not apply—for 2 years.
- (2) The term of office of a health and safety representative begins at the start of the day on which the representative was selected.
- (3) Nothing in this section prevents a health and safety representative from being selected for further terms of office.

27 Training of health and safety representatives

- (1) A health and safety representative for a designated work group must undertake a course of training relating to occupational health and safety that is accredited by the Safety Authority for the purposes of this section.
- (2) The operator of the facility concerned must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.
- (3) If a person other than the operator is the employer of the representative, the employer must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

28 Resignation etc. of health and safety representatives

- (1) A person ceases to be the health and safety representative for the designated work group if—
 - (a) the person resigns as the health and safety representative; or
 - (b) the person ceases to be a group member of that designated work group; or
 - (c) the person's term of office expires without the person having been selected, under section 22, to be the health and safety representative for the designated work group for a further term; or
 - (d) the person is disqualified under section 29.
- (2) A person may resign as the health and safety representative for a designated work group by notice in writing delivered to the operator and each work group employer.
- (3) If a person resigns as the health and safety representative for a designated work group, the person must notify the resignation to the group members.
- (4) If a person has ceased to be the health and safety representative for a designated work group because of subsection (1)(b), the person must notify the following

persons in writing that the person has ceased to be the health and safety representative for that designated work group—

- (a) the group members; and
- (b) the operator and each work group employer.

29 Disqualification of health and safety representatives

- (1) An application for the disqualification of a health and safety representative for a designated work group may be made to the Safety Authority by—
 - (a) the operator; or
 - (b) a work group employer; or
 - (c) at the request of a group member of the designated work group, a workforce representative in relation to the designated work group.
- (2) An application under subsection (1) may be made on either or both of the following grounds—
 - (a) that action taken by the representative in the exercise or purported exercise of a power under section 31(1) or another provision of this schedule was taken—
 - (i) with the intention of causing harm to the operator or work group employer or to an undertaking of the operator or work group employer; or
 - (ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the representative;
 - (b) that the representative has intentionally used, or disclosed to another person, for a purpose not connected with the exercise of a power of a health and safety representative, information acquired from the operator or work group employer.
- (3) On an application under subsection (1), the Safety Authority may disqualify the representative, for a stated period not exceeding 5 years, from being a health and safety representative for any designated work group, if the Safety

Authority is satisfied that the representative has acted in a manner mentioned in subsection (2).

- (4) In making a decision under subsection (3), the Safety Authority must have regard to each of the following—
- (a) the harm, if any, that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative;
 - (b) the past record of the representative in exercising the powers of a health and safety representative;
 - (c) the effect, if any, on the public interest of the action of the representative;
 - (d) other matters the Safety Authority thinks relevant.

30 Deputy health and safety representatives

- (1) One deputy health and safety representative may be selected for each designated work group for which a health and safety representative has been selected.
- (2) A deputy health and safety representative is to be selected in the same way as a health and safety representative under section 22.
- (3) Subsection (4) applies if the health and safety representative for a designated work group—
- (a) ceases to be the health and safety representative; or
 - (b) is unable, because of absence or for another reason, to exercise the powers of a health and safety representative.
- (4) If this subsection applies—
- (a) the powers may be exercised by the deputy health and safety representative, if any, for the group; and
 - (b) this schedule, other than this section, applies in relation to the deputy health and safety representative accordingly.

Subdivision 2 Powers of health and safety representatives

31 Powers of health and safety representatives

- (1) A health and safety representative for a designated work group may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members—
- (a) do all or any of the following—
 - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;
 - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator's representative at the facility and to another person having immediate control of the workplace;
 - (iii) make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace;
 - (iv) accompany an OHS inspector during an inspection at the workplace by the OHS inspector, whether or not the inspection is being conducted as a result of a request made by the health and safety representative;
 - (v) if there is no health and safety committee for the members of the workforce at the facility—represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;

- (vi) if a health and safety committee has been established for the members of the workforce at the facility—examine any records of the committee; and
 - (b) investigate complaints made by a group member to the health and safety representative about the health and safety of any of the members of the workforce, whether in the group or not; and
 - (c) with the consent of a group member, be present at an interview about health and safety at work between that member and any of the following persons—
 - (i) an OHS inspector;
 - (ii) the operator or a person representing the operator;
 - (iii) a work group employer or a person representing the employer; and
 - (d) obtain access to information under the control of the operator or a work group employer—
 - (i) relating to risks to the health and safety of a group member; and
 - (ii) relating to the health and safety of a group member; and
 - (e) issue provisional improvement notices under section 35.
- (2) Subsection (1)(d)(ii) has effect subject to section 33.

32 Assistance by consultant

- (1) A health and safety representative for a designated work group is entitled, in exercising the representative's powers, to be assisted by a consultant.
- (2) Subject to subsection (3), a health and safety representative for a designated work group may—
 - (a) be assisted by a consultant at a workplace at which work is performed; or

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- (b) provide to a consultant information that has been provided to the health and safety representative by a group member under section 31(1)(d).
 - (3) Subsection (2) applies only if the operator or the Safety Authority has, in writing, agreed to the provision of the assistance at the workplace or the provision of the information, as the case may be.
 - (4) Neither the operator nor a workplace employer becomes, because of the agreement under subsection (3) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.
 - (5) Subject to subsection (6), if a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at an interview, about health and safety at work, between a group member and—
 - (a) an OHS inspector; or
 - (b) the operator, a work group employer or a person representing the operator or employer.
 - (6) A consultant may be present at an interview under subsection (5) only if the group member consents to the presence of the consultant.

33 Information

- (1) Neither a health and safety representative nor a consultant assisting a health and safety representative is entitled, under section 31(1)(d)(ii), to have access to information in relation to which a group member is entitled to claim, and does claim, legal professional privilege.
- (2) Neither a health and safety representative nor a consultant assisting a health and safety representative is entitled, under section 31(1)(d)(ii), to have access to information of a confidential medical nature relating to a person who is or was a group member unless—

- (a) the person has delivered to the operator or a work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
- (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

34 Obligations and liabilities of health and safety representatives

This schedule does not—

- (a) impose an obligation on a person to exercise a power conferred on the person because the person is a health and safety representative; or
- (b) render a person liable in civil proceedings because of—
 - (i) a failure to exercise the power; or
 - (ii) the way the power was exercised.

35 Provisional improvement notices

- (1) This section applies if—
 - (a) a health and safety representative for a designated work group believes, on reasonable grounds, that a person—
 - (i) is contravening a provision of a listed OHS law; or
 - (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and
 - (b) the contravention affects or may affect 1 or more group members.
- (2) The representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

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- (3) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional improvement notice to any or all of the persons (each of whom is a *responsible person*) responsible for the contravention.
 - (4) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
 - (5) If it is not practicable to issue the notice to a responsible person, other than the operator or the supervisor, by giving it to the responsible person—
 - (a) the notice may be issued to the responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and
 - (b) if the notice is issued under paragraph (a), a copy of the notice must be given to the responsible person as soon as practicable afterwards.
 - (6) The notice must—
 - (a) state the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and state the reasons for the opinion; and
 - (b) state a period within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.
 - (7) The period stated in the notice under subsection (6)(b) must be a period that—
 - (a) is not less than 7 days beginning on the day after the notice is issued; and
 - (b) is, in the representative's opinion, reasonable.
 - (8) The notice may state action the responsible person is to take during the period stated in the notice.

- (9) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period stated in the notice.
- (10) On issuing the notice, the health and safety representative must give a copy of the notice to each of the following persons—
 - (a) if the operator is not a responsible person—the operator;
 - (b) each work group employer, other than a work group employer who is a responsible person;
 - (c) if the supervisor is not a responsible person—the supervisor;
 - (d) if the notice relates to any plant, substance or thing owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c)—the owner.

36 Effect of provisional improvement notice

- (1) Within 7 days after a notice is issued under section 35, the responsible person or another person to whom a copy of the notice has been given under section 35(10) may request the Safety Authority or an OHS inspector for an inspection of the matter to be conducted.
- (2) On the request being made, the operation of the notice is suspended pending the decision of the matter by an OHS inspector.
- (3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement, and the OHS inspector conducting the inspection must—
 - (a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under section 35(10) accordingly; and

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- (b) make decisions, and exercise powers, under part 4, as the OHS inspector considers necessary in relation to the work.
- (4) If the OHS inspector varies a notice, the notice as varied has effect—
- (a) to the extent the notice concerns obligations imposed on the responsible person that are unaffected by the variation, as if the notice as varied resumed effect on the day of the variation; and
 - (b) to the extent the notice concerns new obligations imposed by virtue of the variation, as if the notice as varied were a new notice issued on the day of the variation.
- (5) If the notice is issued to a responsible person, the responsible person must—
- (a) notify each group member who is affected by the notice of the issue of the notice; and
 - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.
- (6) The notice ceases to have effect if—
- (a) it is cancelled by an OHS inspector or the health and safety representative; or
 - (b) the responsible person—
 - (i) takes the action, if any, stated in the notice; or
 - (ii) if no action is stated in the notice—takes the action necessary to prevent the further contravention, or likely contravention, concerned.
- (7) The responsible person must—
- (a) ensure, to the extent the notice relates to a matter over which the person has control, the notice is complied with; and

- (b) take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
- (8) For section 72, if the OHS inspector confirms or varies the notice, the OHS inspector is taken to have decided, under section 68, to issue an improvement notice in those terms.

Subdivision 3 Duties of the operator and other employers in relation to health and safety representatives

37 Duties of the operator and other employers in relation to health and safety representatives

- (1) The operator of a facility in relation to which a designated work group having a health and safety representative has been established must—
 - (a) on being requested to do so by the representative, consult with the representative on the implementation of changes at a workplace at which some or all of the group members perform work, being changes that may affect their health and safety; and
 - (b) in relation to a workplace at which some or all of the group members perform work—
 - (i) permit the representative to make an inspection of the workplace that the representative is entitled to make under section 31(1)(a)(i) and to accompany an OHS inspector during an inspection at the workplace by the OHS inspector; and
 - (ii) if there is no health and safety committee for the members of the workforce—on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety of group members; and

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- (c) permit the representative to be present at an interview at which the representative is entitled to be present under section 31(1)(c); and
 - (d) provide to the representative access to information to which the representative is entitled to obtain access under section 31(1)(d)(i) or (ii) and to which access has been requested; and
 - (e) permit the representative to take time off work, without loss of remuneration or other entitlements, that is necessary to exercise the powers of a health and safety representative; and
 - (f) provide the representative with access to facilities, if—
 - (i) the facilities are prescribed for the purpose of this paragraph; or
 - (ii) access to the facilities is necessary for the purposes of exercising the powers of a health and safety representative.
- (2) Subsection (1)(d) has effect subject to subsections (3) and (4).
- (3) The operator must not permit a health and safety representative in relation to a designated work group to have access to information under the control of the operator that is of a confidential medical nature and relates to a person who is or was a group member unless—
- (a) the person has delivered to the employer a written authority permitting the representative to have access to the information; or
 - (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (4) The operator is not required to give a health and safety representative access to information in relation to which the operator is entitled to claim, and does claim, legal professional privilege.
- (5) The duties imposed under this section on the operator in relation to the health and safety representative for a designated work group apply equally, to the extent the matters to which

the duties relate are within the control of a work group employer or of a supervisor of particular work, to the employer and to the supervisor.

Division 3 Health and safety committees

38 Health and safety committees

- (1) A health and safety committee must be established in relation to the members of the workforce at a facility if—
 - (a) the number of members normally present at the facility is not less than 50, whether or not the members are all at work at the facility at the same time; and
 - (b) the members of the workforce are included in 1 or more designated work groups; and
 - (c) the operator is requested to establish the committee by the health and safety representative for the designated work group or for 1 of the designated work groups.
- (2) The health and safety committee consists of—
 - (a) the number of members stated in an agreement reached between the operator and the members of the workforce; or
 - (b) if there is no such agreement, an equal number of—
 - (i) members chosen by the members of the workforce to represent the interests of members of the workforce; and
 - (ii) members chosen by the operator to represent the interests of the operator and the employer, other than the operator, of members of the workforce.
- (3) The agreement mentioned in subsection (2)(a) may—
 - (a) state the persons who are to be members to represent the interests of the operator and employers, other than the operator, of members of the workforce; and

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- (b) provide for the way in which persons who are to be members to represent the interests of members of the workforce are to be chosen.
 - (4) If a regulation made for the purposes of this section provides for procedures for selecting persons as members of health and safety committees to represent the interests of members of the workforce, an agreement mentioned in subsection (2)(a) must not provide for members to be chosen in a way that is inconsistent with the regulation.
 - (5) A health and safety committee must hold a meeting at least once every 3 months.
 - (6) The procedure at meetings of a health and safety committee must, except to the extent provided for under the regulations, be the procedure agreed to by the committee.
 - (7) A health and safety committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.
 - (8) This section does not prevent an operator establishing, in consultation with registered unions or other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the operator.

39 Functions of health and safety committees

- (1) A health and safety committee has the following functions—
 - (a) assisting the operator of the facility concerned—
 - (i) to develop and implement measures designed to protect the health and safety at work of members of the workforce; and
 - (ii) to review and update measures used to protect the health and safety at work of those members;
 - (b) facilitating co-operation between the following persons in relation to occupational health and safety matters—
 - (i) the operator of the facility;

- (ii) employers, other than the operator, of members of the workforce;
 - (iii) members of the workforce;
 - (c) assisting the operator to disseminate among members of the workforce, in appropriate languages, information relating to health and safety at work;
 - (d) any prescribed functions;
 - (e) other functions agreed between the operator and the health and safety committee.
- (2) A health and safety committee has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (3) This schedule does not—
- (a) impose an obligation on a person to do any act, because the person is a member of a health and safety committee, in connection with the performance of a function conferred on the committee; or
 - (b) render a person liable in civil proceedings because of—
 - (i) a failure to do the act; or
 - (ii) the manner in which the act was done.

40 Duties of the operator and other employers in relation to health and safety committees

- (1) If there is a health and safety committee, each relevant person must—
- (a) make available to the committee information possessed by the person relating to risks to health and safety to members of the workforce; and
 - (b) permit a member of the committee who is a member of the workforce to take time off work, without loss of remuneration or other entitlements, as is necessary for the member to adequately participate in the performance by the committee of its functions.
- (2) Subsection (1)(a) has effect subject to subsections (3) and (4).

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- (3) A relevant person must not make available to a health and safety committee information of a confidential nature relating to a person who is or was a member of the workforce (a *worker*), unless—
- (a) the worker has authorised the information to be made available to the committee; or
 - (b) the information is in a form that does not identify the worker or enable the identity of the worker to be discovered.
- (4) A relevant person is not required to make available to a health and safety committee information in relation to which the person is entitled to claim, and does claim, legal professional privilege.
- (5) In this section—
- relevant person* means—
- (a) the operator; and
 - (b) an employer, other than the operator, of a member of the workforce.

Division 4 Emergency procedures

41 Action by health and safety representatives

- (1) This section applies if a health and safety representative for a designated work group has reasonable cause to believe there is an imminent and serious danger to the health or safety of a person at or near the facility unless a group member or group members cease to perform particular work.
- (2) The representative must—
- (a) inform a person (a *supervisor*) supervising the group member or group members in the performance of the work of the danger; or
 - (b) if no supervisor can be contacted immediately—

- (i) direct the group member or group members to cease, in a safe manner, performing the work; and
 - (ii) as soon as practicable, inform a supervisor that the direction has been given.
- (3) If a supervisor is informed under subsection (2)(a) of a danger to the health or safety of a person at or near the facility, the supervisor must take the action the supervisor thinks appropriate to remove the danger, which may include directing a group member or group members to cease, in a safe manner, to perform the work.
- (4) Subsection (5) applies to a health and safety representative if—
 - (a) the representative has informed a supervisor under subsection (2)(a) of a danger; and
 - (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor under subsection (3), there continues to be an imminent and serious danger to the health or safety of a person at or near the facility unless the group member or group members cease to perform particular work.
- (5) The representative must—
 - (a) direct the group member or group members to cease, in a safe manner, to perform the work; and
 - (b) as soon as practicable, inform the supervisor that the direction has been given.
- (6) Subsection (7) applies if—
 - (a) a health and safety representative gives a direction under subsection (2)(b), but is unable to agree with a supervisor whom the representative has informed under the subsection that there is a need for a direction under the subsection; or
 - (b) a health and safety representative gives a direction under subsection (5)(a).

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- (7) The representative or the supervisor may request the Safety Authority or an OHS inspector to conduct an inspection of the work that is the subject of the direction.
 - (8) As soon as possible after a request is made under subsection (7), an inspection must be conducted of the work that is the subject of the direction, and the OHS inspector conducting the inspection must make decisions, and exercise powers, under part 4 as the OHS inspector considers necessary in relation to the work.
 - (9) This section does not limit the power of a health and safety representative under section 31(1)(a)(iii) to request an OHS inspector or the Safety Authority to conduct an inspection at the workplace.

42 Directions to perform other work

- (1) This section applies if—
 - (a) a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under section 41(2)(b) or (5)(a); and
 - (b) the cessation of work does not continue after—
 - (i) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or
 - (ii) an OHS inspector has, under section 41(8), made a decision that the employee should perform the work.
- (2) The employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform the other work under the terms and conditions of the employee's employment.

Part 4 Inspections

Division 1 Powers, functions and duties of OHS inspectors

43 Powers, functions and duties of OHS inspectors

- (1) An OHS inspector has the powers, functions and duties conferred or imposed by the listed OHS laws.
- (2) The Safety Authority may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on OHS inspectors by a listed OHS law are to be exercised.
- (3) If the Safety Authority gives written directions under subsection (2), the powers of OHS inspectors must be exercised in accordance with those directions.
- (4) The Safety Authority may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subsection (2), on the powers conferred on a particular OHS inspector by a listed OHS law.
- (5) If the Safety Authority imposes restrictions under subsection (4), the powers of the OHS inspector are taken to have been restricted accordingly.

Division 2 Inspections

44 Inspections

- (1) An OHS inspector may, at any time, conduct an inspection—
 - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or

- (c) concerning an accident or dangerous occurrence that has happened at a facility.
- (2) The Safety Authority may direct an OHS inspector to conduct an inspection for a purpose mentioned in subsection (1).
- (3) If directed to conduct an investigation by the Safety Authority under subsection (2), the OHS inspector must, unless the Safety Authority revokes the direction, conduct the inspection accordingly.

Division 3 Powers of OHS inspectors in relation to the conduct of inspections

Subdivision 1 Power of entry

45 Power of entry—general

- (1) An OHS inspector may, for the purposes of an inspection, enter a place if—
 - (a) its occupier consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the entry is authorised by a warrant; or
 - (d) it is a place of business to which this Act relates and the entry is made when the place is open for business or otherwise open for entry; or
 - (e) the OHS inspector may enter the place under section 46 or 47.
- (2) However, the OHS inspector may enter a place under subsection (1)(a), (c), (d) or (e) only if the OHS inspector has reasonable grounds to believe there are likely to be at the place documents relating to a facility that is, or to facility operations that are, the subject of the inspection.

- (3) For the purpose of asking the occupier of a place for consent to enter, an OHS inspector may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the OHS inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (4) In this section—

place of business does not include a part of the place where an individual resides.

46 Inspector's additional entry power for facility

An OHS inspector may, for the purpose of an inspection, enter a facility at any reasonable time, other than a part of the facility where an individual resides.

47 Inspector's additional entry power for particular regulated business premises

- (1) An OHS inspector may, for the purpose of an inspection, enter regulated business premises, other than a facility, at any reasonable time, other than a part of the premises where an individual resides.
- (2) However, the OHS inspector may enter the premises only if the OHS inspector has reasonable grounds to believe there are likely to be at the premises documents relating to a facility that is, or to facility operations that are, the subject of the inspection.

Subdivision 2 Procedure for entry

48 Entry with consent

- (1) This section applies if an OHS inspector intends to ask an occupier of a place to consent to the OHS inspector entering the place under section 45(1)(a).
- (2) Before asking for the consent, the OHS inspector must—
 - (a) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) take reasonable steps to produce, for inspection by the occupier, the OHS inspector's identity card.
- (3) The OHS inspector must, on being requested to do so by the occupier, produce each of the following for inspection by the occupier—
 - (a) a copy of the Safety Authority's written direction, if any, to conduct the inspection;
 - (b) a copy of the restrictions, if any, imposed on the powers of the OHS inspector under section 43(4).
- (4) If the consent is given, the OHS inspector may ask the occupier to sign an acknowledgment of the consent.
- (5) The acknowledgment must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the OHS inspector consent to enter the place and exercise powers under this division; and
 - (d) the time and date the consent was given.
- (6) If the occupier signs an acknowledgment, the OHS inspector must immediately give a copy to the occupier.

- (7) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

49 Application for warrant

- (1) An OHS inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the OHS inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

50 Issue of warrant

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting there are documents at the place that relate to a facility that is, or to facility operations that are, the subject of an inspection.
- (2) The warrant must state—
 - (a) that a stated OHS inspector may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the OHS inspector's powers under this division; and

- (b) the purposes for which the warrant is issued; and
- (c) the hours of the day or night when the place may be entered; and
- (d) the date, within 14 days after the warrant's issue, the warrant ends.

51 **Application by electronic communication and duplicate warrant**

- (1) An application under section 49 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the OHS inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the OHS inspector's remote location.
- (2) The application—
 - (a) may not be made before the OHS inspector prepares the written application under section 49; but
 - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under subsection (1); and
 - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the OHS inspector, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the OHS inspector; or
 - (b) otherwise—

- (i) the magistrate must tell the OHS inspector the date and time the warrant is issued and the other terms of the warrant; and
 - (ii) the OHS inspector must complete a form of warrant, including by writing on it—
 - (A) the magistrate's name; and
 - (B) the date and time the magistrate issued the warrant; and
 - (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.
- (6) The OHS inspector must, at the first reasonable opportunity, send the magistrate—
 - (a) the written application complying with section 49(2) and (3); and
 - (b) if the OHS inspector completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This section does not limit section 49.

(10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

52 Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 49, 50 or 51, unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—

warrant includes a duplicate warrant mentioned in section 51(5).

53 Warrants—procedure before entry

- (1) This section applies if an OHS inspector named in a warrant issued under this division for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the OHS inspector must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to the occupier of the place by producing a copy of the OHS inspector's identity card;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the OHS inspector is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the OHS inspector immediate entry to the place without using force.
- (3) However, the OHS inspector need not comply with subsection (2) if the OHS inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

54 Entry of facility

- (1) This section applies if an OHS inspector enters a facility under section 46.
- (2) Immediately on entering the facility, the OHS inspector must take reasonable steps to notify the purpose of entering the facility to—
 - (a) the operator's representative at the facility; and
 - (b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection—the representative.
- (3) On being requested to do so by a person mentioned in subsection (2)(a) or (b), the OHS inspector must produce each of the following for inspection by the person—
 - (a) the OHS inspector's identity card;
 - (b) a copy of the Safety Authority's written direction, if any, to conduct the inspection;
 - (c) a copy of the restrictions, if any, imposed on the powers of the OHS inspector under section 43(4).
- (4) If there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the OHS inspector must give the health and safety representative a reasonable opportunity to consult on the matter.

55 Entry of particular regulated business premises

- (1) This section applies if an OHS inspector enters regulated business premises, other than a facility, under section 47.
- (2) Immediately on entering the premises, the OHS inspector must take reasonable steps to notify the purpose of the entry to the occupier of the premises.
- (3) On being requested to do so by the occupier, the OHS inspector must produce each of the following for inspection by the occupier—

- (a) the OHS inspector's identity card;
- (b) a copy of the Safety Authority's written direction, if any, to conduct the inspection;
- (c) a copy of the restrictions, if any, imposed on the powers of the OHS inspector under section 43(4).

Subdivision 3 Powers after entering a place

56 Application of sdiv 3

- (1) This subdivision applies if an OHS inspector has, under subdivision 2, entered a place.
- (2) However, if, under section 45(3), an OHS inspector enters a place to ask the occupier's consent to enter premises, this subdivision applies to the OHS inspector only if the consent is given or the entry is otherwise authorised.

57 General powers—facility

If the place is a facility, the OHS inspector may do all or any of the following—

- (a) search any part of the facility;
- (b) inspect, examine, take measurements of, or conduct tests concerning, a workplace at the facility or any plant, substance or thing at the facility;
- (c) take photographs of, make video recordings of, or make sketches of, a workplace at the facility or any plant, substance or thing at the facility;
- (d) inspect, take extracts from, or make copies of, any documents at the facility that the OHS inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection;
- (e) inspect the seabed and subsoil in the vicinity of the facility.

58 General powers—other places

If the place is not a facility, the OHS inspector may search for, inspect, take extracts from, or make copies of, any documents at the premises that relate to a facility that is, or to facility operations that are, the subject of the inspection.

59 Obstructing or hindering OHS inspector

A person must not, without reasonable excuse, obstruct or hinder an OHS inspector in the exercise of the inspector's powers under this division.

Maximum penalty—55 penalty units.

Subdivision 4 Other powers

60 Definition for sdiv 4

In this subdivision—

prescribed person means any of the following persons—

- (a) the operator of a facility;
- (b) the person in charge of operations at a workplace in relation to a facility;
- (c) a member of the workforce at a facility;
- (d) a person representing a person mentioned in paragraph (a) or (b).

61 Power to require assistance and information

- (1) An OHS inspector may, to the extent it is reasonably necessary to do so in connection with the conduct of an inspection, require a prescribed person to provide the OHS inspector with reasonable assistance and facilities—
 - (a) reasonably connected with the conduct of the inspection at or near the facility; or

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- (b) for the effective exercise of the OHS inspector's powers under this schedule in connection with the conduct of the inspection at or near the facility.
- (2) The reasonable assistance mentioned in subsection (1) includes, in relation to the operator of the facility—
 - (a) appropriate transport to or from the facility for—
 - (i) the OHS inspector; and
 - (ii) any equipment required by the OHS inspector;
 - (iii) an article of which the OHS inspector has taken possession; and
 - (b) reasonable accommodation and means of subsistence while the OHS inspector is at the facility.
 - (3) A prescribed person must not fail, without reasonable excuse, to comply with a requirement under this section.

Maximum penalty—33 penalty units or 6 months imprisonment.

62 Power to require the answering of questions and the production of documents or articles

- (1) If an OHS inspector believes on reasonable grounds that a prescribed person is capable of answering a question that is reasonably connected with the conduct of an inspection, the OHS inspector may, to the extent it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the OHS inspector.
- (2) If, when a requirement under subsection (1) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement—
 - (a) is in writing; and
 - (b) states the day on or before which the question is to be answered, being at least 14 days after the day on which the requirement is imposed; and

- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.
- (3) If an OHS inspector believes on reasonable grounds that a prescribed person is capable of producing a document or article that is reasonably connected with the conduct of an inspection, the OHS inspector may, to the extent it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.
- (4) If, when a requirement under subsection (3) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement—
 - (a) is in writing; and
 - (b) states the day on or before which the document or article is to be produced, being at least 14 days after the day on which the requirement is imposed; and
 - (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.
- (5) A person must not—
 - (a) fail, without reasonable excuse, to comply with a requirement under this section; or
 - (b) in purported compliance with a requirement under this section, give information that is false or misleading in a material particular.

Maximum penalty—33 penalty units or 6 months imprisonment.

63 Privilege against self-incrimination

- (1) A person is not excused from answering a question or producing a document or article when required to do so under section 62 on the ground that the answer to the question, or the production of the document or article, may tend to incriminate the person or make the person liable to a penalty.

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- (2) However, none of the following is admissible in evidence against the person in civil proceedings or criminal proceedings, other than proceedings for an offence against section 62—
- (a) the answer given or document or article produced; or
 - (b) answering the question or producing the document or article; or
 - (c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or article.

64 Power to take possession of plant, take samples of substances etc.

- (1) In conducting an inspection, an OHS inspector may, to the extent it is reasonably necessary for the purposes of inspecting, examining, taking measurements of or conducting tests concerning, any plant, substance or thing at a facility in connection with the inspection—
- (a) take possession of the plant, substance or thing and remove it from the facility; or
 - (b) take a sample of the substance or thing and remove the sample from the facility.
- (2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the OHS inspector must, by notice in writing, inform the following person of the taking of possession or the taking of the sample, as the case may be, and the reasons for it—
- (a) the operator of the facility; and
 - (b) if the plant, substance or thing is used for the performance of work by an employer of a member or members of the workforce at the facility other than the operator of the facility—the employer; and
 - (c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b)—the person; and

- (d) if there is a health and safety representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates—the representative.
- (3) If the OHS inspector gives the notice to the operator of the facility to which the inspection relates, the operator's representative at the facility must cause the notice to be displayed in a prominent place at the workplace from which the plant, substance or thing was removed.
- (4) If the OHS inspector takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of or conducting tests concerning, the plant, substance or thing, the OHS inspector must—
 - (a) ensure the inspection, examination, measuring or testing is conducted as soon as practicable; and
 - (b) return it to the workplace as soon as practicable afterwards.
- (5) As soon as practicable after completing the inspection, examination, measurement or testing, the investigator must give a written statement of the results to each person whom the investigator is required to notify under subsection (2).

65 Power to direct that workplace etc. not be disturbed

- (1) An OHS inspector may give a direction under subsection (2) if, in conducting an inspection, the OHS inspector has reasonable grounds to believe it is reasonably necessary to do so in order to—
 - (a) remove an immediate threat to the health or safety of a person; or
 - (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility.
- (2) If subsection (1) applies, the OHS inspector may direct, by written notice given to the operator's representative at the facility, that the operator must ensure a particular workplace,

plant, substance or thing not be disturbed for a period stated in the direction.

- (3) The period stated in the direction must be a period the OHS inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.
- (4) The direction may be renewed by another direction in the same terms.
- (5) If an OHS inspector gives a notice to the operator's representative under subsection (2), the operator's representative must cause the notice to be displayed in a prominent place at the workplace—
 - (a) that is to be left undisturbed; or
 - (b) where the plant, substance or thing that is to be left undisturbed is located.
- (6) As soon as practicable after giving the direction, the OHS inspector must take reasonable steps to notify the following persons of the direction and the reasons for giving it—
 - (a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility—the person; and
 - (b) if there is a health and safety representative for a designated work group including a group member performing work at a workplace, or involving the plant, substance or thing, to which the direction relates—the representative.
- (7) The operator of a facility to which a direction concerning a workplace, plant, substance or a thing relates must ensure the direction is complied with.

Maximum penalty—275 penalty units.

- (8) A direction under subsection (2) must be accompanied by a statement setting out the reasons for the direction.

66 Power to issue prohibition notices

- (1) An OHS inspector may issue a prohibition notice, in writing, to the operator of a facility if, having conducted an inspection, an OHS inspector is satisfied on reasonable grounds it is reasonably necessary to issue the notice to the operator of the facility in order to remove an immediate threat to the health or safety of a person.
- (2) The notice must be issued to the operator by giving it to the operator's representative at the facility.
- (3) The notice must—
 - (a) state the activity in relation to which, in the OHS inspector's opinion, the threat to health or safety has arisen, and set out the reasons for the opinion; and
 - (b) either—
 - (i) direct the operator to ensure the activity is not engaged in; or
 - (ii) direct the operator to ensure the activity is not engaged in in a stated manner.
- (4) A stated manner may relate to any 1 or more of the following—
 - (a) a workplace, or part of a workplace, at which the activity is not to be engaged in;
 - (b) any plant or substance that is not to be used in connection with the activity;
 - (c) a procedure that is not to be followed in connection with the activity.
- (5) The notice may state action that may be taken to satisfy an OHS inspector that adequate action has been taken to remove the threat to health and safety.
- (6) The operator's representative at the facility must—
 - (a) give a copy of the notice to each health and safety representative, if any, for a designated work group having group members performing work that is affected by the notice; and

- (b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which the work is performed.
- (7) If the notice relates to any workplace, plant, substance or thing owned by a person other than the operator, the OHS inspector must, upon issuing the notice, give a copy of the notice to the person.

67 Compliance with prohibition notice

- (1) An operator must ensure a prohibition notice issued to the operator is complied with.
Maximum penalty—275 penalty units.
- (2) If an OHS inspector is satisfied action taken by the operator to remove the threat to health and safety in relation to which the notice was issued is not adequate, the OHS inspector must inform the operator accordingly.
- (3) A prohibition notice ceases to have effect when an OHS inspector notifies the operator that the OHS inspector is satisfied the operator has taken adequate action to remove the threat to health or safety.
- (4) In making a decision under subsection (2), an OHS inspector may exercise any of the powers of an OHS inspector conducting an inspection that the OHS inspector considers necessary for the purposes of making the decision.

68 Power to issue improvement notices

- (1) An OHS inspector may issue an improvement notice, in writing, to a person (a *responsible person*) if, in conducting an inspection, the OHS inspector believes on reasonable grounds that the responsible person—
 - (a) is contravening a provision of a listed OHS law; or
 - (b) has contravened a provision of a listed OHS law and is likely to contravene that provision again.

- (2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.
- (3) If the responsible person is an employer, other than the operator, of members of the workforce, but it is not practicable to give the notice to the employer—
 - (a) the improvement notice may be issued to the employer by giving it to the operator's representative at the facility; and
 - (b) if the notice is issued to the operator's representative at the facility—the operator must ensure a copy of the notice is given to the employer as soon as practicable afterwards.
- (4) The notice—
 - (a) must state the contravention the OHS inspector believes is occurring or is likely to occur, and the reasons for the belief; and
 - (b) must state a reasonable period within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be; and
 - (c) may state action the responsible person is to take during the period stated in the notice.
- (5) If the OHS inspector believes on reasonable grounds it is appropriate to do so, the OHS inspector may, in writing and before the end of the period, extend the period stated in the notice.
- (6) If an improvement notice is issued to an employer, other than the operator, of members of the workforce in circumstances other than the circumstance mentioned in subsection (3), the employer must immediately ensure a copy of the notice is given to the operator's representative at the facility.
- (7) If a notice is issued to the operator or an employer, other than the operator, of members of the workforce, the operator's representative at the facility must—

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- (a) give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice; and
 - (b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.
- (8) On issuing a notice, the OHS inspector must give a copy of the notice to—
- (a) if the notice is given to a member of the workforce who is an employee and the notice relates to work performed by the employee—the employer of the employee; and
 - (b) if the notice relates to any workplace, plant, substance or thing owned by a person other than a responsible person or an employer mentioned in paragraph (a)—the owner; and
 - (c) if the notice is issued to a person who owns any workplace, plant, substance or thing, because of which a contravention of a listed OHS law has occurred or is likely to occur—
 - (i) the operator of the facility; and
 - (ii) if the employer of employees who work in the workplace or who use the plant, substance or thing is a person other than the operator—the employer.

69 Compliance with improvement notice

A person to whom an improvement notice is issued must comply with the notice to the extent that the notice relates to a matter over which the person has control.

Maximum penalty—110 penalty units.

70 Notices not to be tampered with or removed

- (1) A person must not, without reasonable excuse, tamper with a notice displayed under section 64(3), 65(5), 66(6) or 68(7).

Maximum penalty—110 penalty units.

- (2) If a notice is displayed under section 64(3), a person must not, without reasonable excuse, remove the notice until the plant or thing to which the notice relates is returned to the workplace from which it was removed.

Maximum penalty—110 penalty units.

- (3) If a notice is displayed under section 65(5), 66(6) or 68(7), a person must not, without reasonable excuse, remove the notice before it has ceased to have effect.

Maximum penalty—110 penalty units.

Division 4 Reports on inspections

71 Reports on inspections

- (1) If an OHS inspector has conducted an inspection, the OHS inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Safety Authority.
- (2) The report must include—
- (a) the OHS inspector's conclusions from conducting the inspection and the reasons for those conclusions; and
 - (b) any recommendations that the OHS inspector wishes to make arising from the inspection; and
 - (c) any other prescribed matters.
- (3) As soon as practicable after receiving the report, the Safety Authority must give a copy of the report, with any written comments that it wishes to make, to each of the following persons—
- (a) the operator of the facility to which the report relates;
 - (b) if the report relates to activities performed by an employee of another person—the other person;
 - (c) if the report relates to any plant, substance or thing owned by another person—the other person.

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- (4) The Safety Authority may, in writing, request the operator or another person to whom the report is given to provide to the Safety Authority, within a reasonable period stated in the request, details of—
- (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and
 - (b) if a notice has been issued under section 66 or 68 in relation to work being performed for the operator or the other person—any action taken, or proposed to be taken, in relation to the notice.
- (5) The operator or other person must comply with the request.
- Maximum penalty—110 penalty units.
- (6) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Safety Authority on the report—
- (a) if there is at least 1 health and safety committee in relation to some or all of the members of the workforce—to each health and safety committee; and
 - (b) if there is no health and safety committee in relation to some or all of the members of the workforce, but some or all of those members, in relation to which there is no such committee, are in at least 1 designated work group for which there is a health and safety representative—to each health and safety representative.

Maximum penalty—110 penalty units.

Division 5 Appeals

72 Appeals

- (1) Subsections (2) and (3) apply if an OHS inspector, in conducting an inspection or having conducted an inspection—

- (a) decides, under section 36, to confirm or vary a provisional improvement notice; or
 - (b) decides, under section 64, to take possession of plant, a substance or a thing at a workplace; or
 - (c) decides, under section 65, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or
 - (d) decides, under section 66, to issue a prohibition notice; or
 - (e) decides, under section 67, that the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or
 - (f) decides, under section 68, to issue an improvement notice.
- (2) A person mentioned in subsection (3) may appeal to the reviewing authority against the decision, by giving notice in writing to the reviewing authority.
- (3) The following persons may appeal, as applicable—
- (a) the operator of the facility or an employer, other than the operator, who is affected by the decision; or
 - (b) a person to whom a notice has been issued under section 35(3) or 68(1); or
 - (c) the health and safety representative for a designated work group having a group member affected by the decision; or
 - (d) a workforce representative in relation to the designated work group including a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
 - (e) if there is no designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—the workforce representative; or

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- (f) a person who owns any workplace, plant, substance or thing to which a decision mentioned in subsection (1)(a), (b), (c) or (f) relates.
- (4) Subsection (5) applies if an OHS inspector, having conducted an inspection—
- (a) decides under section 36 to cancel a provisional improvement notice; or
 - (b) decides under section 67 that the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued.
- (5) A following person may appeal to the reviewing authority against the decision, by giving notice in writing to the reviewing authority—
- (a) the health and safety representative for a designated work group having a group member affected by the decision; or
 - (b) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or
 - (c) if there is no designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal—that workforce representative.
- (6) Subject to this section, giving notice of an appeal does not affect the operation of the decision appealed against or prevent the taking of action to implement that decision, except to the extent the reviewing authority makes an order to the contrary.
- (7) If the decision appealed against is a decision under section 68 to issue an improvement notice, the operation of the decision is suspended pending determination of the appeal, except to the extent the reviewing authority makes an order to the contrary.

- (8) If the decision appealed against is a decision of an OHS inspector under section 36 to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the appeal, except to the extent the reviewing authority makes an order to the contrary.

73 Powers of reviewing authority on appeal

- (1) On an appeal, the reviewing authority may—
- (a) affirm, vary or revoke the decision appealed against; and
 - (b) if it revokes the decision—substitute another decision of the kind appealed against that the reviewing authority thinks appropriate.
- (2) If the decision is varied or revoked or revoked with the substitution of another decision, the decision is taken to have effect, and always to have had effect, accordingly.
- (3) If the decision appealed against is a decision under section 64 to take possession of plant, a substance or a thing at a workplace and the decision is not affirmed, the OHS inspector who made the decision must ensure, to the extent the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.

Part 5 General

74 Notifying and reporting accidents and dangerous occurrences

- (1) This section applies if, at or near a facility, there is—
- (a) an accident causing the death of, or serious personal injury to, any person; or

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- (b) an accident causing a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence.
- (2) The operator must, under the regulations, give the Safety Authority notice of, and a report about, the accident or dangerous occurrence.
 - (3) A regulation made for the purposes of subsection (2) may prescribe—
 - (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given, and the form of the notice; and
 - (b) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given, and the form of the report.
 - (4) Subsection (3) does not limit regulations that may be made for the purposes of subsection (2).

75 Records of accidents and dangerous occurrences to be kept

- (1) The operator of a facility must maintain, under the regulations, a record of each accident or dangerous occurrence in relation to which the operator is required under section 74 to notify the Safety Authority.
- (2) A regulation made for the purposes of subsection (1) may prescribe—
 - (a) the nature of the contents of a record maintained under this section; and
 - (b) the period for which the record must be retained.
- (3) Subsection (2) does not limit regulations that may be made for the purposes of subsection (1).

76 Codes of practice

- (1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to operators of facilities and employers, other than operators, of members of the workforce at facilities.
- (2) A person is not liable to any civil or criminal proceedings for contravening a code of practice.

77 Use of codes of practice in proceedings

- (1) This section applies if, in proceedings for an offence against a listed OHS law, it is alleged that a person contravened a provision of a listed OHS law in relation to which a code of practice was in effect at the time of the alleged contravention.
- (2) The code of practice is admissible in evidence in those proceedings.
- (3) In relation to a matter the prosecution must prove in order to establish the alleged contravention, the matter is treated as proved if the court is satisfied that—
 - (a) a provision of the code of practice is relevant to the matter; and
 - (b) the person failed at a material time to comply with the provision of the code of practice.
- (4) Subsection (3) does not apply if the court is satisfied that in relation to the matter the person complied with the provision of a listed OHS law otherwise than by complying with the code of practice.

78 Interference with equipment etc.

A person must not, without reasonable excuse, do anything resulting in the interference with, or the rendering ineffective of, protective equipment or a safety device provided for the occupational health and safety or welfare of members of the workforce at a facility if the person knew, or ought reasonably to have known, that the equipment or device was protective equipment or a safety device.

Maximum penalty—33 penalty units or 6 months imprisonment.

79 Members of workforce not to be levied

The operator of a facility or an employer, other than the operator, of members of the workforce at a facility must not levy, or permit to be levied, on a member of the workforce a charge in relation to anything done or provided in accordance with a listed OHS law in order to ensure the occupational health and safety or welfare of persons at or near the facility.

Maximum penalty—275 penalty units.

80 Victimisation

- (1) An employer, whether the operator of a facility or another person, must not do anything mentioned in subsection (2) in relation to an employee because the employee—
- (a) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work; or
 - (b) has assisted or proposes to assist, by giving information or otherwise, the conduct of an inspection; or
 - (c) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under section 41(2)(b) or (5)(a), and the cessation or proposed cessation does not continue after—
 - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or
 - (ii) an OHS inspector has, under section 41(8), made a decision to the effect that the employee should perform the work.

Maximum penalty—275 penalty units.

- (2) For subsection (1), the things are—

- (a) dismiss the employee; or
 - (b) perform an act resulting in injury to the employee in the employee's employment; or
 - (c) perform an act that prejudicially alters the employee's position, whether by deducting or withholding remuneration or by another means; or
 - (d) threaten to do something mentioned in paragraphs (a) to (c).
- (3) In proceedings for an offence against subsection (1), if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, the defendant has the onus of establishing that the action was not taken for that reason.

81 Institution of prosecutions

- (1) Proceedings for an offence against a listed OHS law may be instituted by the Safety Authority or by an OHS inspector.
- (2) A health and safety representative for a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if—
 - (a) a period of 6 months has elapsed since the act or omission occurred; and
 - (b) the health and safety representative considers the occurrence of the act or omission constitutes an offence against a listed OHS law; and
 - (c) proceedings in relation to the offence have not been instituted.
- (3) A workforce representative in relation to a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if—
 - (a) a period of 6 months has elapsed since the act or omission occurred; and

- (b) the workforce representative considers the occurrence of the act or omission constitutes an offence against a listed OHS law; and
 - (c) proceedings in relation to the offence have not been instituted; and
 - (d) a group member included in the group requests the workforce representative to request the Safety Authority to institute the proceedings.
- (4) A request under subsection (2) or (3) must be in writing.
- (5) The Safety Authority must, within 3 months after receiving the request, advise the health and safety representative or the workforce representative, as the case may be, whether proceedings under subsection (1) have been or will be instituted, and, if not, give reasons why not.

82 Role of Commonwealth DPP

The Commonwealth Director of Public Prosecutions has the same functions and powers in relation to an offence against a listed OHS law as he or she would have if the offence were an offence against a law of the Commonwealth, including the power to institute and carry on an appeal arising out of a prosecution for that offence.

83 Conduct of directors, employees and agents

- (1) This section has effect for a proceeding for an offence against a listed OHS law.
- (2) If it is necessary to establish the state of mind of a corporation in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by a director, employee or agent of the corporation within the scope of actual or apparent authority; and
 - (b) that the director, employee or agent had the state of mind.
- (3) Conduct engaged in on behalf of a corporation by a director, employee or agent of the corporation within the scope of

actual or apparent authority is taken to have been engaged in also by the corporation unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

- (4) If it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show—
 - (a) that the conduct was engaged in by an employee or agent of the individual within the scope of actual or apparent authority; and
 - (b) that the employee or agent had the state of mind.
- (5) Conduct engaged in on behalf of an individual by an employee or agent of the individual within the scope of actual or apparent authority is taken to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.
- (6) If an individual is found guilty of an offence and the individual would not have been found guilty of the offence if subsections (4) and (5) did not apply, the individual is not liable to be punished by imprisonment for the offence.
- (7) A reference in subsection (2) or (4) to the state of mind of a person includes a reference to—
 - (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

84 Act not to give rise to other liabilities etc.

This schedule does not—

- (a) confer a right of action in any civil proceeding in relation to a contravention of a provision of a listed OHS law; or
- (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

85 Circumstances preventing compliance may be defence to prosecution

- (1) It is a defence to a prosecution for refusing or failing to do anything required by a listed OHS law if the defendant proves it was not practicable to do the thing because of an unforeseen and uncontrollable event prevailing at the relevant time.
- (2) This section does not limit chapter 5 of the Criminal Code.

86 Approval of forms

The Minister may approve forms for this schedule.

87 Regulation making power—sch 3 generally

Regulations may prescribe—

- (a) procedures for the selection of persons, under section 38, as members of health and safety committees, to represent the interests of members of the workforce at a facility; and
- (b) procedures to be followed at meetings of health and safety committees; and
- (c) the manner in which notices are to be served under this schedule or the regulations.