Western Australia

Petroleum (Submerged Lands) Act 1982

Incorporating the amendments proposed by the *Work Health and Safety Bill 2019* Pt. 15 Div. 3 Subdiv. 4 (Bill No. 155-1)

Western Australia

Petroleum (Submerged Lands) Act 1982

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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 certain submerged lands adjacent to the coast of Western Australia, to repeal the *Petroleum (Submerged Lands) Act 1967*, and for incidental and 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* of the Commonwealth 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 3 nautical miles), and that the States and the Northern Territory should share in the administration of that legislation; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(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:

[Preamble amended: No. 19 of 2010 s. 50.]

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

Part I — Preliminary

1. Short title

This Act may be cited as the *Petroleum (Submerged Lands) Act 1982* [1].

2. Commencement

(1) This Act shall come into operation [1] on the first day on which the following Acts of the Commonwealth, with or without amendments, are in operation, namely, the *Seas and Submerged Lands Amendment Act 1980*, the *Coastal Waters (State Powers) Act 1980*, the *Coastal Waters (State Title) Act 1980* and the *Petroleum (Submerged Lands) Amendment Act 1980*.

(2) The Minister shall as soon as is practicable after the commencement of this Act cause notice of the commencement to be published in the *Gazette*.

3. *Petroleum (Submerged Lands) Act 1967* repealed

(1) The *Petroleum (Submerged Lands) Act 1967* is repealed.

[(2) deleted]

[Section 3 amended: No. 42 of 2010 s. 64.]

4. Terms used

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

access authority means an access authority under Part III;

adjacent area, in relation to a pipeline or pipeline licence, has the meaning given in section 60K;

adjacent area, other than in relation to a pipeline or pipeline licence, has the meaning given in section 5;

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

application for a secondary licence means an application under section 40(3) or 40A(3);

approved means approved by the Minister;

block means a block constituted as provided by section 17;

boundary-change permit means a permit granted under section 27A;

Commonwealth Act means the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth);

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

Commonwealth lease means a petroleum retention lease as defined in the Commonwealth Act section 7;

Commonwealth licence means a fixed-term petroleum production licence as defined in the Commonwealth Act section 7;

Commonwealth Minister means the Minister of the Crown in right of the Commonwealth for the time being administering the Commonwealth Act, and includes another Minister for the time being acting for and on behalf of that Minister;

Commonwealth permit means a petroleum exploration permit as defined in the Commonwealth Act section 7;

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 of the Commonwealth giving effect to the agreement between the Commonwealth, the States and the Northern Territory referred to in the preamble to this Act;

document includes any map, book, record or writing;

~~facility has the same meaning as in Schedule 5;~~

facility has the meaning given in section 4A;

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

good processing and transport practice means all those things that are generally accepted as good and safe in the processing and storage of petroleum and the preparation of petroleum for transport;

granted, in relation to a boundary-change permit, a lease under section 38CD or a licence under section 51A, means taken to have been granted;

graticular section means a section referred to in section 17;

infrastructure facilities has the meaning given in section 6B;

infrastructure licence means an infrastructure licence under Part III;

infrastructure licence area, in relation to an infrastructure licence, means the place in respect of which the infrastructure licence is in force;

infrastructure licensee means the registered holder of an infrastructure licence;

inspector means a person appointed under section 125;

Joint Authority means the Commonwealth-Western Australia Offshore Petroleum Joint Authority established by the Commonwealth Act;

lease means a retention lease under Part III;

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

lessee means the registered holder of a lease;

licence means a production licence for petroleum under Part III;

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

licensee means the registered holder of a licence;

~~listed OSH law means~~

~~(a) section 124B, to the extent to which that section relates to~~

~~(i) damage to, or interference with, a facility; or~~

~~(ii) interference with any operation or activity being carried out, or any works being executed, on, by means of, or in connection with, a facility;~~

~~or~~

~~(b) Schedule 5; or~~

~~(c) a regulation made for the purposes of Schedule 5; or~~

~~(d) a regulation made for the purposes of section 151D; or~~

~~(e) any other written law relating to occupational safety and health matters that is prescribed for the purposes of this paragraph;~~

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 paragraph 4 of Article 77 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;

Note for this definition

Paragraph 4 of Article 77 is as follows:

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

offshore area means the offshore area of Western Australia within the meaning of the Commonwealth Act section 7;

~~offshore petroleum operation means any operation (including a diving operation) that —~~

~~(a) relates to —~~

~~(i) the exploration for petroleum; or~~

~~(ii) the recovery, processing, storage, offloading or piped conveyance of petroleum;~~

~~and~~

~~(b) if the operation is a diving operation, takes place in the adjacent area; and~~

~~(c) if the operation is not a diving operation, takes place at a facility;~~

offshore petroleum operation has the meaning given in section 4A;

partly cancelled means —

(a) in relation to a permit or lease or licence, cancelled as to one or more but not all of the blocks the subject of the permit or lease 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 or lease, means determined as to one or more but not all of the blocks the subject of the permit or lease;

permit means an exploration permit for petroleum under Part III, including a boundary-change permit;

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 one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon-dioxide,

and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir in the adjacent area;

petroleum pool means a naturally occurring discrete accumulation of petroleum;

pipeline means a pipe or system of pipes in the adjacent area within the meaning of section 60K for conveying petroleum 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 to a terminal station without passing through another terminal station, whether the terminal station to which the petroleum is conveyed is in that adjacent area or not;

pipeline licence means a licence under Part III to construct and operate a pipeline;

pipeline licensee means the registered holder of a pipeline licence;

primary entitlement means —

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

(b) in relation to a lessee, the number of blocks in the lease area in respect of which that lessee may make an application under section 40A(1);

primary licence means a licence granted on an application under section 40(1) or (2) or 40A(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 Division 5 of Part III;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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

Registration Fees Act means the *Petroleum (Submerged Lands) Registration Fees Act 1982*;

regulations means regulations made under section 152;

relinquished area means —

(a) in relation to a permit, lease or licence that has expired, the area constituted by the blocks in respect of which the permit, lease or licence was in force but has not been renewed; and

(b) in relation to a permit or lease that has been wholly determined or partly determined, the area constituted by the blocks as to which the permit or lease 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

(ca) in relation to a lease that has been wholly cancelled, the area constituted by the blocks in respect of which the lease was in force; and

(da) in relation to an infrastructure licence that has been surrendered, cancelled or terminated, the place that constituted the infrastructure licence area; 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;

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;

royalty value has the meaning applicable under section 145A(1) or (2);

scheduled area means the scheduled area for Western Australia described in Schedule 2;

secondary licence means a licence granted on an application under section 40(3) or 40A(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 III;

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;

territorial sea means the territorial sea of Australia and includes the territorial sea adjacent to any island forming part of Western Australia;

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;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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

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

(2) Notes in this Act are provided to assist understanding and do not form part of the Act.

[Section 4 amended: No. 12 of 1990 s. 160; No. 11 of 1994 s. 8; No. 13 of 2005 s. 34; No. 42 of 2010 s. 65; No. 57 of 2011 s. 4; No. 7 of 2017 s. 26; Work Health and Safety Bill 2019 cl. 335.]

4A. Meaning of facility and offshore petroleum operation

(1) In this section —

accommodation premises —

(a) means residential premises the occupation of which is necessary for the purposes of workers' engagement at an offshore petroleum site; and

(b) includes buildings and recreational facilities used in connection with the occupation of those premises;

offshore petroleum site —

(a) means a place at which an activity referred to in subsection (3) is, or is to be, carried out; and

(b) includes any fixture, fitting, plant or structure at the place;

place has the meaning given in the *Work Health and Safety Act 2019* section 8(2);

plant has the meaning given in the *Work Health and Safety Act 2019* section 4;

structure has the meaning given in the *Work Health and Safety Act 2019* section 4;

worker has the meaning given in the *Work Health and Safety Act 2019* section 7.

(2) For the purposes of this Act, a ***facility*** is a place at which offshore petroleum operations are carried out and it includes any fixture, fitting, plant or structure at the place.

(3) For the purposes of this Act, an ***offshore petroleum operation*** is an activity carried out in the adjacent area for the purpose of any of the following —

(a) exploring for petroleum;

(b) drilling or servicing a well for petroleum;

(c) extracting or recovering petroleum;

(d) injecting petroleum into a natural underground reservoir;

(e) processing petroleum;

(f) handling or storing petroleum;

(g) the piped conveyance or offloading of petroleum.

(4) Without limiting subsection (3), an ***offshore petroleum operation*** includes the following activities —

(a) planning, designing, preparing or constructing an offshore petroleum site if the activity is carried out at or in the vicinity of the offshore petroleum site;

(b) commissioning, operating or maintaining an offshore petroleum site;

(c) decommissioning or abandoning an offshore petroleum site or removing any fixture, fitting, plant or structure from an offshore petroleum site;

(d) constructing, commissioning, operating or maintaining administrative or other support facilities at or in the vicinity of an offshore petroleum site;

(e) an activity relating to the care, security or maintenance of an offshore petroleum site carried out at or in the vicinity of the offshore petroleum site;

(f) constructing, commissioning, operating or maintaining accommodation premises at or in the vicinity of an offshore petroleum site;

(g) a prescribed activity carried out in the adjacent area.

(5) However, an ***offshore petroleum operation*** does not include the following activities —

(a) using an offtake tanker;

(b) using a tug or an anchor handler;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(c) providing supplies to a vessel or structure or otherwise travelling between a vessel or structure and the shore;

(d) a prescribed activity.

[Section 4A inserted: Work Health and Safety Bill 2019 cl. 336.]

5. Further provisions as to adjacent area

(1) For the purposes of subsection (2A), assume that the breadth of the territorial sea had never been determined or declared to be greater than 3 nautical miles, but had continued to be 3 nautical miles.

(2A) In this Act, unless the contrary intention appears —

adjacent area means —

(a) so much of the scheduled area as consists of the territorial sea; and

(b) subject to subsection (2), any area that —

(i) is within the scheduled area; and

(ii) is on the landward side of the territorial sea and not within the limits of Western Australia; and

(iii) was, immediately before 14 February 1983, the subject of an exploration permit for petroleum subsisting under the *Petroleum (Submerged Lands) Act 1967* (Commonwealth).

(2) Upon an area described in paragraph (b) of the definition of ***adjacent area*** in subsection (2A) becoming an area which is —

(a) not the subject of a permit; and

(aa) not the subject of a lease; and

(b) not the subject of a licence; and

(c) not the subject of an application for a lease or licence,

the area ceases to be part of the adjacent area.

[Section 5 amended: No. 12 of 1990 s. 161; No. 42 of 2010 s. 66.]

6A. Effect of alteration of adjacent area

(1) In this section —

Commonwealth instrument means an instrument under the Commonwealth Act that confers, in relation to the offshore area, some or all of the rights that a petroleum mining instrument confers in relation to the adjacent area;

petroleum mining instrument means a permit, lease, licence, infrastructure licence or pipeline licence.

(2) This section applies to a change to the boundary of the adjacent area whether occurring before, on or after the day on which the *Petroleum and Energy Legislation Amendment Act 2010* section 67 comes into operation.

(3) If —

(a) a petroleum mining instrument has been granted on the basis that an area (the ***first area***) is within the adjacent area; and

(b) as a result of a change to the boundary of the adjacent area the first area —

(i) ceases to be within the adjacent area; and

(ii) falls within the offshore area,

this Act applies in relation to the petroleum mining instrument as if the first area were still within the adjacent area.

(4) Subsection (3) continues to apply to the first area only while the petroleum mining instrument remains in force.

(5) If —

(a) a Commonwealth instrument has been granted on the basis that an area (the ***second area***) is within the offshore area; and

(b) as a result of a change to the boundary of the adjacent area the second area —

(i) ceases to be within the offshore area; and

(ii) falls within the adjacent area,

then, so far as the Commonwealth instrument is concerned, this Act does not apply to the second area.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(6) Subsection (5) continues to apply to the second area only while the Commonwealth instrument remains in force.

[Section 6A inserted No. 42 of 2010 s. 67; amended: No. 7 of 2017 s. 27.]

6B. Infrastructure facilities

(1) In this Act —

infrastructure facilities means facilities for engaging in any of the activities mentioned in subsection (2), being —

(a) facilities that are resting on the seabed; or

(b) facilities (including facilities that are floating) that are fixed or connected to the seabed; or

(c) facilities that are attached or tethered to facilities referred to in paragraph (a) or (b).

(2) The activities referred to in subsection (1) are the following —

(a) remote control of facilities used for the recovery of petroleum in a licence area;

(b) processing petroleum recovered in any place, including —

(i) converting petroleum into another form by physical or chemical means or both (for example, converting it into liquefied natural gas or methanol); and

(ii) partial processing of petroleum (for example, by the removal of water);

(c) storing petroleum before it is transported to another place;

(d) preparing petroleum (for example, by operations such as pumping or compressing) for transport to another place;

(e) activities related to any of the above,

but, except as mentioned in paragraph (a), do not include engaging in the exploration for, or recovery of, petroleum.

[Section 6B inserted No. 42 of 2010 s. 67.]

6. Meaning of certain references in Act

(1) In this Act, a reference to the term of a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority is a reference to the period during which the permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority remains in force and a reference to the date of expiration of a permit, lease, licence, special prospecting authority or access authority is a reference to the day on which the permit, lease, licence, special prospecting authority or access authority ceases to be in force.

(2) In this Act, a reference to a year of the term of a permit, lease, licence, infrastructure licence or pipeline licence is a reference to a period of one year commencing on the day on which the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force or on any anniversary of that day.

(3) 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.

(3a) In this Act, a reference to the renewal, or to the grant of a renewal, of a lease is a reference to the grant of a lease in respect of the blocks in respect of which the first-mentioned lease was in force to commence on the day after the date of expiration of the first-mentioned lease or on the day after the date of expiration of the lease granted upon a previous renewal of the first-mentioned lease.

(4) 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.

[(5) deleted]

(6) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.

(7) In this Act, a reference to a permit, lease, licence, infrastructure licence, pipeline licence or access authority is a reference to the permit, lease, licence, infrastructure licence, pipeline licence or access authority as varied for the time being under this Act.

(8) The power conferred by this Act to make grant or issue any instrument shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to repeal, rescind, revoke, amend or vary any such instrument.

[Section 6 amended: No. 12 of 1990 s. 162; No. 42 of 2010 s. 68.]

7. Space above and below adjacent area

For the purposes of this Act —

(a) the space above or below the adjacent area shall be deemed to be in that area; and

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

[Section 7 amended: No. 13 of 2005 s. 46(1).]

8. Application of Act

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

9. Petroleum pool extending into 2 licence areas or other areas

(1A) In this section —

Joint Authority has the meaning given in the Commonwealth Act section 7.

(1) Where a well-head is situated in a licence area or in an area in respect of which an access authority is in force (in this subsection called an ***access authority area***) and the well from that well-head is inclined so as to enter a petroleum pool, being a pool that does not extend to that licence area or access authority area, at a place within an adjoining licence area of the same licensee or registered holder of the access authority, any petroleum recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.

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

(3) The proportions to be determined for the purposes of subsection (2) 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.

(4) Where a petroleum pool is partly in a licence area and partly in an area (in this subsection referred to as 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 (5).

(5) The proportion to be determined for the purposes of subsection (4) 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.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(6) Where a petroleum pool is partly in a licence area and partly in an area (in this subsection called 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 (7).

(7) The proportion to be determined for the purposes of subsection (6) 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.

(7A) If a petroleum pool is partly in a licence area and partly in another area (in this subsection called the ***other area***) in which the licensee has authority, under another written 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 area or both, there is taken 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 is to be determined in accordance with subsection (7B).

(7B) The proportion to be determined for the purposes of subsection (7A) may be determined by agreement between the licensee, the Minister and, if the other written law is administered by a Minister of the Crown other than the Minister, that Minister of the Crown or, in the absence of agreement, may be determined by the Supreme Court on the application of any of those persons.

(8) 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.

(8A) If —

(a) an agreement is in force to explore for, or recover, petroleum between —

(i) a licensee, the Joint Authority and the Minister in relation to a petroleum pool that is partly in the licence area and partly in another area (the ***other area***) in which the licensee has authority under the Commonwealth Act; or

(ii) a licensee, the Minister and the Minister administering a corresponding law in relation to a petroleum pool that is partly in the licence area and partly in another area (the ***other area***) in which the licensee has authority under the corresponding law; or

(iii) a licensee, the Minister and, if the other written law mentioned in this subparagraph is administered by a Minister of the Crown other than the Minister, that Minister of the Crown in relation to a petroleum pool that is partly in the licence area and partly in another area (the ***other area***) in which the licensee has authority under another written law;

and

(b) the agreement contains a provision (the ***apportionment provision***) that provides that, for the purposes of this section, there is taken to be recovered in the licence area a specified proportion of all of the petroleum recovered from the petroleum pool; and

(c) assuming that petroleum were recovered from the part of the seabed that is within the areal and vertical extents specified in the agreement, the specified proportion would be consistent with such proportion of all petroleum so recovered as may reasonably be treated as being derived from the licence area, having regard to the nature and probable extent of the petroleum in that part of the seabed; and

(d) the agreement contains a provision to the effect that if it becomes apparent that the areal and vertical extents of the petroleum pool, as specified in the agreement, comprise or are likely to comprise more than one petroleum pool, the apportionment set out in the apportionment provision will apply to the petroleum recovered from any or all of those petroleum pools, regardless of their location but within those areal and vertical extents; and

(e) after the time of the making of the agreement, it becomes apparent that the areal and vertical extents of the petroleum pool, as specified in the agreement, comprise, or are likely to comprise, 2 or more petroleum pools; and

(f) petroleum is recovered from any of those petroleum pools through a well or wells in the licence area, the other area or both,

then —

(g) for the purposes of this Act, there is taken to have been recovered in the licence area such proportion of all petroleum so recovered as is specified in the apportionment provision; and

(h) subsection (4), (6) or (7A), as the case requires, does not apply to any of those petroleum pools.

(8B) The question of whether there is or was a petroleum pool covered by subsection (8A)(a) is to be determined on the basis of information known at the time of the making of the relevant agreement referred to in that provision.

(8C) The question of whether subsection (8A)(c) applies is to be determined on the basis of information known at the time of the commencement of the apportionment provision.

(8D) The location of any of the 2 or more petroleum pools mentioned in subsection (8A)(e) is immaterial.

(8E) If —

(a) at a particular time after the commencement day, a petroleum pool is partly in a licence area and partly in another area (the ***other area***) in which the licensee has authority under the Commonwealth Act, a corresponding law or another written law to explore for, or recover, petroleum; and

(b) at that time, an agreement is made between —

(i) if the licensee has authority under the Commonwealth Act — the licensee, the Joint Authority and the Minister; or

(ii) if the licensee has authority under a corresponding law — the licensee, the Minister and the Minister administering the corresponding law; or

(iii) if the licensee has authority under another written law — the licensee, the Minister and, if the other written law is administered by a Minister of the Crown other than the Minister, that Minister of the Crown;

and

(c) the agreement specifies a part of the seabed by reference to its areal and vertical extents; and

(d) the areal and vertical extents of the specified part consist of —

(i) the whole or a part of the licence area; and

(ii) the whole or a part of the other area;

and

(e) the areal and vertical extents of the specified part include the petroleum pool; and

(f) the agreement contains a provision (the ***apportionment provision***) that provides that, for the purposes of this section, there is taken to be recovered in the licence area a specified proportion of all of the petroleum recovered from the specified part; and

(g) assuming that petroleum were recovered from the specified part, the specified proportion would be consistent with such proportion of all petroleum so recovered as may reasonably be treated as being derived from the licence area, having regard to the nature and probable extent of the petroleum in the specified part; and

(h) petroleum is recovered from the specified part through a well or wells in the licence area, the other area or both,

then —

(i) for the purposes of this Act, there is taken to have been recovered in the licence area such proportion of all petroleum so recovered as is specified in the apportionment provision; and

(j) subsection (4), (6) or (7A), as the case requires, does not apply to a petroleum pool located in the specified part.

(8F) The question of whether there is or was a petroleum pool covered by subsection (8E)(a) at a particular time is to be determined on the basis of information known at that time.

(8G) The question of whether subsection (8E)(g) applies is to be determined on the basis of information known at the time of the commencement of the apportionment provision.

(8H) In subsection (8E)(a) —

commencement day means the day on which the *Petroleum Legislation Amendment Act 2017* section 28 comes into operation.

(9) 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, another written law, 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.

(10) In this section a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee or a permit area and a lease area.

[Section 9 amended: No. 12 of 1990 s. 163; No. 7 of 2017 s. 28.]

10. Position on Earth's surface

(1) Where, for the purposes of this Act, or for the purposes of an instrument under this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position is to be determined by reference to the prescribed Australian datum.

(2) A datum may be prescribed for all or some of the purposes referred to in subsection (1), and different datums may be prescribed for different purposes.

(3) Regulations that prescribe a datum for a purpose referred to in subsection (1), or amend that datum or prescribe another datum to replace that datum, may make any transitional or savings provisions that are necessary or convenient to be made —

(a) in relation to permits, leases, licences, pipeline licences, special prospecting authorities or access authorities granted before the regulations take effect; or

(b) in relation to applications for permits, leases, licences, pipeline licences, special prospecting authorities or access authorities pending when the regulations take effect; or

(c) for any other purpose.

(4) Regulations referred to in subsection (3) may modify or otherwise affect the operation of this Act.

(5) Without limiting subsection (2), a datum is to be prescribed by regulations referred to in this section for the purposes of the determination of the position on the surface of the Earth of the boundary of the area described in Schedule 2.

[Section 10 inserted: No. 54 of 2000 s. 8(2); amended: No. 13 of 2005 s. 46(2).]

Part II — Administration of the offshore area

[Heading amended: No. 42 of 2010 s. 69.]

11. Term used: Commonwealth Act

In this Part —

Commonwealth Act means —

(a) the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth); or

(b) the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* [2] (Commonwealth); or

(c) the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2006* [3] (Commonwealth); or

(d) the *Offshore Petroleum (Royalty) Act 2006* (Commonwealth).

[Section 11 inserted: No. 42 of 2010 s. 70; amended: No. 7 of 2017 s. 29.]

12. Minister as member of Joint Authority

(1) The Minister may exercise any power which a Commonwealth Act is expressed to authorise him to exercise as a member of the Joint Authority.

(2) The Minister shall perform any function or duty which a Commonwealth Act is expressed to require him to perform as a member of the Joint Authority.

[Section 12 amended: No. 42 of 2010 s. 71.]

[13, 14. *Deleted: No. 7 of 2017 s. 30.]*

15. Public service officers performing functions under Commonwealth Act

(1) In this section —

officer means a public service officer employed in the department of the Public Service principally assisting the Minister in the administration of this Act.

(2) An officer is to perform any function or duty that the Minister, as a member of the Joint Authority, requires the officer to perform in relation to a Commonwealth Act.

[Section 15 inserted: No. 7 of 2017 s. 31.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

Part IIA — Application of laws

[Heading inserted: No. 13 of 2005 s. 36.]

15A. Disapplication of State occupational safety and health laws

(1) The prescribed occupational safety and health laws do not apply in relation to —

(a) a facility; or

(b) a person at a facility; or

(c) a person near a facility, to the extent to which the person is affected by —

(i) a facility; or

(ii) activities that take place at a facility;

or

(d) activities that take place at a facility.

(2) A reference in subsection (1) to the prescribed occupational safety and health laws is a reference to such of the provisions of those laws that, but for subsection (1), would apply in the adjacent area under the *Off-shore (Application of Laws) Act 1982* or the cooperative scheme as defined by section 3 of the *Crimes at Sea Act 2000*.

(3) In this section —

prescribed occupational safety and health laws means any laws of the State relating to occupational safety and health (whether or not they also relate to other matters) that are prescribed by the regulations for the purposes of this section.

(4) This section applies despite anything to the contrary in the *Off-shore (Application of Laws) Act 1982* or the *Crimes at Sea Act 2000*.

[Section 15A inserted: No. 13 of 2005 s. 36.]

[Part IIA (s. 15A) deleted: Work Health and Safety Bill 2019 cl. 337.]

Part III — 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 him delegate to a person any of his powers, functions or duties under this Act, other than this power of delegation.

(2) A power, function or duty so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, 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, function or duty does not prevent the exercise of the power or performance of the function or duty by the Minister.

(6) A copy of each instrument making, varying or revoking a delegation shall be published in the *Gazette*.

[Section 16 amended: No. 13 of 2005 s. 46(2).]

17. Graticulation of Earth's surface

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

(a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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

into sections, each of which is bounded —

(c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude; and

(d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.

(2) For the purposes of this Act —

(a) a graticular section that is wholly within the 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.

(4) Without limiting subsection (2) of section 10, a datum is to be prescribed by regulations referred to in that section for the purposes of the determination of the position on the surface of the Earth of a graticular section or a block.

[Section 17 amended: No. 54 of 2000 s. 8(3).]

18. Reservation of blocks

(1) The Minister may, by instrument published in the *Gazette*, declare that a permit, lease, licence, infrastructure licence, special prospecting authority or access authority shall not be granted in respect of a block specified in the instrument and that a pipeline licence shall not be granted in respect of a pipeline over or in that block.

(2A) A declaration cannot be made under subsection (1) in respect of a block in respect of which a permit, lease, licence or infrastructure licence is in force or over or in which there is a pipeline.

(2) While a declaration under subsection (1) remains in force in respect of a block, a permit, lease, licence, infrastructure 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.

[Section 18 amended: No. 12 of 1990 s. 164; No. 42 of 2010 s. 75.]

18A. Issue of permits etc. in marine reserves

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

(2) In this section —

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

[Section 18A inserted: No. 5 of 1997 s. 44.]

Division 2 — Exploration permits for petroleum

19. Exploration for petroleum

(1) 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.

Penalty: a fine of $50 000 or imprisonment for 5 years, or both.

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

[Section 19 amended: No. 28 of 1994 s. 80; No. 42 of 2010 s. 171.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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 he 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.

[Section 20 amended: No. 12 of 1990 s. 165.]

21. Application for permits

(1) An application under section 20 —

[(a) deleted]

(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 his employees; and

(iii) the technical advice available to the applicant; and

(iv) the financial resources available to the applicant;

and

(e) may set out other matters that the applicant wishes the Minister to consider; and

(f) shall be accompanied by the prescribed fee.

(2) The number of blocks specified in the application —

(a) if 16 blocks or more are available, shall not be less than 16; or

(b) if less than 16 blocks are available, shall be the number available.

(3) The blocks specified in the application shall be blocks that are constituted by graticular sections that —

(a) constitute a single area; and

(b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.

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

[Section 21 amended: No. 12 of 1990 s. 166; No. 42 of 2010 s. 76.]

22A. Competing applications for same block

(1) This section applies if 2 or more applications have been made under section 20 for the grant of a permit in respect of the same block or blocks.

(2) The Minister may grant the permit to whichever applicant, in the Minister's opinion, is most deserving of the grant of the permit having regard to criteria made publicly available by the Minister.

(3) For the purposes of subsection (2), the Minister may rank the applicants in the order in which they are deserving of the grant, the most deserving applicant being ranked highest.

(4) The Minister may exclude from the ranking any applicant that, in the Minister's opinion, is not deserving of the grant of the permit.

(5) If the Minister is of the opinion that, after considering the information accompanying the applications, 2 or more of the applicants are equally deserving of the grant of the permit, the Minister may, by written notice served on each of those applicants, invite them to give to the Minister, within a period stated in the notice, particulars of the applicant's proposals for additional work and expenditure in respect of the block or blocks specified in the application, being particulars that the Minister considers to be relevant in determining which of the applicants is most deserving of the grant of the permit.

(6) If any particulars are given by applicants to the Minister in accordance with the invitations contained in the notices served under subsection (5), the Minister shall have regard to the particulars in determining whichever of the applicants is most deserving of the grant of the permit.

[Section 22A inserted: No. 42 of 2010 s. 77.]

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 that the Minister is prepared to grant to the applicant a permit in respect of the block or blocks specified in the instrument; or

(b) refuse to grant a permit to the applicant.

(2) An instrument under subsection (1) shall contain —

(a) a summary of the conditions subject to which the permit is to be granted; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the permit.

(3) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him, or within such further period, not exceeding one month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the permit referred to in the first-mentioned instrument.

(4) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to him an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

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

[Section 22 amended: No. 28 of 1994 s. 81.]

23A. Withdrawal of application

The person who has made, or all the persons who have jointly made, an application under section 20 for the grant of a permit may, by written notice served on the Minister, withdraw the application at any time before a permit is granted in respect of the application.

[Section 23A inserted: No. 42 of 2010 s. 78.]

23B. Application continued after withdrawal of joint applicant

If —

(a) an application made under section 20 for the grant of a permit was a joint application; and

(b) all of the joint applicants, by written notice served on the Minister, inform the Minister that one or more, but not all, of them, as specified in the notice, withdraw from the application,

the following paragraphs have effect —

(c) the application continues in force as if it had been made by the remaining applicant or applicants;

(d) if the Minister had informed the joint applicants that the Minister was prepared to grant to the applicants a permit in respect of the block or blocks to which the application relates — the Minister is taken not to have so informed the applicants.

[Section 23B inserted: No. 42 of 2010 s. 78.]

23C. Effect of withdrawal or lapse of application

If —

(a) 2 or more applications have been made under section 20 for the grant of a permit in respect of the same block or blocks; and

(b) one or more, but not all, of the applications are withdrawn or have lapsed,

the following paragraphs have effect —

(c) the withdrawn or lapsed application or applications are taken not to have been made;

(d) if the Minister had informed the applicant or one of the applicants whose application had been withdrawn or had lapsed that the Minister was prepared to grant to that applicant a permit in respect of the block or blocks — the Minister is taken not to have so informed the applicant concerned;

(e) if the applicant or one of the applicants whose application had been withdrawn had requested the Minister under section 22(3) to grant a permit to the applicant concerned — the request is taken not to have been made;

(f) if the Minister had refused to grant a permit to the remaining applicant or any of the remaining applicants — the refusal or refusals are taken not to have occurred.

[Section 23C inserted: No. 42 of 2010 s. 78.]

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

(1) Where —

(a) a lease is surrendered, cancelled or determined as to a block or blocks; or

(aa) 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; or

(c) a petroleum pool from which petroleum has been recovered is within or extends to a block or blocks in respect of which no permit, lease or licence is in force,

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), (3) deleted]

(4) An application under this section —

[(a) deleted]

(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 him on the application; and

(e) may set out any other matters that the applicant wishes the Minister to consider.

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

[Section 23 amended: No. 12 of 1990 s. 167; No. 28 of 1994 s. 82; No. 42 of 2010 s. 79.]

24. Application fee etc.

(1) An application under section 23 shall be accompanied by —

(a) the prescribed fee; 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, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.

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

[Section 24 amended: No. 12 of 1990 s. 168; No. 42 of 2010 s. 80.]

25. Consideration of applications

(1) Where, at the expiration of the period specified in an instrument under section 23(1), only one application has been made under that subsection in respect of the block or blocks specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to him a permit in respect of that block or those blocks.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(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 he does not reject all of the applications, may —

(a) if only one application remains unrejected, by instrument in writing served on the applicant; or

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

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

[(3), (4) deleted]

(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.

[Section 25 amended: No. 12 of 1990 s. 169; No. 28 of 1994 s. 83; No. 42 of 2010 s. 81.]

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

(a) by instrument in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned instrument; and

(b) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant.

(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,

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.

[Section 26 amended: No. 28 of 1994 s. 84; No. 42 of 2010 s. 82.]

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,

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.

[Section 27 amended: No. 28 of 1994 s. 85; No. 42 of 2010 s. 83.]

27A. Grant of boundary-change permit

(1) In this section —

section 17 block means —

(a) a block constituted as provided by section 17; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth permit concerned — the graticular section; or

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth permit concerned — that part of the graticular section.

Note for this definition:

See also subsection (8).

(2) This section applies if —

(a) a Commonwealth permit has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceases to be within the offshore area; and

(ii) falls within the adjacent area;

and

(c) either —

(i) the conditions set out in subsection (3) are satisfied; or

(ii) the conditions set out in subsection (4) are satisfied.

(3) The conditions mentioned in subsection (2)(c)(i) are —

(a) one or more, but not all, of the section 17 blocks that were covered by the Commonwealth permit immediately before the change are in the relevant area; and

(b) the Commonwealth permit subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth permit immediately before the change and that are in the offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth permit.

(4) The conditions mentioned in subsection (2)(c)(ii) are —

(a) all of the section 17 blocks that were covered by the Commonwealth permit immediately before the change are in the relevant area; and

(b) the Commonwealth permit subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth permit immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth permit.

(5) If —

(a) assuming that —

(i) the change to the boundary of the offshore area had not occurred; and

(ii) the relevant area had remained in the offshore area,

the holder of the Commonwealth permit would have been entitled to apply under the Commonwealth Act for the renewal of the Commonwealth permit in relation to all of the section 17 blocks that are —

(iii) covered by the Commonwealth permit; and

(iv) in the relevant area;

and

(b) there are one or more section 17 blocks (the ***relevant section 17 blocks***) that —

(i) correspond to the section 17 blocks covered by paragraph (a); and

(ii) are in the adjacent area; and

(iii) are not the subject of a variation under section 103A,

the Minister is taken —

(c) to have granted the holder of the Commonwealth permit a permit over those relevant section 17 blocks; and

(d) to have done so immediately after the relevant time mentioned in whichever of subsection (3) or (4) is applicable.

Note for this subsection:

For the duration of the permit, see section 29(1A).

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(6) If —

(a) assuming that —

(i) the change to the boundary of the offshore area had not occurred; and

(ii) the relevant area had remained in the offshore area,

the holder of the Commonwealth permit would not have been entitled to apply under the Commonwealth Act for the renewal of the Commonwealth permit in relation to all of the section 17 blocks that are —

(iii) covered by the Commonwealth permit; and

(iv) in the relevant area;

and

(b) there are one or more section 17 blocks (the ***relevant section 17 blocks***) that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth permit immediately before the change; and

(ii) are in the adjacent area; and

(iii) are not the subject of a variation under section 103A,

the Minister is taken —

(c) to have granted the holder of the Commonwealth permit a permit over those relevant section 17 blocks; and

(d) to have done so immediately after the relevant time mentioned in whichever of subsection (3) or (4) is applicable.

Note for this subsection:

For the duration of the permit, see section 29(1B).

(7) For the purposes of subsections (5) and (6), the following provisions of the Commonwealth Act are to be disregarded —

(a) the standard halving rules in section 123 of that Act;

(b) the modified halving rules in section 124 of that Act;

(c) a provision of a kind specified in the regulations.

(8) If, after the change to the boundary of the offshore area —

(a) a part of a section 17 block that was covered by the Commonwealth permit immediately before the change is in the offshore area; and

(b) the remaining part of the section 17 block is in the adjacent area,

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 17 block.

(9) An assumption in subsection (5)(a) or (6)(a) does not affect subsection (8).

[Section 27A inserted: No. 7 of 2017 s. 32.]

28. Rights conferred by permit

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

[Section 28 amended: No. 13 of 2005 s. 46(1).]

29. Term of permit

(1) Subject to this Part, a permit remains in force —

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

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

(1A) Subject to this Part, a boundary-change permit granted under section 27A(5) remains in force for a period of 5 years commencing on the day on which the permit is granted.

(1B) Subject to this Part, a boundary-change permit granted under section 27A(6) remains in force for a period of 12 months commencing on the day on which the permit is granted.

(2) If —

(a) a permit in respect of a block or blocks cannot be renewed or further renewed; and

(b) before the time when the permit would, apart from this subsection, expire, the permittee has duly made an application to the Minister for the grant of a lease or licence in respect of the block, or one or more of the blocks, being a block or blocks that are included in a location,

the permit continues in force in respect of the block or blocks to which the application relates until —

(c) if the Minister tells the permittee that the Minister is prepared to grant to the permittee a lease or licence in respect of the block or one or more of the blocks — such a lease or licence is granted, the permittee withdraws the application or the application lapses; or

(d) if the Minister decides not to grant to the permittee such a lease — the end of the period of one year after the day of the service under section 38B(2) or (3A) of the instrument or notice refusing to grant the lease; or

(e) if the Minister decides not to grant to the permittee such a licence — notice of the decision is served on the permittee.

[Section 29 amended: No. 12 of 1990 s. 170; No. 42 of 2010 s. 84; No. 7 of 2017 s. 33.]

30. Application for renewal of permit

(1) Subject to sections 31, 32A and 32B, 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) deleted]

(b) subject to subsection (3), shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and

(c) shall be accompanied by the prescribed fee.

(3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of the permit less than 3 months before, but not in any case after, the date of expiration of the permit.

[Section 30 amended: No. 12 of 1990 s. 171; No. 42 of 2010 s. 85; No. 7 of 2017 s. 34.]

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

(1) Subject to subsections (3), (4) and (5), 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, one-half of that number; or

(b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder, one-half 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 in 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) If a permit is in force in respect of 5 or 6 blocks, an application may be made for the renewal of the permit in respect of one, 2, 3 or 4 of those blocks.

(5) Subject to subsection (6) —

(a) if a permit is in force in respect of 4 blocks, an application may be made for the renewal of the permit in respect of one, 2, 3 or all of those blocks;

(b) if a permit is in force in respect of 3 blocks, an application may be made for the renewal of the permit in respect of one, 2 or all of those blocks;

(c) if a permit is in force in respect of 2 blocks, an application may be made for the renewal of the permit in respect of either or both of those blocks;

(d) an application may be made for the renewal of a permit that is in force in respect of one block.

(6) Despite sections 30(1) and 32, if a permit has been renewed as a result of an application referred to in subsection (5) —

(a) the permittee is not entitled to apply for a further renewal of the permit; and

(b) the Minister cannot grant a further renewal of the permit.

(7) Subsections (1) to (5) do not apply to an application for the renewal of a permit if —

(a) the permit was granted on the basis that an area (the ***relevant area***) was within the adjacent area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceased to be within the adjacent area; and

(ii) fell within the offshore area;

and

(c) immediately before the change, the relevant area was a part of the permit area.

(8) For the purposes of subsection (7) —

(a) section 6A is to be disregarded; and

(b) it is immaterial whether the change occurred before, at or after the commencement day.

(9) In subsection (8)(b) —

commencement day means the day on which the *Petroleum Legislation Amendment Act 2017* section 35 comes into operation.

[Section 31 amended: No. 42 of 2010 s. 86; No. 7 of 2017 s. 35.]

32A. Certain permits cannot be renewed more than twice

(1) This section applies to a permit if —

(a) the permit was granted under section 22 —

(i) on or after the day of the coming into operation of the *Petroleum and Energy Legislation Amendment Act 2010* section 87 (the ***commencement day***); and

(ii) as a result of an application made in response to an invitation in an instrument that was published under section 20(1) on or after the commencement day;

or

(b) the permit was granted under section 27 on or after the commencement day.

(2) Despite sections 30(1) and 32, if a permit to which this section applies has been renewed twice —

(a) the permittee is not entitled to apply for a further renewal of the permit; and

(b) the Minister cannot grant a further renewal of the permit.

[Section 32A inserted: No. 42 of 2010 s. 87.]

32B. Limits on renewal of boundary-change permits

(1) If —

(a) a boundary-change permit is granted under section 27A(5); and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 27A(3)(b) or (4)(b), was granted otherwise than by way of renewal,

then —

(c) section 31 applies to an application for the renewal of the boundary-change permit; and

(d) an application must not be made for the renewal of the boundary-change permit if the Minister has previously granted a renewal of the permit.

(2) If —

(a) a boundary-change permit is granted under section 27A(5); and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 27A(3)(b) or (4)(b), was granted by way of renewal,

an application must not be made for the renewal of the boundary-change permit.

(3) If a boundary-change permit is granted under section 27A(6), an application must not be made for the renewal of the permit.

[Section 32B inserted: No. 7 of 2017 s. 36.]

32. Grant or refusal of renewal of permit

(1) Where an application has been made under section 30 for the renewal of a permit, the Minister —

(a) shall, if the conditions to which the permit is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or

(b) may, if —

(i) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and

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

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

(2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to subsection (3), by instrument in writing served on the person who is then the permittee, refuse to grant the renewal of the permit.

(3) The Minister shall not refuse to grant the renewal of the permit unless —

(a) he has, by instrument in writing served on the permittee, given not less than one month's notice of his intention to refuse to grant the renewal of the permit; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument —

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;

and

(d) he has taken into account any matters so submitted to him on or before the specified date by the permittee or by a person on whom a copy of the first-mentioned instrument has been served.

(4) An instrument referred to in subsection (1) shall contain —

(a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5).

(5) A permittee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him, by instrument in writing served on the Minister, request the Minister to grant to him the renewal of the permit.

(6) Where a permittee on whom there has been served an instrument under subsection (1) has made a request under subsection 5 within the period referred to in subsection (5), the Minister shall grant to him the renewal of the permit.

(7) Where a permittee on whom there has been served an instrument under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that period.

(8) Where —

(a) an application for the renewal of a permit has been made; and

(b) the permit expires —

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

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

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

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

(d) until the application so lapses,

whichever first happens.

[Section 32 amended: No. 28 of 1994 s. 86.]

33. Conditions of permit

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

(1A) Subsection (1) does not apply to a boundary-change 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).

(3) The Minister may, by written notice given to the permittee, vary a boundary-change permit by imposing one or more conditions to which the permit is subject.

(4) A notice under subsection (3) may only be given within 14 days after the grant of the boundary-change permit.

(5) A variation under subsection (3) takes effect on the day on which notice of the variation is given to the permittee.

(6) If —

(a) a boundary-change permit is granted; and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 27A(3)(b) or (4)(b), is of a kind that corresponds to a permit granted under section 22(4) or 27,

any or all of the conditions mentioned in subsection (7) may be specified in —

(c) the boundary-change permit; or

(d) a permit granted by way of the renewal of the boundary-change permit.

(7) The following conditions are specified for the purposes of subsection (6) —

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area (including conditions requiring the permittee to carry out the work during a period of 12 months or longer, or during periods each of which is 12 months or longer);

(b) conditions relating to the amounts that the permittee must spend in carrying out such work;

(c) conditions requiring the permittee to comply with directions that —

(i) relate to the matters covered by paragraphs (a) and (b); and

(ii) are given in accordance with the permit.

(8) Subsection (6) does not limit subsection (3).

(9) If —

(a) a boundary-change permit is granted; and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 27A(3)(b) or (4)(b), is a cash-bid petroleum exploration permit, as defined in the Commonwealth Act section 7,

the conditions mentioned in subsection (10) must not be specified in —

(c) the boundary-change permit; or

(d) a permit granted by way of the renewal of the boundary-change permit.

(10) The following conditions are specified for the purposes of subsection (9) —

(a) conditions requiring the permittee to carry out work in, or in relation to, the permit area;

(b) conditions requiring the permittee to spend particular amounts on the carrying out of work in, or in relation to, the permit area.

[Section 33 amended: No. 7 of 2017 s. 37.]

34. Discovery of petroleum to be notified

Where petroleum is discovered in a permit area, the permittee —

(a) shall forthwith inform the Minister of the discovery; and

(b) shall, within the period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

Penalty: a fine of $10 000.

[Section 34 inserted: No. 42 of 2010 s. 88.]

*[**35.** Deleted: No. 42 of 2010 s. 89.]*

36. Nomination of blocks as location

(1) Where a petroleum pool is identified in a permit area, the permittee may nominate the block in which the pool is situated, or the blocks (being blocks within the permit area) to which the pool extends, for declaration as a location.

(2) Where 2 or more petroleum pools are identified in a permit area, the permittee may, instead of making a nomination under subsection (1) in relation to each pool, nominate all of the blocks to which the pools extend, or to which any 2 or more of the pools extend, for declaration as a single location.

(3) A nomination may not be made under subsection (2) unless, in the case of each of the pools to which the nomination relates, at least one of the blocks to which the pool extends immediately adjoins a block to which the other, or another, of those pools extends.

(4) A nomination by a permittee shall be in writing and served on the Minister.

(5) A nomination may not be made by a permittee unless the permittee or another person has, whether within or outside the permit area, recovered petroleum from the petroleum pool to which the nomination relates or, if the nomination relates to more than one pool, from each of those pools.

(6) Where —

(a) the Minister is of the opinion that a permittee is entitled to nominate a block or blocks under subsection (1) or (2); and

(b) the permittee has not done so,

the Minister may require the permittee to exercise the permittee's right to nominate the block or blocks within 3 months after the date of the making of the requirement.

(7) A requirement by the Minister under subsection (6) shall be by written notice served on the permittee.

(8) On written request by a permittee within the period fixed by subsection (6), the Minister may extend the time for compliance with a requirement under that subsection by not more than 3 months.

(9) If a permittee fails to comply with a requirement under subsection (6), the Minister may, by written notice served on the permittee, nominate the block or blocks for declaration as a location.

[Section 36 inserted: No. 12 of 1990 s. 172.]

37. Declaration of location

(1A) In this section —

declaration includes a declaration that is taken to have been made under subsection (2A) or (2B);

section 17 block means —

(a) a block constituted as provided by section 17; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth permit concerned — the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth permit concerned — that part of the graticular section.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(1) Where —

(a) a permittee has made a nomination under section 36; and

(b) the Minister is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination,

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

(2) Where the Minister has made a nomination under section 36(9), the Minister shall, by notice published in the *Gazette*, declare the block or blocks to which the nomination relates to be a location.

(2A) If —

(a) a boundary-change permit is granted over one or more section 17 blocks; and

(b) immediately before the grant, those section 17 blocks were, or were part of, a location as defined in the Commonwealth Act section 7; and

(c) apart from this subsection, those section 17 blocks are not, and are not part of, a location as defined in section 4 of this Act,

the Minister is taken —

(d) to have declared those section 17 blocks to be a location; and

(e) to have done so immediately after the grant.

(2B) If —

(a) a permit is varied under section 103A so as to include in the permit area one or more section 17 blocks; and

(b) immediately before the variation, those section 17 blocks were, or were part of, a location as defined in the Commonwealth Act section 7; and

(c) apart from this subsection, those section 17 blocks are not, and are not part of, a location as defined in section 4 of this Act,

the Minister is taken —

(d) to have declared those section 17 blocks to be a location; and

(e) to have done so immediately after the variation.

(3) The Minister may, at the request of the permittee, revoke a declaration.

(4) The Minister may vary a declaration by —

(a) adding to the location a block in the permit area to which, in the opinion of the Minister, a petroleum pool within the location extends; or

(b) deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.

(5) The Minister may not vary a declaration unless —

(a) the Minister has caused to be served on the permittee notice in writing of the proposed variation, identifying the block to be added to, or deleted from, the location; and

(b) the period of 30 days after the date of service of the notice has expired; and

(c) the Minister has considered any matters submitted to him by the permittee in relation to the proposed variation.

(6) Subsection (5) does not apply where a variation is made at the request of the permittee.

(7) The Minister may form an opinion for the purposes of this section if the Minister considers that there are reasonable grounds for forming the opinion having regard to any information in the Minister's possession, whether provided by the permittee or otherwise.

[Section 37 inserted: No. 12 of 1990 s. 172; amended: No. 42 of 2010 s. 90; No. 7 of 2017 s. 38.]

38. Immediately adjoining blocks

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

(a) have a side in common; or

(b) are joined together at one point only.

[Section 38 amended: No. 12 of 1990 s. 173.]

Division 2A — Retention leases for petroleum

[Heading inserted: No. 12 of 1990 s. 174.]

38A. Application by permittee for lease

(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 lease in respect of that block, or in respect of one or more of those blocks, as the case may be.

(2) An application under subsection (1) —

[(a) deleted]

(b) shall be made in an approved manner; and

(c) shall be accompanied by particulars of —

(i) the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and

(ii) the commercial viability of the recovery of petroleum from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area;

and

(d) may set out any other matters that the applicant wishes to be considered; and

(e) shall be accompanied by the prescribed fee.

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

(4) The application period in respect of an application under this section by a permittee is —

(a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or

(b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application in writing by the permittee, served on the Minister before the end of the first-mentioned period of 2 years, allows.

[Section 38A inserted: No. 12 of 1990 s. 174; amended: No. 42 of 2010 s. 91.]

38B. Grant or refusal of lease in relation to application

(1) If —

(a) an application has been made under section 38A; and

(b) the applicant has furnished any further information as and when required by the Minister under section 38A(3); and

(c) the Minister is satisfied that —

(i) the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum; and

(ii) the recovery of petroleum from that area is not, at the time of the application, commercially viable but is likely to become commercially viable within the period of 15 years after that time,

the Minister shall, by written notice served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a lease in respect of the block or blocks as to which the Minister is satisfied as mentioned in paragraph (c).

(2) Where an application has been made under section 38A and —

(a) the applicant has not furnished any further information as and when required by the Minister under section 38A(3); or

(b) the Minister is not satisfied as to the matters referred to in subsection (1)(c) in relation to the block, or all the blocks, specified in the application,

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

(3A) If —

(a) an application has been made under section 38A specifying 2 or more blocks; and

(b) the Minister is not satisfied as mentioned in subsection (1)(c) in relation to one or more, but not all, of the blocks,

the Minister shall, by notice in writing served on the applicant, refuse to grant a lease to the applicant in respect of the block or blocks as to which the Minister is not satisfied as mentioned in subsection (1)(c).

(3) An instrument under subsection (1) shall contain —

(a) a summary of the conditions subject to which the lease is to be granted; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.

(4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the end of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the lease.

(5) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4), the Minister shall grant to the applicant a retention lease in respect of the block or blocks specified in the instrument.

(6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.

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

[Section 38B inserted: No. 12 of 1990 s. 174; amended: No. 28 of 1994 s. 87; No. 42 of 2010 s. 92.]

38BA. Application of s. 38A and 38B where permit is transferred

Where —

(a) after an application has been made under section 38A(1) in relation to a block or blocks in respect of which a permit is in force; and

(b) before a decision has been made by the Minister under section 38B(1) or (2) in relation to the application,

a transfer of the permit is registered under section 78, sections 38A and 38B have effect, after the time of the transfer, as if any reference in those sections to the applicant were a reference to the transferee.

[Section 38BA inserted: No. 28 of 1994 s. 88.]

38CA. Application by licensee for lease

(1) If —

(a) a licence is in force under section 53(1)(c) or (2) in respect of a block or blocks; and

(b) no operations for the recovery of petroleum are being carried on under the licence in respect of an area (the ***unused area***) —

(i) that consists of, or consists of part of, the block or blocks; and

(ii) in which petroleum has been found to exist,

the licensee may, within the application period, apply to the Minister for the grant of a lease in respect of the unused area.

(2) An application under subsection (1) —

(a) is to be made in an approved manner; and

(b) is to be accompanied by particulars of —

(i) the proposals of the applicant for work and expenditure in respect of the unused area; and

(ii) the commercial viability of the recovery of petroleum from the unused area at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area;

and

(c) may set out any other matters that the applicant wishes to be considered; and

(d) is to be accompanied by the prescribed fee.

(3) The Minister may, at any time by written notice served on the applicant, require the applicant to give, within the period stated in the notice, further written information in connection with the application.

(4) The application period in respect of an application under this section by a licensee is the period of 5 years that began on —

(a) the day on which the licence was granted; or

(b) if any operations for the recovery of petroleum have been carried on under the licence in respect of the unused area — the last day on which any such operations were carried on.

[Section 38CA inserted: No. 42 of 2010 s. 93.]

38CB. Grant or refusal of lease in relation to application by licensee

(1) If —

(a) an application has been made under section 38CA; and

(b) the applicant has given any further information as and when required by the Minister under section 38CA(3); and

(c) the Minister is satisfied that recovery of petroleum from the unused area —

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

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

the Minister shall, by written notice served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a lease in respect of the unused area.

(2) If an application has been made under section 38CA and —

(a) the applicant has not given further information as and when required by the Minister under section 38CA(3); or

(b) the Minister is not satisfied as mentioned in subsection (1)(c) in relation to the unused area,

the Minister shall, by written notice served on the applicant, refuse to grant a lease to the applicant.

(3) A notice under subsection (1) shall contain —

(a) a summary of the conditions subject to which the lease is to be granted; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease.

(4) An applicant on whom a notice is served under subsection (1) may request the Minister to grant the lease to the applicant.

(5) The request must be in writing and must be made —

(a) before the end of the period of one month after the date of service of the notice on the applicant under subsection (1); or

(b) if the Minister, on application in writing made to the Minister before the end of that period, allows a further period of not more than one month for the making of the request — before the end of that further period.

(6) If the applicant makes the request within the period applicable under subsection (5), the Minister shall grant to the applicant a retention lease in respect of the unused area.

(7) If the applicant does not make the request within the period applicable under subsection (5), the application lapses at the end of that period.

(8) On the day on which a lease granted under this section in respect of an unused area comes into force, the licence in respect of the block or blocks of which the area consists or in which the area is included ceases to be in force in respect of the area.

[Section 38CB inserted: No. 42 of 2010 s. 93.]

38CC. Application of s. 38CA and 38CB if licence is transferred

If —

(a) after an application has been made under section 38CA(1) in relation to an area consisting of or included in a block or blocks in respect of which a licence is in force; and

(b) before a decision has been made by the Minister under section 38CB(1) or (2) in relation to the application,

a transfer of the licence is registered under section 78, sections 38CA and 38CB have effect, after the time of the transfer, as if any reference in those sections to the applicant were a reference to the transferee.

[Section 38CC inserted: No. 42 of 2010 s. 93.]

38CD. Grant of lease as result of change to boundary of offshore area

(1) In this section —

section 17 block means —

(a) a block constituted as provided by section 17; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth lease concerned — the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth lease concerned — that part of the graticular section.

Note for this definition:

See also subsection (6).

(2) This section applies if —

(a) a Commonwealth lease has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceases to be within the offshore area; and

(ii) falls within the adjacent area;

and

(c) either —

(i) the conditions set out in subsection (3) are satisfied; or

(ii) the conditions set out in subsection (4) are satisfied;

and

(d) there are one or more section 17 blocks (the ***relevant section 17 blocks***) that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth lease immediately before the change; and

(ii) are in the adjacent area; and

(iii) are not the subject of a variation under section 103A.

(3) The conditions mentioned in subsection (2)(c)(i) are —

(a) one or more, but not all, of the section 17 blocks that were covered by the Commonwealth lease immediately before the change are in the relevant area; and

(b) the Commonwealth lease subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth lease immediately before the change and that are in the offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth lease.

(4) The conditions mentioned in subsection (2)(c)(ii) are —

(a) all of the section 17 blocks that were covered by the Commonwealth lease immediately before the change are in the relevant area; and

(b) the Commonwealth lease subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth lease immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth lease.

(5) The Minister is taken —

(a) to have granted the holder of the Commonwealth lease a lease over the relevant section 17 blocks; and

(b) to have done so immediately after the relevant time mentioned in whichever of subsection (3) or (4) is applicable.

Note for this subsection:

For the duration of the lease, see section 38D(2).

(6) If, after the change to the boundary of the offshore area —

(a) a part of a section 17 block that was covered by the Commonwealth lease immediately before the change is in the offshore area; and

(b) the remaining part of the section 17 block is in the adjacent area,

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 17 block.

[Section 38CD inserted: No. 7 of 2017 s. 39.]

38C. Rights conferred by lease

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

[Section 38C inserted: No. 12 of 1990 s. 174; amended: No. 13 of 2005 s. 46(1).]

38D. Term of lease

(1) Subject to this Part, a lease (whether granted by way of renewal of a lease or otherwise and other than a lease granted under section 38CD) remains in force for a period of 5 years commencing on the day on which the lease was granted or, if a later day is specified in the lease as being the day on which the lease is to come into force, on that later day.

(2) Subject to this Part, a lease granted under section 38CD remains in force for a period of 5 years commencing on the day on which the lease is granted.

[Section 38D inserted: No. 12 of 1990 s. 174; amended: No. 7 of 2017 s. 40.]

38E. Notice of intention to cancel lease

(1) Where —

(a) a lessee has been given a notice of the kind referred to in section 38H(3) during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice; and

(b) the lessee has not made an application for the renewal of the lease; and

(c) after consideration of the results of the re-evaluation referred to in paragraph (a) and such other matters as the Minister thinks fit, the Minister is of the opinion that recovery of petroleum from the lease area is commercially viable,

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

(d) informing the lessee or the other person that the Minister has formed that opinion and that the Minister intends to cancel the lease; and

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

(2) Where —

(a) an instrument under subsection (1) is served on a lessee; and

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

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

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

(a) in a case to which paragraph (b) does not apply, at the end of the period of 12 months commencing on the date of service of the instrument of cancellation; or

(b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph (a), when the Minister grants, or refuses to grant, the licence or when the application lapses, whichever first happens.

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

[Section 38E inserted: No. 12 of 1990 s. 174.]

38F. Application for renewal of lease

(1) A lessee may, from time to time, make an application to the Minister for the renewal of the lease.

(2) An application for the renewal of a lease —

[(a) deleted]

(b) subject to subsection (3), shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force; and

(c) shall be accompanied by particulars of —

(i) the proposals of the applicant for work and expenditure in respect of the lease area; and

(ii) the commercial viability of recovery of petroleum from the lease area at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area;

and

(d) shall be accompanied by the prescribed fee.

(3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.

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

[Section 38F inserted: No. 12 of 1990 s. 174; amended: No. 28 of 1994 s. 89; No. 42 of 2010 s. 94.]

38G. Grant or refusal of renewal of lease

(1) Where —

(a) an application for the renewal of a lease has been made under section 38F; and

(b) any further information required by the Minister under subsection (4) of section 38F has been furnished in accordance with that subsection; and

(c) the Minister is satisfied that recovery of petroleum from the lease area —

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

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

the Minister —

(d) shall, if the conditions to which the lease is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or

(e) may, if —

(i) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and

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

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

(2) Subject to subsection (3), where an application for the renewal of a lease has been made under section 38F and —

(a) any further information required by the Minister under subsection (4) of section 38F has not been furnished in accordance with that subsection; or

(b) the Minister is not satisfied as to the matters referred to in subsection (1)(c); or

(c) any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with and the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the lease,

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

(3) The Minister shall not refuse to grant the renewal of the lease unless —

(a) he has, by instrument in writing served on the lessee, given not less than one month's notice of his intention to refuse to grant the renewal of the lease; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument —

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the lessee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that the lessee wishes to be considered;

and

(d) he has taken into account any matters so submitted on or before the specified date by the lessee or by a person on whom a copy of the first-mentioned instrument has been served.

(4) An instrument referred to in subsection (1) shall contain —

(a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6).

(5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1)(c)(i), contain a statement to the effect that the lessee may, within the period of 12 months after the date of

service of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.

(6) A lessee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the lessee, by instrument in writing served on the Minister, request the Minister to grant the lessee the renewal of the lease.

(7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.

(8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period.

(9) Where —

(a) an application for the renewal of a lease has been made; and

(b) the lease expires —

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

(ii) before the application lapses as provided by subsection (8),

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

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

(d) until the application so lapses,

whichever first happens.

(10) Where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1)(c)(i), the lease shall be deemed to continue in force in all respects —

(a) in a case to which paragraph (b) does not apply, until 12 months after the date of service of the instrument under subsection (2); or

(b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph (a), until the Minister grants, or refuses to grant, the licence or until the application lapses, whichever first happens.

[Section 38G inserted: No. 12 of 1990 s. 174; amended: No. 28 of 1994 s. 90.]

38H. Conditions of lease

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

(1A) Subsection (1) does not apply to a lease granted under section 38CD.

(2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the lessee in or in relation to the lease area during the term of the lease, or amounts to be expended by the lessee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the lessee to comply with directions given in accordance with the lease concerning those matters.

(3) A lease shall be deemed to contain a condition that the lessee will, within the period of 3 months after the receipt of a written notice from the Minister requesting the lessee to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first-mentioned period, allows, re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells) and inform the Minister in writing of the results of the re-evaluation.

(4) Where a lessee has complied with 2 notices of the kind referred to in subsection (3) during the term of the lease, the Minister shall not give to the lessee during that term a further notice of that kind.

(5) The Minister may, by written notice given to the lessee, vary a lease granted under section 38CD by imposing one or more conditions to which the lease is subject.

(6) A notice under subsection (5) may only be given within 14 days after the grant of the lease.

(7) A variation under subsection (5) takes effect on the day on which notice of the variation is given to the lessee.

[Section 38H inserted: No. 12 of 1990 s. 174; amended: No. 7 of 2017 s. 41.]

38J. Discovery of petroleum to be notified

Where petroleum is discovered in a lease area, the lessee —

(a) shall forthwith inform the Minister of the discovery; and

(b) shall, within the period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

Penalty: a fine of $10 000.

[Section 38J inserted: No. 42 of 2010 s. 95.]

*[**38K.** Deleted: No. 42 of 2010 s. 96.]*

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.

Penalty: a fine of $50 000 or imprisonment for 5 years, or both.

[Section 39 amended: No. 42 of 2010 s. 171.]

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 or more 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

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(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 one of those blocks; or

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

(2) A permittee whose permit is in force in respect of blocks that constitute a location —

(a) instead of making an application under subsection (1) in respect of his primary entitlement, may, within the application period, make an application to the Minister for the grant of a licence in respect of a number of those blocks that is less than his primary entitlement; and

(b) being the holder of a licence referred to in paragraph (a), may, from time to time within that period, make an application to the Minister for the variation of that licence to include in the licence area a number of those blocks that does not exceed the number, if any, by which his primary entitlement exceeds the number of blocks in respect of which that licence was granted and the number of blocks, if any, included in that licence by reason of any previous variations of that licence.

(3) Where —

(a) a permittee makes an application under subsection (1) in respect of his primary entitlement; or

(b) a permittee who is the holder of a licence in respect of a number of blocks that is less than his primary entitlement makes an application under subsection (2) for a variation of that licence, and the number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is his primary entitlement,

the permittee may, within the application period, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the location concerned.

(4) Subject to subsection (5), the application period in respect of an application under this section by a permittee 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 period of 2 years referred to in paragraph (a), allows.

(5) Where —

(a) a permittee applies for the grant by the Minister of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 38A; and

(b) an instrument refusing to grant the lease is served on the permittee under section 38B(2),

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

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

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

[Section 40 amended: No. 12 of 1990 s. 175; No. 28 of 1994 s. 91.]

40A. Application for licence by holder of lease

(1) A lessee whose lease is in force may make an application to the Minister for the grant of a licence —

(a) where the lease is in respect of 9 or more blocks, in respect of 5 of those blocks; or

(b) where the lease is in respect of 8 or 7 blocks, in respect of 4 of those blocks; or

(c) where the lease is in respect of 6 or 5 blocks, in respect of 3 of those blocks; or

(d) where the lease is in respect of 4 or 3 blocks, in respect of 2 of those blocks; or

(e) where the lease is in respect of 2 blocks, in respect of one of those blocks; or

(f) where the lease is in respect of one block, in respect of that block.

(2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (1) in respect of the lessee's primary entitlement, make an application to the Minister for the grant of a licence in respect of a number of blocks that is less than the lessee's primary entitlement.

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

[Section 40A inserted: No. 12 of 1990 s. 176.]

41. Application for licence

(1) An application under section 40 or 40A —

[(a) deleted]

(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 the prescribed fee.

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

[Section 41 amended: No. 12 of 1990 s. 177; No. 42 of 2010 s. 97.]

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 royalty value of that petroleum.

(2) The Minister shall not, under subsection (1), determine the rate at which royalty is to be payable unless he has given to the applicant an opportunity to confer with him concerning that rate.

[Section 42 amended: No. 11 of 1994 s. 9.]

43. Notification as to grant of licence

(1) This section applies if an application for the grant of a licence has been made under section 40 or 40A.

(2A) If —

(a) the applicant has given any further information as and when required by the Minister under section 41(2); and

(b) the Minister is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains petroleum,

the Minister shall, by written notice served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a licence in respect of the block or blocks as to which the Minister is satisfied as mentioned in paragraph (b).

(2) A notice under subsection (2A) shall —

(a) contain a summary of the conditions subject to which the licence is to be granted; and

(b) if the notice 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 if the applicant does not make a request under section 44(1) in respect of the grant of the licence.

(3) If the Minister decides not to grant to the applicant a licence in respect of the block, or any of the blocks, specified in the application because —

(a) the applicant has failed to comply with a requirement made by the Minister under section 41(2); or

(b) the Minister is not satisfied that the area comprised in the block, or any of the blocks, contains petroleum,

the Minister shall, by written notice served on the applicant, inform the applicant of the Minister's decision and the reasons for the decision.

[Section 43 amended: No. 12 of 1990 s. 178; No. 28 of 1994 s. 92; No. 42 of 2010 s. 98.]

44. Grant of licence

(1) An applicant on whom there has been served a notice under section 43(2A) may, within a period of 3 months after the date of service of the notice on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by instrument in writing served on the Minister, request the Minister to grant to him the licence referred to in the notice.

(2) Where an applicant on whom there has been served a notice under section 43(2A) has made a request under subsection (1) within the period applicable under subsection (1), the Minister shall grant to the applicant a production licence for petroleum in respect of the block or blocks as to which the Minister is satisfied as mentioned in section 43(2A)(b).

(3) A secondary licence shall not be granted to a permittee or lessee in respect of any one or more of the blocks that constitute a location unless —

(a) a primary licence has been granted in respect of a block or blocks forming part of that location; and

(b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 45, is the permittee's or lessee's primary entitlement.

(4) Where an applicant on whom there has been served a notice under section 43(2A) has not made a request under subsection (1) within the period applicable under subsection (1), the application lapses upon the expiration of that period.

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

[Section 44 amended: No. 12 of 1990 s. 179; No. 28 of 1994 s. 93; No. 42 of 2010 s. 99.]

44A. Application of s. 41 to 44 where permit etc. transferred

Where —

(a) after an application has been made —

(i) under section 40 for the grant of a licence in respect of a block or blocks in respect of which a permit is in force; or

(ii) under section 40A for the grant of a licence in respect of a block or blocks in respect of which a lease is in force;

and

(b) before a decision has been made by the Minister under section 43(2A) in relation to the application,

a transfer of the permit or lease, as the case may be, is registered under section 78, then, after the time of the transfer sections 41 to 44 have effect in relation to the application as if any reference in those sections to the applicant were a reference to the transferee.

[Section 44A inserted: No. 28 of 1994 s. 94; amended: No. 42 of 2010 s. 100.]

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 such of the blocks specified in the application as are blocks as to which the Minister is satisfied as mentioned in section 43(2A)(b).

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(2) On and from the day on and from which a variation of a licence under this section has effect —

(a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and

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

[Section 45 amended: No. 12 of 1990 s. 180; No. 42 of 2010 s. 101.]

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.

(1a) Subject to subsection (2), where all applications made by a lessee under section 40A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.

(2) Where a permittee or lessee makes an application for a secondary licence —

(a) the permit or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and

(b) the determination has effect upon the making of the application.

(3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Minister shall, by instrument published in the *Gazette* —

(a) in a case where that block or those blocks constitutes or constitute that location, revoke the declaration made under section 37 in respect of that location; or

(b) in a case where that block or those blocks forms or form part of that location, revoke the declaration made under section 37 in respect of that location to the extent that it relates to that block or those blocks.

(4) Subsection (3) does not apply in relation to a block —

(a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or

(b) in respect of which a lease or licence is in force.

(5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 37 to the extent that it relates to the block or blocks that is or are not within the lease area.

(6) Where —

(a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and

(b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 38B(1)(c)(ii),

the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 37 in respect of that location.

(7) This section does not apply in relation to a permit if —

(a) the permit has been granted on the basis that an area (the ***relevant area***) is within the adjacent area; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceases to be within the adjacent area; and

(ii) falls within the offshore area;

and

(c) immediately before the change, the relevant area was a part of the permit area.

(8) For the purposes of subsection (7) —

(a) section 6A is to be disregarded; and

(b) it is immaterial whether the change occurred before, at or after the commencement day.

(9) In subsection (8)(b) —

commencement day means the day on which the *Petroleum Legislation Amendment Act 2017* section 42 comes into operation.

[Section 46 amended: No. 12 of 1990 s. 181; No. 7 of 2017 s. 42.]

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 or lease is surrendered, cancelled or determined as to a block —

(i) that, at the time of the surrender, cancellation or determination, was, or was included in, a location; and

(ii) in which, in the opinion of the Minister, there is petroleum;

or

(ba) a petroleum pool from which the petroleum has been recovered is within or extends to a block or blocks in respect of which no permit, lease or licence is in force,

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

(c) invite applications for the grant of a licence in respect of that block; and

(d) specify a period within which applications may be made.

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

(a) that an applicant is required to specify an amount that he would be prepared to pay in respect of the grant of a licence to him on his application; or

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

(3) Where the Minister, in an instrument under subsection (1), states that an applicant is required to specify a rate of royalty as mentioned in subsection (2)(b), the Minister may, in that instrument, state that an applicant on whose application he is prepared to grant a licence will also be required to pay to him, in respect of the grant of the licence to the applicant, the amount specified in that behalf in that instrument.

[(4), (5) deleted]

(6) An application under this section —

[(a) deleted]

(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) deleted]

(f) may set out any other matters that the applicant wishes the Minister to consider.

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

[Section 47 amended: No. 12 of 1990 s. 182; No. 11 of 1994 s. 9; No. 28 of 1994 s. 95; No. 42 of 2010 s. 102.]

48. Application fee etc.

(1) An application under section 47 shall be accompanied by —

(a) the prescribed fee; and

(b) a deposit —

(i) if the applicant has specified an amount that he would be prepared to pay in respect of the grant of a licence to him on the application, of 10% of that amount; or

(ii) if the Minister has in the instrument by which applications were invited stated an amount that the applicant will be required to pay in respect of the grant of a licence, of 10% of that amount.

(2) Where a licence is not granted on the application, the amount of the deposit shall, subject to subsection (3), be refunded to the applicant.

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

[Section 48 amended: No. 12 of 1990 s. 183; No. 42 of 2010 s. 103.]

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 one application has been made under that subsection in respect of the block specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform him that he is prepared to grant him 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 he does not reject all of the applications, may —

(a) if only one application remains unrejected, by instrument in writing served on the applicant; or

(b) if 2 or more applications remain unrejected, by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified in his application an

amount, or a rate of royalty, that he would be prepared to pay that is not less than the amount, or the rate of royalty, specified in the application of any other applicant whose application has not been rejected,

inform 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), (4) deleted]

(5) An instrument under any of the preceding provisions of this section shall contain —

(a) a summary of the conditions subject to which the licence is to be granted; 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 him; and

(c) a statement to the effect that the application will lapse —

(i) if the applicant does not make a request under subsection (6); or

(ii) in a case where the instrument contains a statement referred to in paragraph (b), if the applicant does not pay the balance of the amount referred to in that statement.

(6) An applicant on whom there has been served an instrument under any of the preceding provisions of this section may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows —

(a) by instrument in writing served on the Minister, request the Minister to grant to him the licence; and

(b) if the first-mentioned instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to the applicant, pay that balance.

(7) Where an applicant on whom there has been served an instrument under subsection (1) or (2) —

(a) has not made a request under subsection (6); or

(b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to the applicant, has not paid that balance,

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

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

[Section 49 amended: No. 12 of 1990 s. 184; No. 28 of 1994 s. 96; No. 42 of 2010 s. 104.]

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,

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

[Section 50 amended: No. 28 of 1994 s. 97; No. 42 of 2010 s. 105.]

51. Grant of licences in respect of individual blocks

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

licences in respect of the blocks the subject of the original licence in exchange for the original licence.

(2) An application under subsection (1) —

[(a) deleted]

(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 the prescribed fee.

[(3) deleted]

(4) Where a licensee has made an application under this section, the Minister shall grant to the licensee production licences for petroleum in accordance with the application.

(5) A licence granted on an application under this section —

(a) remains in force, subject to this Part, but notwithstanding section 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 on and from the day on which those licences come into force.

[Section 51 amended: No. 12 of 1990 s. 185; No. 28 of 1994 s. 98; No. 42 of 2010 s. 106.]

51A. Grant of licence as result of change to boundary of offshore area

(1) In this section —

section 17 block means —

(a) a block constituted as provided by section 17; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth licence concerned — the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth licence concerned — that part of the graticular section.

Note for this definition:

See also subsection (6).

(2) This section applies if —

(a) a Commonwealth licence has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceases to be within the offshore area; and

(ii) falls within the adjacent area;

and

(c) either —

(i) the conditions set out in subsection (3) are satisfied; or

(ii) the conditions set out in subsection (4) are satisfied;

and

(d) there are one or more section 17 blocks (the ***relevant section 17 blocks***) that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth licence immediately before the change; and

(ii) are in the adjacent area; and

(iii) are not the subject of a variation under section 103A.

(3) The conditions mentioned in subsection (2)(c)(i) are —

(a) one or more, but not all, of the section 17 blocks that were covered by the Commonwealth licence immediately before the change are in the relevant area; and

(b) the Commonwealth licence subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth licence immediately before the change and that are in the offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth licence.

(4) The conditions mentioned in subsection (2)(c)(ii) are —

(a) all of the section 17 blocks that were covered by the Commonwealth licence immediately before the change are in the relevant area; and

(b) the Commonwealth licence subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth licence immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth licence.

(5) The Minister is taken —

(a) to have granted the holder of the Commonwealth licence a licence over the relevant section 17 blocks; and

(b) to have done so immediately after the relevant time mentioned in whichever of subsection (3) or (4) is applicable.

Note for this subsection:

For the duration of the licence, see section 53(3).

(6) If, after the change to the boundary of the offshore area —

(a) a part of a section 17 block that was covered by the Commonwealth licence immediately before the change is in the offshore area; and

(b) the remaining part of the section 17 block is in the adjacent area,

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 17 block.

[Section 51A inserted: No. 7 of 2017 s. 43.]

52. Rights conferred by licence

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

(a) to recover petroleum in the licence area and to recover petroleum from the licence area in another area to which he has lawful access for that purpose; 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.

[Section 52 amended: No. 13 of 2005 s. 46(1).]

*[**52A**. Deleted: No. 52 of 1995 s. 39.]*

53. Term of licence

(1) Subject to this Part, a licence granted before the commencement of the *Petroleum and Energy Legislation Amendment Act 2010* section 107(3) remains in force —

(a) in the case of a licence granted otherwise than by way of renewal of a licence, for the period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on the later day; 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 or, if a later date is specified in the licence as being the day on which the licence is to come into force, on that later day; and

(c) in the case of a licence granted by way of the second renewal of a licence — indefinitely.

(2) Subject to this Part, a licence granted after the commencement of the *Petroleum and Energy Legislation Amendment Act 2010* section 107(3), other than a licence granted under section 51A, remains in force indefinitely.

(3) Subject to this Part, a licence granted under section 51A remains in force for the period of 21 years commencing on the day on which the licence is granted.

[Section 53 amended: No. 12 of 1990 s. 186; No. 42 of 2010 s. 107; No. 7 of 2017 s. 44.]

54A. Termination of licence if no operations for 5 years

(1) If a licence is in force under section 53(1)(c) or (2) and the licensee has not carried on any operations for the recovery of petroleum under the licence at any time during a continuous period of at least 5 years, the Minister may, by written notice served on the licensee, inform the licensee that the Minister proposes to terminate the licence after the end of the period of one month after the notice is served.

(2) At any time after the end of the period of one month after the notice referred to in subsection (1) is served on the licensee, the Minister may, by written notice served on the licensee, terminate the licence.

(3) In working out for the purposes of subsection (1) the duration of the period in which no operations for the recovery of petroleum were carried on under a licence, any period in which no such operations were carried on because of circumstances beyond the licensee's control is to be disregarded.

[Section 54A inserted: No. 42 of 2010 s. 108.]

54. Application for renewal of licence

(1) Subject to this section, a licensee under a licence to which section 53(1)(a) or (b) or (3) applies 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) deleted]

(b) subject to subsection (3), shall be made in an approved manner not less than 6 months before the day on which the licence ceases to be in force; 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 the prescribed fee.

(3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of the licence less than 6 months before, but not in any case after, the day on which the licence ceases to be in force.

(4) If —

(a) a licence under section 51A (the ***relevant licence***) is granted; and

(b) the Commonwealth licence that ceases to be in force, as mentioned in section 51A(3)(b) or (4)(b), was granted otherwise than by way of renewal,

an application must not be made for the renewal of the relevant licence if the Minister has previously granted a renewal of the licence.

(5) If —

(a) a licence under section 51A (the ***relevant licence***) is granted; and

(b) the Commonwealth licence that ceases to be in force, as mentioned in section 51A(3)(b) or (4)(b), was granted by way of renewal,

an application must not be made for the renewal of the relevant licence.

[Section 54 amended: No. 12 of 1990 s. 187; No. 42 of 2010 s. 109; No. 7 of 2017 s. 45.]

55. Grant or refusal of renewal of licence

(1) Where —

(a) an application for the renewal of a licence has been made under section 54; and

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

the Minister —

(c) shall if —

(i) the application is in respect of the first renewal of the licence; or

(ii) the application is in respect of a renewal of the licence other than the first renewal and operations for the recovery of petroleum have

been carried on in the licence area before the end of the period of 5 years before the application for the renewal was made;

or

(d) may in any other case,

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

(2) Where —

(a) an application for the renewal of a licence has been made under section 54; and

(b) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, but the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the licence,

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

(3) If any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4), by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.

(4) The Minister shall not, under subsection (3), refuse to grant the renewal of a licence unless —

(a) he has, by instrument in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the renewal of the licence; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument —

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;

and

(d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.

(5) Where an application has been made under section 54 in respect of a renewal other than the first renewal of the licence, the Minister may, by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.

[(6) deleted]

(7) An instrument under subsection (1) or (2) shall contain —

(a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse if the licensee does not make a request under subsection (8).

(8) A licensee on whom there has been served an instrument under subsection (1) or (2) may, within a period of one month after the date of service of the instrument on him, by instrument in writing served on the Minister, request the Minister to grant to him the renewal of the licence.

(9) Where a licensee on whom there has been served an instrument under subsection (1) or (2) has made a request under subsection (8) within the period referred to in subsection (8), the Minister shall grant to him the renewal of the licence.

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

(11) Where —

(a) an application for the renewal of a licence is made under section 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.

[Section 55 amended: No. 28 of 1994 s. 99; No. 42 of 2010 s. 110.]

56. Conditions of licence

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

(2) Subsection (1) does not apply to a licence granted under section 51A.

(3) The Minister may, by written notice given to the licensee, vary a licence granted under section 51A by imposing one or more conditions to which the licence is subject.

(4) A notice under subsection (3) may only be given within 14 days after the grant of the licence.

(5) A variation under subsection (3) takes effect on the day on which notice of the variation is given to the licensee.

[Section 56 amended: No. 7 of 2017 s. 46.]

*[**57.** Deleted: No. 12 of 1990 s. 188(1).]*

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, he may, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.

(2) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the recovery of petroleum in the licence area.

(3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that he thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Minister specifies in the instrument.

(4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area.

(5) Without limiting the matters that may be taken into account by the Minister in determining whether to give a direction under subsection (3) or (4), the Minister may take into account matters relating to the effects on State revenue of the proposed direction, but the Minister shall not give a direction under subsection (3) or (4) if the direction would require action to be taken that is contrary to good oil-field practice.

[Section 58 amended: No. 12 of 1990 s. 189.]

59. Unit development

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

(a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee and partly in 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 nothing in this subsection derogates from the operation of section 81(2).

(3) The Minister of his own motion or on application made to him in writing by —

(a) a licensee in whose licence area there is a part of a particular petroleum pool; or

(b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside the 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, by instrument in writing served on the licensee, to enter into an agreement in writing, within the period specified in the instrument, for or in relation to the unit development of the petroleum pool and to lodge an application in accordance with section 81 for approval of any dealing to which the agreement relates.

(4) Where —

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

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(b) a licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 81,

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

(5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Minister may, by instrument in writing served on the licensee, give to 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 he thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

(8) The Minister shall not give a direction under subsection (6) or (7) unless he has given to the licensee or licensees concerned an opportunity to confer with him concerning the proposed direction.

(9) Directions under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.

(10) In this section, ***dealing*** means a dealing to which section 81 applies.

(11) The Minister shall —

(aa) if a petroleum pool extends, or is reasonably believed by the Minister to extend, from the adjacent area into an area to which another written law relating to the exploitation of petroleum resources applies, consult with any other Minister concerned; or

(a) if a petroleum pool extends, or is reasonably believed by him to extend, from the adjacent area into lands to which the laws of another State or the Northern Territory relating to the exploitation of petroleum resources apply, or into the adjacent area of an adjoining State or the Northern Territory, consult with the appropriate authority of that State or 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 offshore area of a State (other than Western Australia) within the meaning of the Commonwealth Act, or the offshore area of the Northern Territory, within the meaning of that Act, consult with the Joint Authority, as defined in the Commonwealth Act section 7, in respect of that State or the Northern Territory concerning the exploitation of the petroleum pool; or

(c) if a petroleum pool extends, or is reasonably believed by the Minister to extend, from the adjacent area into the offshore area of Western Australia, consult with the Joint Authority concerning the exploitation of the petroleum pool; or

(d) if 2 or more of paragraphs (aa), (a), (b) and (c) apply, comply with each of those applicable 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 Minister, authority or Joint Authority required by that subsection to be consulted.

[Section 59 amended: No. 12 of 1990 s. 190; No. 42 of 2010 s. 111; No. 7 of 2017 s. 47.]

[59A, 59B. *Deleted: No. 42 of 2010 s. 113.]*

Division 4A — Infrastructure licences

[Heading inserted: No. 42 of 2010 s. 112.]

60A. Construction etc. of infrastructure facilities

A person shall not, in the adjacent area —

(a) begin or continue the construction, or the alteration or reconstruction, of any infrastructure facilities; or

(b) operate any infrastructure facilities,

except —

(c) under and in accordance with an infrastructure licence; or

(d) as otherwise permitted by this Part.

Penalty: a fine of $50 000 or imprisonment for 5 years, or both.

[Section 60A inserted: No. 42 of 2010 s. 112.]

60B. Application for infrastructure licence

(1) A person may apply to the Minister for the grant of an infrastructure licence.

(2) The application —

(a) shall be made in an approved manner; and

(b) shall be accompanied by particulars of the proposals of the applicant for the construction and operation of facilities at a place in the adjacent area, being a place described in the application; and

(c) may set out any other matters that the applicant wishes to be considered; and

(d) shall be accompanied by the prescribed fee.

(3) The Minister may, at any time, by written notice served on the applicant, require the applicant to give, within the period stated in the notice, further written information in connection with the application.

[Section 60B inserted: No. 42 of 2010 s. 112.]

60C. Notification as to grant of infrastructure licence

(1) If an application for the grant of an infrastructure licence has been made under section 60B and the applicant has given any further information as and when required by the Minister under section 60B(3), then, subject to section 60D, the Minister, by written notice served on the applicant, may inform the applicant that the Minister is prepared to grant to the applicant an infrastructure licence in respect of the place described in the application.

(2) A notice under subsection (1) shall —

(a) contain a summary of the conditions subject to which the infrastructure licence is to be granted; and

(b) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 60E(1) in respect of the infrastructure licence.

[Section 60C inserted: No. 42 of 2010 s. 112.]

60D. Notices to be given by Minister

(1) This section applies if the Minister is prepared to grant an infrastructure licence (the ***proposed infrastructure licence***) in respect of a place in a block that —

(a) is the subject of a permit, lease, licence, infrastructure licence, special prospecting authority or access authority; or

(b) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence,

of which the registered holder is a person other than the applicant.

(2) The Minister shall not inform the applicant under section 60C that the Minister is prepared to grant the proposed infrastructure licence unless the Minister —

(a) has, by written notice served on the registered holder referred to in subsection (1), given not less than one month's notice that the Minister is prepared to grant the proposed infrastructure licence; and

(b) has served a copy of the notice on such other persons (if any) as the Minister thinks fit; and

(c) has, in the notice —

(i) given particulars of the proposed infrastructure licence; and

(ii) specified a date, on or before which a person on whom the notice, or a copy of the notice, is served may, by writing served on the Minister, submit any matters that the person wishes the Minister to consider;

and

(d) has taken into account any matters so submitted on or before the specified date by a person on whom the first-mentioned notice, or a copy of it, has been served.

(3) Subsection (2) does not apply —

(a) in respect of the registered holder of a permit, lease, licence, infrastructure licence or pipeline licence if the registered holder has consented in writing to the grant of the proposed infrastructure licence; or

(b) in respect of the registered holder of a special prospecting authority or an access authority if —

(i) the registered holder has consented in writing to the grant of the proposed infrastructure licence; or

(ii) the special prospecting authority or access authority will expire before any construction or operation of facilities under the proposed infrastructure licence would occur.

[Section 60D inserted: No. 42 of 2010 s. 112.]

60E. Grant of infrastructure licence

(1) An applicant on whom a notice has been served under section 60C(1) may, by written notice served on the Minister, request the Minister to grant to the applicant the infrastructure licence referred to in the first-mentioned notice.

(2) The request must be made —

(a) before the end of the period of 3 months after the date of service of the notice on the applicant under section 60C(1); or

(b) if the Minister, on application in writing made to the Minister before the end of that period, allows a further period of not more than 3 months for the making of the request — before the end of that further period.

(3) If the applicant makes the request within the period applicable under subsection (2), the Minister shall grant to the applicant an infrastructure licence in respect of the place described in the application.

(4) If the applicant does not make the request within the period applicable under subsection (2), the application lapses at the end of that period.

[Section 60E inserted: No. 42 of 2010 s. 112.]

60F. Rights conferred by infrastructure licence

(1) An infrastructure licence, while it remains in force, authorises the infrastructure licensee, subject to this Act and in accordance with the conditions to which the infrastructure licence is subject, to construct and operate infrastructure facilities in the infrastructure area.

(2) To avoid doubt, the grant of an infrastructure licence is not a prerequisite to doing any thing that could be authorised to be done by a permit, lease, licence or pipeline licence.

[Section 60F inserted: No. 42 of 2010 s. 112.]

60G. Term of infrastructure licence

Subject to this Part, an infrastructure licence remains in force indefinitely.

[Section 60G inserted: No. 42 of 2010 s. 112.]

60H. Termination of infrastructure licence if no operations for 5 years

(1) If an infrastructure licensee —

(a) has not carried out any construction work under the infrastructure licence at any time during a continuous period of 5 years; and

(b) has not used the infrastructure facilities constructed under the infrastructure licence at any time during a continuous period of 5 years,

the Minister may, by written notice served on the infrastructure licensee, inform the infrastructure licensee that the Minister proposes to terminate the infrastructure licence after the end of the period of one month after the notice is served.

(2) At any time after the end of the period of one month after the notice referred to in subsection (1) is served on the infrastructure licensee, the Minister may, by written notice served on the infrastructure licensee, terminate the infrastructure licence.

(3) In working out, for the purposes of subsection (1), the duration of the period in which an infrastructure licensee did not carry out any construction work under the infrastructure licence or did not use the infrastructure facilities constructed under the infrastructure licence, any period in which construction work was not carried out, or the infrastructure facilities were not used, because of circumstances beyond the infrastructure licensee's control is to be disregarded.

[Section 60H inserted: No. 42 of 2010 s. 112.]

60I. Conditions of infrastructure licence

An infrastructure licence may be granted subject to such conditions as the Minister thinks fit and are specified in the infrastructure licence.

[Section 60I inserted: No. 42 of 2010 s. 112.]

60J. Variation of infrastructure licence

(1) An infrastructure licensee may, at any time, make an application to the Minister for the variation of the infrastructure licence.

(2) An application under this section —

(a) shall be made in the approved manner; and

(b) shall be accompanied by particulars of the proposed variation; and

(c) shall set out the reasons for the proposed variation; and

(d) shall be accompanied by the prescribed fee.

(3) The Minister may, at any time, by written notice served on the applicant, require the applicant to give, within the period stated in the notice, further written information in connection with the application.

(4) If the infrastructure licence was granted in respect of a place in a block that —

(a) is the subject of a permit, lease, licence, infrastructure licence, special prospecting authority or access authority; or

(b) is, or is proposed to be, transected by a pipeline in accordance with the provisions of a pipeline licence,

of which the registered holder is a person other than the applicant, the Minister shall not vary the infrastructure licence pursuant to the application unless the Minister —

(c) has, by written notice served on the registered holder, given not less than one month's notice that the Minister is considering the application; and

(d) has served a copy of the notice on such other persons (if any) as the Minister thinks fit; and

(e) has, in the notice —

(i) given particulars of the proposed variation; and

(ii) specified a date on or before which a person on whom the notice or a copy of the notice, is served may, by writing served on the Minister, submit any matters that the person wishes the Minister to consider.

(5) Subsection (4) does not apply —

(a) in respect of the registered holder of a permit, lease, licence, infrastructure licence or pipeline licence if the registered holder has consented in writing to the variation of the infrastructure licence; or

(b) in respect of the registered holder of a special prospecting authority or an access authority if —

(i) the registered holder has consented in writing to the variation of the infrastructure licence; or

(ii) the special prospecting authority or access authority will expire before any construction or operation of facilities under the infrastructure licence as proposed to be varied would occur.

(6) After considering any matters submitted to the Minister under subsection (4) on or before the date specified in the notice served under that subsection by a person to whom the notice, or a copy of the notice, has been served, the Minister may —

(a) by written notice served on the applicant, vary the infrastructure licence to such extent as the Minister thinks necessary; or

(b) refuse to vary the infrastructure licence.

[Section 60J inserted: No. 42 of 2010 s. 112.]

Division 4 — Pipeline licences

60K. Term used: adjacent area

(1) For the purposes of subsection (2), assume that the breadth of the territorial sea had never been determined or declared to be greater than 3 nautical miles, but had continued to be 3 nautical miles.

(2) In this Division —

adjacent area means so much of the scheduled area as consists of —

(a) the territorial sea; and

(b) any area that is —

(i) on the landward side of the territorial sea; and

(ii) not within the limits of Western Australia.

[Section 60K inserted: No. 42 of 2010 s. 113.]

60. Construction etc. of pipeline 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), (3) deleted]

(4) A person shall not, in the adjacent area, commence to operate a pipeline unless —

(a) it has been constructed and tested in accordance with a pipeline licence; and

(b) the Minister has certified in writing that he or she is satisfied that the pipeline 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, 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 he thinks sufficient, refuse to give a consent or certificate for the purposes of this section and, where he gives a consent, may attach conditions to it.

Penalty for an offence under subsection (1), (4) or (5): a fine of $50 000 or imprisonment for 5 years, or both.

[Section 60 amended: No. 42 of 2010 s. 114.]

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 in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline 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 him by the Minister;

or

(b) if a person does an act in compliance with a direction under this Act.

[Section 61 amended: No. 13 of 2005 s. 46(2); No. 42 of 2010 s. 115.]

62. Removal of pipeline etc. constructed in contravention of Act

(1) Where —

(a) the construction of a pipeline is commenced, continued or completed in contravention of this Act; or

(b) a pipeline is altered or reconstructed in contravention of this Act,

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

(c) to make such alterations to the pipeline as are specified in the instrument; or

(d) to move the pipeline 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 has been completed, the owner of the pipeline; or

(b) if the construction of the pipeline has not been completed, the person for whom the pipeline 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 him 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 direction to be done.

(4) Costs and expenses incurred by the Minister under subsection (3) are a debt due by the person referred to in that subsection to the State and are recoverable in a court of competent jurisdiction.

[Section 62 amended: No. 42 of 2010 s. 116.]

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. Applications for pipeline licence

(1) An application for a pipeline licence whether or not that licence is for the conveyance of petroleum recovered from an area within the adjacent area —

[(a) deleted]

(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 his 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 the prescribed fee.

(2) Where a notice is published in the *Gazette* —

(a) of an application by a person other than the licensee for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area; 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 the 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 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 this section, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

(5) In this section, ***pipeline operator under the Commonwealth Act or a corresponding law*** has the same meaning as in section 65.

[Section 64 amended: No. 12 of 1990 s. 192; No. 42 of 2010 s. 117.]

65. Grant or refusal of pipeline licence

(1) Where a person makes an application in accordance with section 64, the Minister —

(a) may, if that person is not the licensee and the application has not been rejected under section 64(3); or

(b) shall, if the application is by a pipeline operator under the Commonwealth Act or a corresponding law,

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 an application for a pipeline licence 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 is made in accordance with section 64 by the licensee, the Minister —

(a) shall, if the conditions to which the licence is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or

(b) may, if —

(i) any of the conditions to which the licence is, or has from time to time been, subject of any of the provisions of this Part and of the regulations has not been complied with; and

(ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of a pipeline licence,

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

(3) Where an application for a pipeline licence 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 is made in accordance with section 64 by the licensee, the Minister shall, if —

(a) any of the conditions to which the pipeline licence is, or has from time to time been, subject or any of the provisions of this Part and the regulations has not been complied with; and

(b) the Minister is not satisfied that special circumstances exist that justify the granting of the pipeline licence,

by instrument in writing served on the person who is then the licensee, refuse to grant the pipeline licence.

(4) The Minister shall not, under subsection (3), refuse to grant a pipeline licence to a licensee unless —

(a) he has, by instrument in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the pipeline licence; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument —

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider;

and

(d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.

(5) Where 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, the licence area of a production licence under the Commonwealth Act or a corresponding law, the Minister may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.

[(6) deleted]

(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).

(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.

(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 him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by instrument in writing served on the Minister, request the Minister to grant to him the pipeline licence.

(10) Where a person on whom there has been served an instrument under subsection (1) or (2) has made a request under subsection (9) 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) has not made a request under subsection (9) within the period applicable under subsection (9), the application lapses upon the expiration of that period.

[(12) deleted]

(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.

[Section 65 amended: No. 12 of 1990 s. 193; No. 28 of 1994 s. 100; No. 42 of 2010 s. 118.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

66. Rights conferred by pipeline licence

A pipeline licence, while it remains in force, authorises the pipeline licensee, subject to this Act 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.

[Section 66 amended: No. 13 of 2005 s. 46(1).]

*[**66A.** Deleted: No. 52 of 1995 s. 40.]*

67. Term of pipeline licence

(1) Subject to this Part, a pipeline licence remains in force indefinitely.

(2) A pipeline licence comes into force on the day on which the pipeline licence is granted or, if a later day is specified in the pipeline licence as being the day on which the pipeline licence is to come into force, on that later day.

[Section 67 amended: No. 12 of 1990 s. 194; No. 42 of 2010 s. 119.]

68. Termination of pipeline licence if no operations for 5 years

(1) If a pipeline licensee —

(a) has not carried out any construction work under the pipeline licence at any time during a continuous period of 5 years; and

(b) has not used the pipeline, or has not used a particular part of it, at any time during a continuous period of 5 years,

the Minister may, by written notice served on the pipeline licensee, inform the pipeline licensee that the Minister proposes to terminate the pipeline licence, or to terminate the pipeline licence in respect of the unused part of the pipeline, as the case may be, after the end of the period of one month after the notice is served.

(2) At any time after the end of the period of one month after the notice referred to in subsection (1) is served on the pipeline licensee, the Minister may, by written notice served on the pipeline licensee, terminate the pipeline licence or terminate the pipeline licence in respect of the unused part of the pipeline, as the case may be.

(3) In working out, for the purposes of subsection (1), the duration of the period in which a pipeline licensee did not carry out any construction work under the pipeline licence or did not use the pipeline or a part of the pipeline, any period in which construction work was not carried out, or the pipeline or the part of it was not used, because of circumstances beyond the pipeline licensee's control is to be disregarded.

[Section 68 inserted: No. 42 of 2010 s. 120.]

*[**69.** Deleted: No. 42 of 2010 s. 121.]*

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.

[Section 70 amended: No. 42 of 2010 s. 122.]

71. Variation of pipeline licence on application by 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) deleted]

(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 the prescribed fee.

(3) The Minister may, at any time, by instrument in writing served on a person who has made an application under this section require him to furnish, within the period specified in the instrument, further information in writing in connection with his 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 he wishes the Minister to consider in connection with the application.

(5) After considering any matters submitted to him under subsection (4) the Minister may, by instrument in writing, vary the pipeline licence to such extent as he thinks necessary or may refuse to vary the pipeline licence.

[Section 71 amended: No. 12 of 1990 s. 196; No. 42 of 2010 s. 123.]

72. Variation of pipeline licence by Minister

(1) The Minister may —

(a) at the request of —

(i) a Minister of the Crown of the 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 his 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 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.

Penalty: a fine of $50 000 or imprisonment for 5 years, or both.

(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, 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.

[Section 72 amended: No. 42 of 2010 s. 124 and 171.]

73. Common carrier

(1) 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.

(2) The Minister cannot give a direction under subsection (1) in respect of a pipeline if it is a Code pipeline as defined in the Gas Pipelines Access (Western Australia) Law [4].

(3) While a direction is in force under subsection (1) in respect of a pipeline it cannot become a Code pipeline for the purposes of the Gas Pipelines Access (Western Australia) Law [4].

[Section 73 amended: No. 65 of 1998 Sch. 3 cl. 37.]

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.

Penalty: a fine of $50 000 or imprisonment for 5 years, or both.

(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.

[Section 74 amended: No. 42 of 2010 s. 171.]

[Division 4A (s. 74A-74I) deleted: No. 52 of 1995 s. 41.]

Division 5 — Registration of instruments

74J. Term used: title

In this Division, ***title*** means a permit, lease, licence, infrastructure licence, pipeline licence or access authority.

[Section 74J inserted as 74A: No. 12 of 1990 s. 197; renumbered as section 74J: No. 21 of 1993 s. 45; amended: No. 42 of 2010 s. 125.]

75. Register of certain instruments to be kept

For the purposes of this Part, the Minister shall keep a register of titles and special prospecting authorities granted by him.

[Section 75 amended: No. 12 of 1990 s. 198.]

76. Particulars to be entered in register

(1) The Minister shall enter in the register a memorial in respect of each title or special prospecting authority —

(a) specifying the name of the holder of the title or special prospecting authority; and

(b) in the case of a permit, lease or licence, setting out an accurate description (including, where convenient, a map) of the permit area, lease area or licence area; and

(ca) in the case of an infrastructure licence, setting out the particulars of the infrastructure licence area; and

(c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient, a map) of the area in respect of which the special prospecting authority or access authority is in force; 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 title or special prospecting 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 title or special prospecting 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 title or special prospecting authority; and

(b) any instrument under section 59(5), (6) or (7); and

[(c) deleted]

(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 title, special prospecting authority or instrument in the register.

[(4) deleted]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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

[Section 76 amended: No. 12 of 1990 s. 199; No. 42 of 2010 s. 126.]

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

Where —

(a) a permit or lease ceases to be in force in respect of a block in respect of which a licence is granted; or

(aa) a permit ceases to be in force in respect of a block in respect of which a lease is granted; or

(b) a permit or lease has been wholly determined or partly determined; or

(c) a title or special prospecting authority has expired,

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

[Section 77 amended: No. 12 of 1990 s. 200.]

78. Approval and registration of transfers

(1) A transfer of a title is of no force until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.

(2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.

(3) An application for approval of a transfer of a title shall be accompanied by —

(a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee; and

(b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out —

(i) the technical qualifications of that transferee or those transferees; and

(ii) details of the technical advice that is or will be available to that transferee or those transferees; and

(iii) details of the financial resources that are or will be available to that transferee or those transferees;

and

(c) one copy of the application and of the instrument referred to in paragraph (a).

(4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.

(5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.

(6) The Minister shall consider each application for approval of the transfer of a title and determine whether to approve the transfer.

(7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister.

[(8) deleted]

(9) Where the Minister approves the transfer of a title, the Minister shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the fee provided by the Registration Fees Act, enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.

(10) Upon the entry in the register of a memorandum of the transfer of a title and of the name of the transferee or each transferee in accordance with subsection (9) —

(a) the transfer shall be deemed to be registered; and

(b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.

(11) Where the Minister refuses to approve the transfer of a title, the Minister shall make a notation of the refusal in the register.

(12) Where a transfer is registered —

(a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and

(b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.

(13) The mere execution of an instrument of transfer of a title creates no interest in the title.

[Section 78 inserted: No. 12 of 1990 s. 201; amended: No. 28 of 1994 s. 102.]

79. Entries in register on devolution of title

(1) A person upon whom the rights of a registered holder of a particular title have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the title.

(2) The Minister shall, if he is satisfied that the rights of the holder have devolved upon the applicant by operation of law and on payment of the prescribed fee enter the name of the applicant in the register as the holder of the title and, upon that entry being so made, the applicant becomes the registered holder of the title.

(3) Where a company that is the registered holder of a particular title has changed its name, it may apply in writing to the Minister to have its new name substituted for its previous name in the register in relation to that title and, if —

(a) the Minister is satisfied that the company has so changed its name; and

(b) the company has paid the prescribed fee,

the Minister shall make the necessary alterations in the register.

[Section 79 amended: No. 12 of 1990 s. 202.]

*[**80.** Deleted: No. 12 of 1990 s. 203.]*

81. Approval of dealings creating etc. interests etc. in existing titles

(1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects —

(a) the creation or assignment of an interest in an existing title;

(b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;

(c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under cooperative arrangements for the recovery of petroleum);

(d) the creation or assignment of —

(i) an interest in relation to an existing permit, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or

(ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorised by an existing permit, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;

(e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);

(f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);

(g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f),

but this section does not apply to a transfer to which section 78 applies.

(2) A dealing to which this section applies is of no force in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until —

(a) the dealing, in so far as it relates to that title, has been approved by the Minister; and

(b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12).

(3) A party to a dealing to which this section applies may lodge with the Minister —

(a) in a case where the dealing relates to only one title, an application in writing for approval by the Minister of the dealing; or

(b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each title to which the dealing relates.

(4) An application under subsection (3) for approval of a dealing —

(a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and

(b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.

(4a) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of —

(a) the application; and

(b) the instrument referred to in subsection (4)(a); and

(c) any instrument lodged for the purposes of subsection (4)(b).

(5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister, in special circumstances, allows.

(6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 81A(1), the Minister shall not approve the dealing unless —

(a) a provisional application for approval of the dealing was lodged in accordance with section 81A(1); or

(b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.

(7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.

(8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4)(a), and with subsection (4a) in so far as that subsection requires 2 copies of the document referred to in subsection (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with the Australian Securities and Investments Commission relating to the creation of that charge pursuant to section 263 of the *Corporations Act 2001* of the Commonwealth.

(9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.

(10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.

(11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(12) If the Minister approves a dealing, the Minister shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the fee provided by the Registration Fees Act, make an entry of the approval of the dealing in the register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.

(13) Where an entry is made in the register in relation to a dealing in accordance with subsection (12) —

(a) if the dealing was approved before the commencement of section 203 of the *Acts Amendment (Petroleum) Act 1990* or the application for approval of the dealing was not accompanied by an instrument for the purpose of subsection (4)(b), one copy of the instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and

(b) if the application for approval of the dealing was accompanied by an instrument for the purpose of subsection (4)(b), a copy of that instrument endorsed with a copy of the memorandum of approval of the dealing shall be retained by the Minister and made available for inspection in accordance with this Division but a copy of the instrument evidencing the dealing shall not be so made available; and

(c) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval and the instrument (if any) lodged for the purpose of subsection (4)(b) shall be returned to the person who made the application for approval.

(14) The approval of a dealing or the making of an entry in the register in relation to a dealing is not rendered ineffective by any failure to comply, in relation to the application for approval of the dealing, with the requirements of this section.

(15) Where the Minister refuses to approve a dealing, the Minister shall make a notation of the refusal in the register.

(16) In this section, ***charge*** and ***debenture*** have the same respective meanings as they have for the purposes of the *Corporations Act 2001* of the Commonwealth.

[Section 81 inserted: No. 12 of 1990 s. 203; amended: No. 73 of 1994 s. 4; No. 20 of 2003 s. 38.]

81A. Approval of dealings in future interests etc.

(1) Where 2 or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 81 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title, lodge with the Minister —

(a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or

(b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.

(2) Section 81(4), (7) and (8) applies to a provisional application lodged under subsection (1) as if that provisional application were an application lodged under section 81(3).

(3) Where —

(a) the title to which a dealing referred to in subsection (1) relates comes into existence; and

(b) upon that title coming into existence, the dealing becomes a dealing to which section 81 applies,

the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 81(3) on the day on which that title came into existence.

(4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period —

(a) commencing —

(i) in the case of a permit, lease, licence, infrastructure licence or pipeline licence, on the day of service of an instrument informing the

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

applicant for the permit, lease, licence, infrastructure licence or pipeline licence that the Minister is prepared to grant the permit, lease, licence, infrastructure licence or pipeline licence; or

(ii) in the case of an access authority, on the day on which the application for the grant of the access authority is made;

and

(b) ending on the day on which the title comes into existence.

[Section 81A inserted: No. 12 of 1990 s. 203; amended: No. 42 of 2010 s. 127.]

82. True consideration to be shown

(1) A person who is a party to a transfer referred to in section 78, a dealing to which section 81 applies or a dealing referred to in section 81A(1) shall not lodge with the Minister —

(a) an instrument of transfer; or

(b) an instrument evidencing the dealing; or

(c) an instrument of the kind referred to in section 81(4)(b),

that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing under the Registration Fees Act, being a statement that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: a fine of $10 000.

(2) Where a person is convicted of an offence against subsection (1), the Minister may make a fresh determination of the amount of the fee payable under the Registration Fees Act in respect of the memorandum relating to the transfer or dealing.

(3) Section 92 applies in relation to a determination under subsection (2) as it applies in relation to a determination under section 91.

[Section 82 amended: No. 12 of 1990 s. 204; No. 42 of 2010 s. 171.]

83. Minister not concerned with certain matters

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

[Section 83 amended: No. 12 of 1990 s. 205.]

84. Power of Minister to require information as to proposed dealings

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

(1a) The Minister may require a person who is a party to a dealing approved by the Minister under section 81 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.

(1b) The Minister may require a person making an application under section 79(1) or (3) or 87A(2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.

(1c) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1), (1a) or (lb).

Penalty: a fine of $5 000.

(2) A person who is so required to furnish information shall not knowingly furnish information that is false or misleading in a material particular.

Penalty: a fine of $5 000.

[Section 84 amended: No. 12 of 1990 s. 206; No. 28 of 1994 s. 103; No. 42 of 2010 s. 171.]

85. Production and inspection of documents

(1) The Minister may require any person to produce to him or to make available for inspection by him any documents in the possession or under the control of that person and relating to a transfer or dealing in relation to which approval is sought under this Division.

(1a) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an application made to the Minister under section 79(1) or (3) or 87A(2).

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

Penalty: a fine of $5 000.

[Section 85 amended: No. 12 of 1990 s. 207; No. 42 of 2010 s. 171.]

86. Inspection of register and documents

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

[(2) deleted]

[Section 86 amended: No. 12 of 1990 s. 208.]

87. Evidentiary provisions

(1) The register shall be received by all courts and tribunals as evidence of all matters required or authorised by this Division to be entered in the register.

(2) The Minister may, on payment of the prescribed fee, supply copies of or extracts from the register or of or from any instrument lodged with him under this Division certified by writing under his hand, and such a copy or extract so certified is admissible in evidence in all courts, tribunals and proceedings without further proof or production of the original.

(3) The Minister may, on payment of the prescribed fee, by instrument in writing under his hand certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts, tribunals and proceedings of the statements contained in the certificate.

[Section 87 amended: No. 12 of 1990 s. 209; No. 55 of 2004 s. 912.]

87A. Minister may make corrections to register

(1) The Minister may alter the register for the purposes of correcting a clerical error or an obvious defect in the register.

(2) Subject to subsection (3), the Minister may, on application being made in writing to the Minister by a person or of the Minister's own motion, make such entries in the register as the Minister considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to a title.

(3) Where the Minister proposes to make an entry in the register in accordance with subsection (2), the Minister shall cause to be published in the *Gazette* a notice —

(a) setting out the terms of the entry that the Minister proposes to make in the register; and

(b) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, submissions in writing relating to the making of the entry.

(4) Where submissions are, in accordance with a notice under subsection (3), given to the Minister in relation to the proposed making of an entry in the register, the Minister shall —

(a) take those submissions into account before making an entry in the register; and

(b) after making an entry in the register, cause to be published in the *Gazette* a notice setting out the terms of the entry.

[Section 87A inserted: No. 12 of 1990 s. 210.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

88. Application to State Administrative Tribunal for order

(1) 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,

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

(2) The Tribunal may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of an application under this section shall be given to the Minister, who may appear and be heard and shall appear if so directed by the Tribunal.

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

[Section 88 amended: No. 55 of 2004 s. 913.]

*[**89.** Deleted: No. 13 of 2005 s. 37.]*

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.

Penalty: a fine of $5 000.

[Section 90 amended: No. 42 of 2010 s. 171.]

91. Assessment of registration fee

The Minister may determine the amount of the fee payable under the Registration Fees Act in respect of any memorandum.

92. Review of Minister's determination

(1) A person dissatisfied with a determination of the Minister under section 91 may apply to the State Administrative Tribunal for a review of the determination.

[(2) deleted]

[Section 92 amended: No. 55 of 2004 s. 914.]

93. Exemption from duty

Duty under the *Duties Act 2008* shall not be chargeable —

(a) on a permit, lease, licence, infrastructure licence, pipeline licence or access authority; or

(b) on a transfer of a permit, lease, licence, infrastructure licence, pipeline licence or access authority to which section 78 applies; or

(c) on any other instrument in so far as it relates to a legal or equitable interest in or affecting a permit, lease, licence, infrastructure licence, pipeline licence or access authority.

[Section 93 amended: No. 12 of 1990 s. 211; No. 12 of 2008 Sch. 1 cl. 30; No. 42 of 2010 s. 128.]

Division 6 — General

94. Notice 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, lease, licence, infrastructure licence or pipeline licence; and

(b) the variation of a licence, infrastructure licence or pipeline licence; and

(c) the surrender or cancellation of a permit, lease or licence as to all or some of the blocks in the permit area, lease area or licence area; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(d) the surrender or cancellation of an infrastructure licence; and

(e) the determination of a permit or lease as to a block or blocks; and

(f) an application for a pipeline licence or for a variation of a pipeline licence; and

(g) the surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline; and

(h) the expiry of a permit, lease or licence, or the termination of a licence, infrastructure licence or pipeline licence,

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

[Section 94 inserted: No. 42 of 2010 s. 129.]

95. Date of effect of permits etc.

[(1) deleted]

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

(3A) The surrender or cancellation of an infrastructure licence has effect on and from 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 on and from the day on which notice of the surrender or cancellation is published in the *Gazette*.

(4) A variation of a licence, infrastructure licence or pipeline licence has effect on and from the day on which notice of the variation is published in the *Gazette*.

[Section 95 amended: No. 12 of 1990 s. 213; No. 42 of 2010 s. 130.]

96. Commencement of works

(1) Where a permit, lease, licence, infrastructure licence or pipeline licence is granted subject to a condition that works or operations specified in the permit, lease, licence, infrastructure licence or pipeline licence are to be carried out, the permittee, lessee, licensee, infrastructure 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, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force.

(2) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, lessee, licensee, infrastructure licensee or pipeline licensee —

(a) exempt him from compliance with the requirements of subsection (1); and

(b) direct him to commence to carry out the works or operations specified in the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, within such period after the day on which the permit, lease, licence, infrastructure licence or pipeline licence, as the case may be, comes into force as is specified in the instrument.

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

Penalty for an offence under subsection (1) or (3): a fine of $10 000.

[Section 96 amended: No. 12 of 1990 s. 214; No. 42 of 2010 s. 131.]

97. Work practices

(1) A permittee, lessee or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oil-field practice.

(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, lessee or licensee shall —

(a) control the flow and prevent the waste or escape in the permit area, lease area or licence area of petroleum or water; and

(b) prevent the escape in the permit area, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(c) prevent damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which the permit, lease or licence is not in force; and

(d) keep separate —

(i) each petroleum pool discovered in the permit area, lease area or licence area; and

(ii) such of the sources of water, if any, discovered in that area as the Minister, by instrument in writing served on that person, directs;

and

(e) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area or licence area except when required by, and in accordance with, good oil-field practice.

(3A) An infrastructure licensee shall carry out operations authorised by the infrastructure licence in a proper and workmanlike~~safe~~ manner and in accordance with good oil-field practice and good processing and transport practice.

(3B) In particular and without limiting the generality of subsection (3A), but subject to any authorisation or requirement given or made by or under this Act or regulations or directions under this Act, an infrastructure licensee shall control the flow, and prevent the waste or escape, from a facility constructed under the infrastructure licence, of water, petroleum or any product derived by processing petroleum.

(3) A pipeline licensee shall operate the pipeline in a proper and workmanlike manner.

(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 workmanlike manner and in accordance with good oil-field practice.

[(6) deleted]

(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 took all reasonable steps to comply with that provision.

Penalty for an offence under subsection (1), (2), (3A), (3B), (3), (4) or (5): a fine of $10 000.

[Section 97 amended: No. 12 of 1990 s. 215; No. 28 of 1994 s. 104; No. 13 of 2005 s. 38; No. 42 of 2010 s. 132; Work Health and Safety Bill 2019 cl. 338.]

97A. Conditions relating to insurance

(1) The registered holder of a permit, lease, licence, infrastructure licence or pipeline licence must maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, lease, licence, infrastructure licence or pipeline licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

(2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the registered holder maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

(3) When —

(a) a permit, lease, licence, infrastructure licence or pipeline licence was in force immediately before the commencement of section 105 of the *Acts Amendment (Petroleum) Act 1994*; and

(b) the Minister has required the registered holder to maintain insurance under subsection (1); and

(c) the Minister is satisfied that the required insurance is in effect,

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

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, lease, licence, infrastructure licence or pipeline licence, being a security that was required under this Act or under the *Acts Amendment (Petroleum) Act 1990* before the commencement of section 105 of the *Acts Amendment (Petroleum) Act 1994*, is discharged.

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

[Section 97A inserted: No. 28 of 1994 s. 105; amended: No. 42 of 2010 s. 133.]

98. Maintenance etc. of property

(1) In this section —

operations area —

(a) in relation to an operator who is a permittee, lessee or licensee, means the permit area, lease area or licence area as the case may be; and

(ba) in relation to an operator who is an infrastructure licensee, means the infrastructure licence area; 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;

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

(2) An operator shall maintain in good condition and repair all structures, equipment and other property in the operations area and used in connection with the operations in which he is engaged.

(3) An operator shall remove from the operations area all structures, equipment and other property that are not either used or to be used in connection with the operations in which he is engaged.

(4) Subsections (2) and (3) do not apply in relation to any structure, equipment or other property that was not brought into the operations area by or with the authority of the operator.

Penalty for an offence under subsection (2) or (3): a fine of $10 000.

[Section 98 amended: No. 12 of 1990 s. 216; No. 28 of 1994 s. 106; No. 42 of 2010 s. 134.]

99. Sections 97, 97A and 98 to have effect subject to this Act etc.

Sections 97, 97A 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.

[Section 99 amended: No. 28 of 1994 s. 107.]

*[**100.** Deleted: No. 42 of 2010 s. 135.]*

101. Directions

(1) The Minister may, by instrument in writing served on the registered holder of a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.

(2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to —

(a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons —

(i) servants or agents of, or persons acting on behalf of, the registered holder;

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

or

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(b) any person (not being a person to whom the direction applies in accordance with paragraph (a)) who is —

(i) in the adjacent area for any reason touching, concerning, arising out of or connected with exploring the seabed or subsoil of the adjacent area for petroleum, exploiting the petroleum that occurs as a natural resource of that seabed or subsoil, processing or storing petroleum or preparing petroleum for transport; or

(ii) in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of that kind,

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

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

Penalty: a fine of $5 000.

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

Penalty: a fine of $5 000.

(2c) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the Minister may, by notice in writing given to the registered holder, require the registered holder to cause to be displayed at such places in the adjacent area, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

Penalty: a fine of $5 000.

(3) The Minister shall not give a direction under subsection (1) 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 *Off-shore (Application of Laws) Act 1977* [5].

(6) Section 152(2a) and (2b) applies in relation to directions made under this section in like manner as that section applies to the regulations.

(7) A person who fails to comply with a direction in force under subsection (1) that applies to the person is guilty of an offence punishable, upon conviction, by a fine not exceeding $10 000.

(8) Where —

(a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (7) in relation to the direction; and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

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

[Section 101 amended: No. 12 of 1990 s. 218; No. 42 of 2010 s. 136 and 171.]

102. Compliance with directions

(1) Where a person does not comply with a direction given or applicable 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.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given or was applicable to the State and are recoverable in a court of competent jurisdiction.

(2a) Where —

(a) a direction given under section 101 applies to a permittee, lessee, licensee, infrastructure licensee, pipeline licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

(3) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Part or under the regulations, or a defendant in an action under subsection (2), proves that he took all reasonable steps to comply with the direction.

[Section 102 amended: No. 12 of 1990 s. 219; No. 42 of 2010 s. 137.]

103. Exemption from conditions

(1) Where —

(a) a permit, lease, licence, infrastructure 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, lease or 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, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force; 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, lease or licence, or an access authority as in force in respect of such a block is varied; or

(i) a permittee, lessee, licensee, infrastructure 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, lease, licence, infrastructure 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, lessee, licensee, infrastructure 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, lessee, licensee, infrastructure licensee, pipeline licensee or the holder of the special prospecting authority or access authority —

(k) vary or suspend; or

(l) exempt the permittee, lessee, licensee, infrastructure 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, lease, licence, infrastructure 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, lease, licence, infrastructure licence or pipeline licence.

(3) Notwithstanding subsection (2), where in pursuance of subsection (1) the Minister suspends, or exempts the permittee or lessee from compliance with, any of the conditions to which a permit or lease is subject, the Minister may, if he 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 or lessee, extend the term of the permit or lease by a period not exceeding the period of suspension or exemption.

[Section 103 amended: No. 12 of 1990 s. 220; No. 42 of 2010 s. 138.]

103A. Variation of petroleum title by including area as result of change to boundary of offshore area

(1) In this section —

Commonwealth title means —

(a) a Commonwealth permit; or

(b) a Commonwealth lease; or

(c) a Commonwealth licence;

fixed-term WA licence means a licence granted for a fixed period of years;

petroleum title means a permit, lease or licence;

section 17 block means —

(a) a block constituted as provided by section 17; or

(b) if a graticular section is wholly within the area that was covered by the Commonwealth title concerned — the graticular section; or

(c) if a part only of a graticular section is within the area that was covered by the Commonwealth title concerned — that part of the graticular section.

Note for this definition:

See also subsection (14).

(2) This section applies if —

(a) a Commonwealth title has been granted on the basis that an area (the ***relevant area***) is within the offshore area; and

(b) as a result of a change to the boundary of the offshore area, the relevant area —

(i) ceases to be within the offshore area; and

(ii) falls within the adjacent area;

and

(c) either —

(i) the conditions set out in subsection (3) are satisfied; or

(ii) the conditions set out in subsection (4) are satisfied;

and

(d) immediately before the relevant time mentioned in whichever of subsection (3) or (4) is applicable —

(i) the Commonwealth title was held by the registered holder of a petroleum title that corresponds to the Commonwealth title; and

(ii) at least one section 17 block covered by the petroleum title immediately adjoined at least one other section 17 block that was covered by the Commonwealth title and that is in the relevant area;

and

(e) before the relevant time mentioned in whichever of subsection (3) or (4) is applicable —

(i) the registered holder of the Commonwealth title; and

(ii) the registered holder of the petroleum title,

gave the Minister a written notice electing to accept the variation under this section of the petroleum title.

Note for this subsection:

For when a petroleum title corresponds to a Commonwealth title, see subsection (13).

(3) The conditions mentioned in subsection (2)(c)(i) are —

(a) one or more, but not all, of the section 17 blocks that were covered by the Commonwealth title immediately before the change are in the relevant area; and

(b) the Commonwealth title subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth title immediately before the change and that are in the offshore area; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth title.

(4) The conditions mentioned in subsection (2)(c)(ii) are —

(a) all of the section 17 blocks that were covered by the Commonwealth title immediately before the change are in the relevant area; and

(b) the Commonwealth title subsequently ceases to be in force at the same time (the ***relevant time***) —

(i) as to all of the section 17 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) otherwise than as the result of the cancellation or surrender of the Commonwealth title.

(5) If the conditions set out in subsection (2)(d) and (e) are met in relation to only one petroleum title, that petroleum title is the ***relevant petroleum title*** for the purposes of this section.

(6) If the conditions set out in subsection (2)(d) and (e) would, apart from this subsection, be met in relation to 2 or more petroleum titles that have the same registered holder, the Minister must, by written notice given to the registered holder, declare that one of those petroleum titles is the ***relevant petroleum title*** for the purposes of this section.

(7) If the relevant petroleum title is a permit —

(a) the Minister must, by written notice given to the permittee, vary the permit to include in the permit area all of the section 17 blocks that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the adjacent area;

and

(b) the section 17 blocks included in the permit area because of the variation are, for the remainder of the term of the permit, blocks in relation to which the permit is in force.

(8) If the relevant petroleum title is a lease —

(a) the Minister must, by written notice given to the lessee, vary the lease to include in the lease area all of the section 17 blocks that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the adjacent area;

and

(b) the section 17 blocks included in the lease area because of the variation are, for the remainder of the term of the lease, blocks in relation to which the lease is in force.

(9) If the relevant petroleum title is a licence —

(a) the Minister must, by written notice given to the licensee, vary the licence to include in the licence area all of the section 17 blocks that —

(i) correspond to the section 17 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the adjacent area;

and

(b) the section 17 blocks included in the licence area because of the variation are, for the remainder of the term of the licence, blocks in relation to which the licence is in force.

(10) Subsections (7)(b), (8)(b) and (9)(b) have effect subject to this Part.

(11) A variation mentioned in subsection (7)(a), (8)(a) or (9)(a) takes effect immediately after the relevant time mentioned in whichever of subsection (3) or (4) is applicable.

(12) For the purposes of this section, a section 17 block immediately adjoins another section 17 block if —

(a) the graticular section that constitutes or includes that section 17 block and the graticular section that constitutes or includes that other section 17 block —

(i) have a side in common; or

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(ii) are joined together at one point only;

or

(b) that section 17 block and that other section 17 block are in the same graticular section.

(13) For the purposes of this section —

(a) a permit granted otherwise than by way of renewal corresponds to a Commonwealth permit granted otherwise than by way of renewal; and

(b) a lease corresponds to a Commonwealth lease; and

(c) a fixed-term WA licence granted otherwise than by way of renewal corresponds to a Commonwealth licence granted otherwise than by way of renewal; and

(d) a permit granted by way of first renewal corresponds to a Commonwealth permit granted by way of first renewal; and

(e) a fixed-term WA licence granted by way of first renewal corresponds to a Commonwealth licence granted by way of first renewal; and

(f) a permit granted by way of second renewal corresponds to a Commonwealth permit granted by way of second renewal; and

(g) a fixed-term WA licence granted by way of second or subsequent renewal corresponds to a Commonwealth licence granted by way of second or subsequent renewal.

(14) If, after the change to the boundary of the offshore area —

(a) a part of a section 17 block that was covered by the Commonwealth title immediately before the change is in the offshore area; and

(b) the remaining part of the section 17 block is in the adjacent area,

then, for the purposes of this section (other than this subsection), each of those parts is taken to constitute, and to have always constituted, a section 17 block.

[Section 103A inserted: No. 7 of 2017 s. 48.]

104. Surrender of permits etc.

(1) The registered holder of an instrument, being a permit, lease, licence, infrastructure 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

(aaa) in the case of an infrastructure licence, as to the infrastructure licence area; or

(aa) in the case of a lease, as to all 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 consent to a surrender of an instrument under subsection (1) unless the registered holder —

(a) has paid all fees and amounts payable by him under this Act or the Registration Fees 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

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(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, lease, licence, infrastructure 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 consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(4) Where the Minister consents to an application under subsection (1), the applicant may, by instrument in writing served on the Minister, surrender the instrument accordingly.

(5) In this section, the ***area to which the surrender relates*** means —

(a) in relation to a surrender of a permit, lease or licence, the area constituted by the blocks as to which the permit, lease or licence is proposed to be surrendered; and

(ba) in relation to an infrastructure licence, the infrastructure area; 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.

[Section 104 amended: No. 12 of 1990 s. 221; No. 42 of 2010 s. 139.]

105. Cancellation of permits etc.

(1) Where a permittee, lessee, licensee, infrastructure licensee or pipeline licensee —

(a) has not complied with a condition to which the permit, lease, licence, infrastructure licence or pipeline licence is subject; or

(b) has not complied with a direction given to him 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 under this Act or the Registration Fees 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, lessee, licensee, infrastructure 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

(ea) in the case of a lease, cancel the lease as to all of the blocks in respect of which it is in force; or

(fa) in the case of an infrastructure licence, cancel the infrastructure licence; 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, cancel an infrastructure licence, or cancel a lease as to all of the block in respect of which it is in force, on a ground referred to in that subsection unless —

(a) he has, by instrument in writing served on the permittee, lessee, licensee, infrastructure licensee or pipeline licensee, as the case may be, given not less than one month's notice of his intention so to cancel the permit, lease, licence, infrastructure licence or pipeline licence on that ground; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument, specified a date on or before which the permittee, lessee, licensee, infrastructure 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 wishes the Minister to consider; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(d) he has taken into account —

(i) any action taken by the permittee, lessee, licensee, infrastructure 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 him on or before the specified date by the permittee, lessee, licensee, infrastructure licensee or pipeline licensee or by a person on whom a copy of the first-mentioned instrument has been served.

[Section 105 amended: No. 12 of 1990 s. 222; No. 42 of 2010 s. 140.]

106. Cancellation of permit etc. not affected by other provisions

(1) In this section —

cancelled —

(a) in the case of a permit or licence — includes cancelled as to some of the blocks in respect of which it is in force;

(b) in the case of a pipeline licence — includes cancelled as to part of the pipeline in respect of which it is in force;

this Act includes the Registration Fees Act;

this Part includes the regulations.

(2) A permit, licence, pipeline licence, lease or infrastructure licence may be cancelled on the ground that the registered holder has not complied with a provision of this Part or of the regulations even though the holder has been convicted of an offence because of the holder's failure to comply with the provision.

(3) If a permit, licence, pipeline licence, lease or infrastructure licence has been cancelled on the ground that the registered holder has not complied with a provision of this Part or of the regulations, the person who was or is the registered holder may be convicted of an offence because of the person's failure to comply with the provision despite the cancellation.

(4) A permit, licence, pipeline licence, lease or infrastructure licence may be cancelled on the ground that the registered holder has not paid an amount payable by the holder under this Act or the Registration Fees Act within the period of 3 months after the day on which the amount became payable, even though judgment for the amount has been obtained or the amount, or any part of the amount, has been paid or recovered.

(5) If a permit, licence, pipeline licence, lease or infrastructure licence has been cancelled on the ground that the registered holder has not paid an amount payable by the holder under this Act or the Registration Fees Act within the period of 3 months after the day on which the amount became payable, the person who was or is the registered holder continues to be liable to pay that amount, together with any additional amount payable because of late payment of that amount, despite the cancellation.

[Section 106 inserted: No. 42 of 2010 s. 141.]

107. Removal of property etc. by permittee etc.

(1) If —

(a) a permit has been wholly or partly determined or wholly or partly cancelled, or has expired; or

(b) a lease has been wholly or partly determined or wholly cancelled, or has expired; or

(c) a licence has been wholly or partly determined or wholly or partly cancelled, has been terminated or has expired; or

(d) an infrastructure licence has been cancelled or terminated; or

(e) a pipeline licence has been wholly or partly determined or wholly or partly cancelled, or has been terminated,

the Minister may, by written notice served on the person who was or is, as the case may be, the permittee, licensee, lessee, infrastructure licensee or pipeline licensee, direct the person to do any one or more of the following —

(f) to remove or cause to be removed from the relinquished area all property brought into the area by any person engaged or concerned in the operations authorised by the permit, lease, licence, infrastructure licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to the property;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(g) 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;

(h) 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;

(i) 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 written notice served on a person who is a permittee, lessee, licensee, infrastructure licensee or pipeline licensee, direct the person to do any one or more of the following —

(a) to remove or cause to be removed from the permit area, lease area, licence area, infrastructure licence area or part of the adjacent area in which the pipeline is constructed, as the case may be, all property brought into the area or part by any person engaged or concerned in the operations authorised by the permit, lease, licence, infrastructure licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to the 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, lease, licence or pipeline licence concerned.

Penalty for an offence under subsection (3): a fine of $10 000.

[Section 107 amended: No. 12 of 1990 s. 224; No. 42 of 2010 s. 142.]

108. Removal of property etc. by Minister

(1) This section applies if —

(a) a permit has been wholly or partly determined or wholly or partly cancelled, or has expired; or

(b) a lease has been wholly or partly determined or wholly cancelled, or has expired; or

(c) a licence has been wholly or partly determined or wholly or partly cancelled, has been terminated or has expired; or

(d) an infrastructure licence has been cancelled or terminated; or

(e) a pipeline licence has been wholly or partly determined or wholly or partly cancelled, or has been terminated.

(2) If 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, lease, licence, infrastructure 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.

[Section 108 inserted: No. 42 of 2010 s. 143.]

*[**109, 110.** Deleted: No. 42 of 2010 s. 144.]*

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

111. Special prospecting authorities

(1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.

(2) An application under this section —

[(a) deleted]

(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; and

(d) shall be accompanied by the prescribed fee.

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

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

(6b) Where —

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

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

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

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

(d) the conditions to which the special prospecting authority granted to the other person is subject.

(7) A special prospecting authority —

(a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and

(b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by instrument in writing served on the holder.

(8) Where a special prospecting authority has been surrendered or cancelled, or has expired, the Minister may, by instrument in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things —

(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property; and

(b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and

(c) to make good, to the satisfaction of the Minister, any damage to the 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.

Penalty: a fine of $10 000.

(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).

[Section 111 amended: No. 12 of 1990 s. 226; No. 13 of 2005 s. 46(1); No. 42 of 2010 s. 145 and 171.]

112. Access authorities

(1) A permittee, lessee, licensee or holder of a special prospecting authority may make an application to the Minister for the grant of an access authority to enable him to carry on in an area, being part of the adjacent area that is not part of the permit area, lease area or licence area or area of the blocks specified in the special prospecting authority, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, lease area or licence area or area of the blocks so specified.

(1a) A holder of a petroleum title outside the adjacent area may make an application to the Minister for the grant of an access authority to enable the holder to carry on, in a part of the adjacent area, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that petroleum title relates.

(2) An application under this section —

[(a) deleted]

(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 he is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper performance of the duties, of a permittee, lessee, licensee or holder of a special prospecting authority or a

petroleum title who has made an application under this section, grant to him an access authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and

(b) at any time, by instrument in writing served on the registered holder of an access authority so granted, vary the access authority.

(4) Subject to subsection (5A), 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, lease, licence or special prospecting authority 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, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority, unless —

(a) he has, by instrument in writing served on that person, given not less than one month's notice of his intention to grant or vary, as the case may be, the access authority; and

(b) he has served a copy of the instrument —

(i) on such other persons, if any, as he thinks fit; and

(ii) in a case where he intends to vary an access authority, on the registered holder of the access authority;

and

(c) he has, in the instrument —

(i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and

(ii) specified a date on or before which a person on whom the instrument, or a copy of the instrument, is served may, by instrument in writing served on the Minister submit any matters that he wishes the Minister to consider;

and

(d) he has taken into account any matters so submitted to him on or before the specified date by a person on whom the first-mentioned instrument, or a copy of that instrument, has been served.

(5A) Subsection (4) does not apply if the holder of the permit, lease, licence or special prospecting authority has consented in writing to the grant of the access authority.

(5) An access authority, while it remains in force, authorises the holder, subject to this Act and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.

(6) Nothing in an access authority authorises the holder to make a well other than a deviation well into an adjacent permit area, lease area or licence area held by him under this Act or the *Petroleum and Geothermal Energy Resources Act 1967*.

(7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Minister for a further 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, lease area or licence area operations may be carried on in pursuance of the access authority.

(9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by instrument in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things —

(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorised by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property; and

(b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and

(c) to make good, to the satisfaction of the Minister, any damage to the 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.

Penalty: a fine of $10 000.

(11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit, lease or licence of which he is not the registered holder, furnish to the registered holder of that permit, lease or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations (not being operations related to the recovery of petroleum by means of a deviation well referred to in subsection (6)) carried on in that block during that month and a summary of the facts ascertained from those operations.

Penalty: a fine of $5 000.

(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).

(13) In this section, ***petroleum title*** means an authority, however described, under the *Petroleum and Geothermal Energy Resources Act 1967* or a law of the Commonwealth, of another State or of the Northern Territory, to explore for, or to recover, petroleum.

[Section 112 amended: No. 12 of 1990 s. 227; No. 28 of 1994 s. 108; No. 13 of 2005 s. 46(1); No. 35 of 2007 s. 104(2); No. 42 of 2010 s. 146 and 171.]

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 he thinks fit, all or any of that property from the relinquished area concerned; and

(b) dispose of, in such manner as he thinks fit, all or any of that property; and

(c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any of that property that belongs, or that he believes to belong, to that person.

(2) The Minister may deduct from the proceeds of a sale under subsection (1) of property that belongs, or that he believes to belong, to a particular person —

(a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property; and

(b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 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 or the Registration Fees 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, lessee, licensee, infrastructure 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.

[Section 113 amended: No. 12 of 1990 s. 228; No. 42 of 2010 s. 147.]

*[**114.** Deleted: No. 28 of 1994 s. 109.]*

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, operations relating to the processing or storage of petroleum or the preparation of petroleum for transport or operations connected with the construction or operation of a pipeline in the adjacent area, he may, by instrument in writing served on that person, require that person —

(a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information; or

(b) to attend before him, or a person specified in the instrument, at such time and place as is so specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are so specified.

(2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty.

(3) However, any information furnished, answer given or document produced pursuant to the requirement, and any information or thing (including any document) obtained as a direct or indirect consequence of the furnishing of the information, the answering of the question or the production of the document, as the case may be, is not admissible in evidence against the person in any civil proceedings or in any criminal proceedings other than proceedings for an offence against section 117.

[Section 115 amended: No. 42 of 2010 s. 148.]

116. Power to examine on oath

(1) The Minister or an inspector may administer an oath to a person required to attend before him in pursuance of section 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 take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.

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

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 he is capable of complying with it; or

(b) in purported compliance with such a requirement, furnish information that is to his 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 his knowledge false or misleading in a material particular.

Penalty: a fine of $10 000.

[Section 117 amended: No. 42 of 2010 s. 171.]

*[**118.** Deleted: No. 42 of 2010 s. 149.]*

119. Exclusion zones~~Safety zones~~

(1) For the purpose 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 (in this section called an ***exclusion***~~a safety~~ ***zone***) surrounding the well, structure or equipment without the consent in writing of the Minister.

(2) An exclusion~~A safety~~ zone specified in an instrument under subsection (1) may extend to a distance of 500 m 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 an exclusion~~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 fine not exceeding $100 000 or imprisonment for a term not exceeding 10 years, or both.

[Section 119 amended: Work Health and Safety Bill 2019 cl. 339.]

120. Discovery of water

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

Penalty: a fine of $10 000.

[Section 120 amended: No. 12 of 1990 s. 231; No. 42 of 2010 s. 171.]

*[**121.** Deleted: No. 42 of 2010 s. 150.]*

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, lease, licence, infrastructure licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 123, direct that person to do any one or more of the following things —

(a) to keep such accounts, records and other documents in connection with those operations as are specified in the instrument; and

(b) to collect and retain such cores, cuttings and samples in connection with those operations as are so specified; and

(c) to furnish to the Minister, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are so specified.

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

Penalty for an offence under subsection (2): a fine of $10 000.

[Section 122 amended: No. 12 of 1990 s. 233; No. 42 of 2010 s. 151.]

123A. Data management: regulations

(1) The regulations may make provision for and in relation to —

(a) the keeping of accounts, records and other documents in connection with operations in the adjacent area under —

(i) a permit; or

(ii) a lease; or

(iii) a licence; or

(iv) an infrastructure licence; or

(v) a pipeline licence; or

(vi) a special prospecting authority; or

(vii) an access authority; or

(viii) a consent under section 123;

and

(b) the collection and retention of cores, cuttings and samples in connection with those operations; and

(c) the giving to the Minister, or a specified person, of reports, returns, other documents, cores, cuttings and samples in connection with those operations.

(2) A requirement under section 122 is in addition to a requirement under regulations made for the purposes of this section.

[Section 123A inserted: No. 42 of 2010 s. 152.]

123. Scientific investigation

(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 subsection (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, lease, licence, infrastructure licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 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; or

(e) the enjoyment of native title rights and interests (within the meaning of the *Native Title Act 1993* of the Commonwealth),

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

Penalty: a fine of $10 000.

[Section 124 amended: No. 12 of 1990 s. 234; No. 17 of 1999 s. 29; No. 42 of 2010 s. 153 and 171.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

124A. Liability for payment of compensation to native title holders

(1) If compensation is payable to native title holders for or in respect of the grant of an authorisation, the person liable to pay the compensation is —

(a) if an amount is to be paid and held in trust, the applicant for the grant of, or the holder of, the authorisation at the time the amount is required to be paid; or

(b) otherwise, the applicant for the grant of, or the holder of, the authorisation at the time a determination of compensation is made.

(2) If, at the relevant time, there is no holder of the authorisation because the authorisation has been surrendered or cancelled or has expired, a reference in subsection (1) to the holder of the authorisation is a reference to the holder of the authorisation immediately before its surrender, cancellation or expiry.

(3) In this section —

authorisation means a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority;

native title holders has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

[Section 124A inserted: No. 61 of 1998 s. 18; amended: No. 42 of 2010 s. 154.]

124B. Interfering with offshore petroleum installation or operation

(1) A person must not intentionally or recklessly —

(a) cause damage to, or interfere with, any structure or vessel in the adjacent area that is, or is to be, used in an offshore petroleum operation; or

(b) interfere with any offshore petroleum operation.

Penalty: imprisonment for 10 years.

(2) In this section —

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

[Section 124B inserted: No. 13 of 2005 s. 39.]

125. Inspectors

(1) The Minister may, by instrument in writing, appoint a person to be an inspector for such or all of the purposes of this Act as are specified in the instrument of appointment.

(2) The Minister may furnish to an inspector a certificate stating that the person is an inspector for the purposes specified in the certificate.

(3) Where the appointment of a person under this section expires or is revoked, that person shall forthwith surrender the certificate furnished to him under this section to the Minister or if the Minister, by instrument in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Penalty for an offence under subsection (3): a fine of $500.

[Section 125 amended: No. 32 of 1994 s. 19; No. 13 of 2005 s. 40; No. 42 of 2010 s. 155; No. 57 of 2011 s. 5.]

126. Powers of inspectors

(1) For the purposes of this Act, an inspector, at all reasonable times and on production of the certificate furnished to him 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 his opinion, has been, is being or is to be used in connection with any of the following operations in that area —

(i) petroleum exploration operations;

(ii) petroleum recovery operations;

(iii) operations relating to the processing or storage of petroleum;

(iv) operations relating to the preparation of petroleum for transport;

(v) operations connected with the construction or operation of a pipeline;

and

(b) may inspect and test any equipment that, in his opinion, has been, is being or is to be used in that area in connection with any of those operations; and

(c) may enter any structure, ship, aircraft, building or place in that area or in the State, in which, in his opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.

(2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any ship, aircraft or equipment referred to in subsection (1), shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.

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

Penalty: a fine of $5 000.

(4) In this section and in section 125 ***this Act*** includes the Registration Fees Act.

[Section 126 amended: No. 13 of 2005 s. 41; No. 42 of 2010 s. 156 and 171; No. 57 of 2011 s. 6.]

126A. Protection from liability for wrongdoing

(1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.

(2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.

(3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done anything as described in that subsection.

(4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

[Section 126A inserted: No. 13 of 2005 s. 42.]

127. Property in petroleum

Subject to this Act, if petroleum is recovered by a permittee, lessee or licensee in the permit area, lease area or licence area —

(a) the petroleum becomes the property of the permittee, lessee or licensee; and

(b) it is not subject to any rights of other persons (other than any person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).

[Section 127 inserted: No. 17 of 1999 s. 30.]

128. Suspension of rights conferred by permit

(1) Where the Minister is satisfied that it is necessary to do so in the public interest, he 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 of the State shall, not later than the last day of each month of the year, pay to the Commonwealth amounts ascertained in accordance with the formula —

$$\frac{4\,A}{B}$$

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, lessee or licensee in respect of petroleum recovered in the adjacent area under the permit, lease or licence and received by the Minister during the preceding month;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

and

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

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

[Section 129 amended: No. 12 of 1990 s. 236; No. 6 of 1993 s. 11; No. 77 of 2006 s. 4.]

130. Determination to be disregarded in certain cases

Where a determination has been made by the Minister under section 144 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 his failure to comply, within the period specified in a direction given to him under this Act, 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 his failure to comply with a requirement made by this Act, 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 $10 000.

[Section 131 amended: No. 13 of 2005 s. 46(2).]

132. Persons concerned in commission of offences

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

[Section 132 amended: No. 13 of 2005 s. 46(2).]

133. Crimes and other offences

(1) If the penalty provided for an offence under this Act is or includes imprisonment, the offence is a crime.

(2) Summary conviction penalty: for an offence referred to in subsection (1) — imprisonment for 2 years or a fine of $10 000 or both.

(3) Unless the contrary intention appears, an offence under this Act, other than a crime, is punishable summarily.

[Section 133 inserted: No. 4 of 2004 s. 58.]

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, 60A or 60 the Court may, in addition to imposing a penalty, make one 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; and

(b) an order for the forfeiture of specified equipment used in the commission of the offence; and

(c) an order —

(i) for the forfeiture of specified petroleum recovered, 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 well-head, 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) cannot, for any reason, be enforced, the Court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in 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.

[Section 134 amended: No. 42 of 2010 s. 157.]

135. Disposal of goods

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

[Section 135 amended: No. 57 of 1997 s. 94.]

136. Time for bringing proceedings for offences

Proceedings in respect of an offence against this Act may be brought at any time.

[Section 136 amended: No. 13 of 2005 s. 46(2).]

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.

137A. Evidentiary matters

(1) In a proceeding for an offence against this Act an averment in the charge of the offence that at a particular time —

(a) a particular operation was an offshore petroleum operation;

(b) a particular vessel or structure was a facility;

(c) a particular person was the operator of a facility;

(d) a particular person was in control of a particular part of a facility, or of any particular work carried out at a facility;

(e) a particular person was an employer who carried on an activity at a facility;

(f) a particular person was an employer of a particular person or particular persons who worked at a facility;

(g) a particular person was an employee or inspector,

is to be taken to have been proved in the absence of evidence to the contrary.

(2) In a proceeding for an offence against this Act, proof is not required as to any of the following matters, unless evidence is given to the contrary —

(a) a delegation under section 16 by the Minister of a power, function or duty;

(b) the authority of any person to institute a proceeding for an offence against this Act.

~~(b) the authority of any person to institute a proceeding for an offence against this Act other than an offence against a listed OSH law;~~

~~(c) the authority of an inspector to institute a proceeding for an offence against a listed OSH law.~~

(3) In a proceeding for an offence against this Act, production of a copy of —

(a) a code of practice; or

(b) an Australian Standard; or

(c) an Australian/New Zealand Standard,

purporting to be certified by the CEO to be a true copy as at any date or during any period is, without proof of the signature of the CEO, sufficient evidence of the contents of the code of practice or Standard as at that date or during that period.

(4) In subsection (3) —

Australian Standard means a document having that title published by Standards Australia;

Australian/New Zealand Standard means a document having that title jointly published by Standards Australia and the Standards Council of New Zealand;

CEO means the chief executive officer of the department of the Public Service principally assisting in the administration of this Act.

[Section 137A inserted: No. 13 of 2005 s. 43; amended: No. 57 of 2011 s. 7; No. 17 of 2014 s. 7; Work Health and Safety Bill 2019 cl. 340.]

138. Service

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

(a) by delivering the document to that person personally; or

(b) by prepaying and posting the document as a letter addressed to that person at his last known place of residence or business or, if he is carrying on business at 2 or more places, at one of those places; or

(c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently not less than 16 years of age; or

(d) by leaving the document at the last known place of business of that person, or if he is carrying on business at 2 or more places, at one of those places, with some person apparently in the service of that person and apparently not less than 16 years of age.

(2) A document required or permitted by this Act to be served on the Minister shall be served —

(a) by prepaying and posting the document as a letter addressed to the Minister at a place of business of the Minister; or

(b) by leaving it at a place of business of the Minister with some person apparently employed in connection with the business of the Minister and apparently not less than 16 years of age.

(3) A document required by this Act to be served upon a person, being a corporation, shall be served —

(a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at 2 or more places, at one of those places; or

(b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.

138A. Service of documents on 2 or more permittees etc.

(1) Where there are 2 or more registered holders of a title or special prospecting authority, those registered holders shall, by notice in writing signed by each of them and served on the Minister, nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.

(2) Subject to subsections (3) and (4), where —

(a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder; and

(b) there are 2 or more registered holders of the title or special prospecting authority; and

(c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the title or special prospecting authority,

the document shall be deemed to have been served on each of those registered holders.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(3) Where —

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and

(b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination,

that nomination ceases to be in force and the registered holders of the title or special prospecting authority shall forthwith make a fresh nomination under subsection (1) in relation to the title or special prospecting authority.

(4) Where —

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and

(b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority,

that nomination ceases to be in force and, if 2 or more registered holders of the title or special prospecting authority remain, those holders shall forthwith make a fresh nomination under subsection (1) in relation to the title or special prospecting authority.

(5) In this section, ***title*** means a permit, lease, licence, infrastructure licence, pipeline licence or access authority.

[Section 138A inserted: No. 12 of 1990 s. 237; amended: No. 42 of 2010 s. 158.]

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) the prescribed minimum fee; or

(b) a fee calculated at the prescribed rate for each of the blocks to which the permit relates at the commencement of that year,

whichever is the greater.

[Section 139 amended: No. 12 of 1990 s. 238.]

139A. Lease fees

There is payable to the Minister by a lessee, in respect of each year of the term of the lease, a fee calculated at the prescribed rate for each of the blocks to which the lease relates at the commencement of that year.

[Section 139A inserted: No. 12 of 1990 s. 239.]

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 prescribed rate for each of the blocks to which the licence relates at the commencement of that year.

[Section 140 amended: No. 12 of 1990 s. 240.]

141A. Infrastructure licence fees

There is payable to the Minister by an infrastructure licensee, in respect of each year of the term of the infrastructure licence, a fee specified in, or calculated in accordance with, the regulations.

[Section 141A inserted: No. 42 of 2010 s. 159.]

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 prescribed fee in respect of each kilometre or portion of a kilometre of the length of the pipeline at the commencement of that year.

[Section 141 amended: No. 12 of 1990 s. 241.]

142. Time of payment of fees

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

(a) in the case of the first year of the term of the permit, lease, licence, infrastructure 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, lease, licence, infrastructure licence or pipeline licence other than the first, the anniversary of that day.

[Section 142 amended: No. 12 of 1990 s. 242; No. 42 of 2010 s. 160.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

143. Royalty

(1) A permittee, lessee 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, lessee or licensee in the permit area, lease area or licence area.

(2) Subject to the succeeding provisions of this section and the provisions of section 144, the prescribed rate in respect of petroleum recovered under a permit, lease or licence is 10% of the royalty value 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 if the licence so granted were the continuation in force of the previous licence.

(8) A reference in this section or in a permit, lease 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.

[Section 143 amended: No. 12 of 1990 s. 243; No. 11 of 1994 s. 9.]

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 reduced 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, lessee or licensee, as approved by the Minister, for the purposes of petroleum exploration operations or operations for the recovery of petroleum; and

(c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(2) Where petroleum that has been recovered by a permittee, lessee or licensee is, with the approval of the Minister, returned to a natural reservoir, royalty under this Act is not payable in respect of that petroleum by reason of that recovery but this subsection does not affect the liability of that or any other permittee, lessee or licensee to pay royalty in respect of petroleum that is recovered from that natural reservoir.

(3) Where petroleum that has been recovered by a permittee, lessee or licensee is, pursuant to an agreement under section 67(2)(a) of the *Petroleum and Geothermal Energy Resources Act 1967*, injected into a natural reservoir for the purpose of storage and subsequent recovery, royalty under this Act is not payable in respect of that petroleum by reason of the initial recovery except as provided under that agreement.

[Section 145 amended: No. 12 of 1990 s. 244; No. 28 of 1994 s. 111; No. 35 of 2007 s. 104(3).]

145A. Royalty value

(1) For the purposes of this Act (but subject to subsection (2)) the royalty value of any petroleum is its value at the well-head as agreed or determined under section 147.

(2) If, in relation to petroleum recovered on or after 1 March 1994, the value at the well-head of that petroleum as agreed or determined under section 147 is calculated in a way that provides for a reduction, discount, deduction or allowance to be made for federal duty that has been paid, is payable or may become payable, the royalty value of that petroleum is the sum of —

(a) its value at the well-head as so calculated; and

(b) the amount of that reduction, discount, deduction or allowance.

(3) In subsection (2) ***federal duty*** means excise duty, or any other tax, duty, fee, levy or charge (except a tax, duty, fee, levy or charge of a kind excluded from this definition by the regulations) imposed by or under a law of the Commonwealth.

[Section 145A inserted: No. 11 of 1994 s. 10.]

146. Ascertainment of well-head

For the purposes of this Act, the well-head, in relation to any petroleum, is such valve station as is agreed between the permittee, lessee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such valve station as is determined by the Minister as being that well-head.

[Section 146 amended: No. 12 of 1990 s. 245.]

147. Ascertainment of value

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

[Section 147 amended: No. 12 of 1990 s. 246.]

148. Ascertainment of quantity of petroleum recovered

For the purposes of this Act, the quantity of petroleum recovered by a permittee, lessee 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 well-head or at such other place as the Minister approves; or

(b) where no such measuring device is so installed, or the Minister is not satisfied that the quantity of petroleum recovered by the permittee, lessee 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, lessee or licensee from that well during that period.

[Section 148 amended: No. 12 of 1990 s. 247.]

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.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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, lessee, licensee, infrastructure licensee or pipeline licensee an additional amount calculated at the rate of one-third 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.

[Section 150 amended: No. 12 of 1990 s. 248; No. 42 of 2010 s. 161.]

151. Fees, royalties and penalties debts due to the State

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

[Section 151 amended: No. 12 of 1990 s. 249; No. 42 of 2010 s. 162.]

Part IIIA — Occupational safety and health

[Heading inserted: No. 13 of 2005 s. 44.]

[Heading deleted: No. 57 of 2011 s. 8.]

*[**151A.** Deleted: No. 57 of 2011 s. 9.]*

151B. **Occupational safety and health (Sch. 5)**

Schedule 5 has effect.

[Section 151B inserted: No. 13 of 2005 s. 44.]

*[**151C.** Deleted: No. 57 of 2011 s. 10.]*

151D. Regulations relating to occupational safety and health

(1) The regulations may make provision in relation to the occupational safety and health of persons at or near a facility who are under the control of a person who is carrying on an offshore petroleum operation.

(2) Without limiting subsection (1), regulations for the purpose of that subsection may —

(a) require a person who is carrying on an offshore petroleum operation to establish and maintain a system of management to secure the occupational safety and health of persons referred to in that subsection; and

(b) specify requirements with which the system must comply.

[Section 151D inserted: No. 13 of 2005 s. 44.]

[Heading deleted: No. 57 of 2011 s. 11.]

151E. **Minister's occupational safety and health functions**

(1) The Minister has the following functions —

[(a) deleted]

(b) to promote the occupational safety and health 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 safety and health obligations under this Act;

~~(d) to investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational safety and health of persons engaged in offshore petroleum operations;~~

~~(e) to advise persons, either on the Minister's own initiative or on request, on occupational safety and health matters relating to offshore petroleum operations.~~

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

~~(2) The Minister has power to do all things necessary or convenient to be done for or in connection with the performance of the Minister's functions.~~

~~*[Section 151E inserted: No. 13 of 2005 s. 44; amended: No. 57 of 2011 s. 12.]*~~

~~*[**151F, 151G.** Deleted: No. 57 of 2011 s. 13.]*~~

~~*[Divisions 3-5 (s. 151H-151Q) deleted: No. 57 of 2011 s. 14.]*~~

[Part IIIA deleted: Work Health and Safety Bill 2019 cl. 341.]

Part IVA — Release of information

[Heading inserted: No. 42 of 2010 s. 163.]

Division 1 — Preliminary

[Heading inserted: No. 42 of 2010 s. 163.]

152A. Terms used

In this Part, unless the contrary intention appears —

applicable document means —

(a) an application made after the commencement to the Minister under this Act; or

(b) a document accompanying an application so made; or

(c) a report, return or other document relating to a block given after the commencement to the Minister under —

(i) this Act; or

(ii) regulations made for the purposes of section 123A;

commencement means the commencement of the *Petroleum and Energy Legislation Amendment Act 2010* section 163;

documentary information means information contained in an applicable document;

Minister of another jurisdiction means a Minister of the Commonwealth, a Minister of another State or a Minister of the Northern Territory;

petroleum mining sample means —

(a) a core or cutting from, or a sample of, the seabed or subsoil; or

(b) a sample of petroleum recovered; or

(c) a sample of fluid recovered (other than fluid petroleum),

that has been given at any time, whether before or after the commencement, to the Minister, and includes a portion of such a core, cutting or sample.

[Section 152A inserted: No. 42 of 2010 s. 163.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

Division 2 — Protection of confidentiality of information and samples

[Heading inserted: No. 42 of 2010 s. 163.]

Subdivision 1 — Information and samples obtained by the Minister

[Heading inserted: No. 42 of 2010 s. 163.]

152B. Protection of confidentiality of information obtained by the Minister

(1) This section restricts what the Minister may do with documentary information.

(2) The Minister shall not —

(a) make the information publicly known; or

(b) make the information available to a person (other than another Minister or a Minister of another jurisdiction),

unless the Minister does so —

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act.

[Section 152B inserted: No. 42 of 2010 s. 163.]

152C. Protection of confidentiality of samples obtained by the Minister

(1) This section restricts what the Minister may do with a petroleum mining sample.

(2) The Minister shall not —

(a) make publicly known any details of the sample; or

(b) permit a person (other than another Minister or a Minister of another jurisdiction) to inspect the sample,

unless the Minister does so —

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act.

[Section 152C inserted: No. 42 of 2010 s. 163.]

152D. Information or samples obtained by Minister can be made available to certain persons

The Minister may make documentary information or a petroleum mining sample available to another Minister or a Minister of another jurisdiction.

[Section 152D inserted: No. 42 of 2010 s. 163.]

Subdivision 2 — Information and samples obtained by another Minister

[Heading inserted: No. 42 of 2010 s. 163.]

152E. Protection of confidentiality of information obtained by another Minister

(1) This section restricts what a Minister may do with documentary information made available to that Minister under section 152D or 152G.

(2) The Minister shall not —

(a) make the information publicly known; or

(b) make the information available to a person (other than another Minister or a Minister of another jurisdiction),

unless the Minister does so —

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act.

[Section 152E inserted: No. 42 of 2010 s. 163.]

152F. Protection of confidentiality of samples obtained by another Minister

(1) This section restricts what a Minister may do with a petroleum mining sample made available to that Minister under section 152D or 152G.

(2) The Minister shall not —

(a) make publicly known any details of the sample; or

(b) permit a person (other than another Minister or a Minister of another jurisdiction) to inspect the sample,

unless the Minister does so —

(c) in accordance with regulations made for the purposes of this paragraph; or

(d) for the purposes of the administration of this Act.

[Section 152F inserted: No. 42 of 2010 s. 163.]

152G. Information or samples obtained by another Minister can be made available to certain persons

A Minister to whom documentary information or a petroleum mining sample is made available under section 152D or this section may make the information or sample available to another Minister or a Minister of another jurisdiction.

[Section 152G inserted: No. 42 of 2010 s. 163.]

Subdivision 3 — Miscellaneous

[Heading inserted: No. 42 of 2010 s. 163.]

152H. Fees

(1) This section applies to regulations made for the purposes of any of the following —

(a) section 152B(2)(c);

(b) section 152C(2)(c);

(c) section 152E(2)(c);

(d) section 152F(2)(c).

(2) The regulations may make provision for fees relating to —

(a) making information available to a person; or

(b) permitting a person to inspect a sample.

[Section 152H inserted: No. 42 of 2010 s. 163.]

Part IV — General

[Heading amended: No. 42 of 2010 s. 164.]

152I. Certain things are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of ***licence*** paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for the purposes of that Act —

(a) an exploration permit for petroleum granted under section 27;

(b) a retention lease granted under section 38B(5);

(c) a production licence for petroleum granted under section 44(2);

(d) a licence to construct and operate a pipeline granted under section 65(10).

[Section 152I inserted: No. 42 of 2011 s. 91.]

152. Regulations

(1) The Governor may make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, but without limiting the generality of subsection (1), regulations may make provision for securing, regulating, controlling or restricting all or any of the following matters —

(a) the exploration for petroleum and the carrying on of operations and the execution of works for that purpose;

(b) the recovery of petroleum and the carrying on of operations and the execution of works for that purpose;

(c) conserving and preventing the waste of 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;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(e) the construction, erection, maintenance, operation or use of installations, equipment or facilities;

(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, lease or licence is not in force;

(i) the keeping separate of —

(i) each petroleum pool discovered in a permit area, lease area or licence area; and

(ii) each source of water discovered in a permit area, lease 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;

(la) the preparation, submission and approval of environment plans;

(lb) the prohibition of the doing of an act or thing otherwise than in accordance with an approved environment plan;

(lc) the responsibilities of a permittee, lessee, licensee or holder of a special prospecting authority or access authority as to authorising, or obtaining authorisation for, the release of documentary information as defined in section 152A;

(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 any of the following operations in that area —

(i) petroleum exploration operations;

(ii) petroleum recovery operations;

(iii) operations relating to the processing or storage of petroleum;

(iv) operations relating to the preparation of petroleum for transport;

(v) operations connected with the construction or operation of a pipeline;

(m) the removal from the adjacent area of structures, equipment and other property brought into that area for use in connection with an operation in that area of a kind mentioned in paragraph (l) that are not so used or intended to be so used;

(n) fees in relation to offshore petroleum operations, ~~safety~~ audits or other services provided by the Minister;

(o) any transitional matter arising out of the amendments made to this Act by the *Petroleum Legislation Amendment and Repeal Act 2005*.

(2a) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.

(2b) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.

(2c) Regulations under this section may adopt or apply, with or without modification, any regulation made under the Commonwealth Act, the *Petroleum and Geothermal Energy Resources Act 1967* or the *Petroleum Pipelines Act 1969*, that is in force or existing at the time when the regulations under this section take effect or as in force or existing from time to time.

[(3) deleted]

(4) The regulations may provide that a contravention or failure to comply with a regulation constitutes an offence, and for the imposition of —

(a) a fine not exceeding $10 000; or

(b) a fine not exceeding that amount for each day on which the offence occurs,

for offences against the regulations.

[Section 152 amended: No. 12 of 1990 s. 250; No. 13 of 2005 s. 45; No. 35 of 2007 s. 104(4); No. 42 of 2010 s. 165; Work Health and Safety Bill 2019 cl. 342.]

153. Transitional provisions (Sch. 3)

(1) In this section —

Gazettal day means the day on which transitional regulations are published in the *Gazette*;

transitional matter means a matter of a transitional, savings or application nature;

transitional regulations means regulations under subsection (3).

(2) Schedule 3 contains provisions relating to transitional matters.

(3) Regulations may prescribe anything else required, necessary or convenient to be prescribed in relation to a transitional matter in connection with amendments made to this Act by another Act (the ***amending Act***).

(4) Transitional regulations can only be made before the end of the period of 12 months beginning on the day on which the amending Act commences.

(5) If transitional regulations provide that a state of affairs is to be taken to have existed, or not to have existed, on and from a day (the ***operative day***) that is earlier than Gazettal day, the regulations have effect according to their terms as long as the operative day is not earlier than the day on which the amending Act commences.

(6) If transitional regulations contain a provision referred to in subsection (5), the provision does not operate so as to —

(a) affect in a manner prejudicial to any person (other than the State), the rights of that person existing before Gazettal day; or

(b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before Gazettal day.

[Section 153 inserted: No. 42 of 2010 s. 166.]

[Schedule 1 deleted: No. 42 of 2010 s. 167.]

Schedule 2 — Scheduled area for Western Australia

[s. 4]

[Heading inserted: No. 42 of 2010 s. 168.]

Note:

Regulations referred to in section 10(5) prescribe a datum for the purposes of this Schedule.

The scheduled area for Western Australia is the area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the States of South Australia and Western Australia and runs thence southerly along the geodesic to a point of Latitude 31° 44′ 55.02″ South, Longitude 129° 00′ 05.08″ East:

(a) thence southerly along the loxodrome to a point of Latitude 43° 59′ 55.49″ South, Longitude 129° 00′ 05.95″ East; and

(b) thence westerly along the loxodrome to a point of Latitude 43° 59′ 56.85″ South, Longitude 104° 00′ 06.27″ East; and

(c) thence northerly along the loxodrome to a point of Latitude 13° 59′ 55.41″ South, Longitude 104° 00′ 04.55″ East; and

(d) thence easterly along the loxodrome to a point of Latitude 13° 59′ 55.22″ South, Longitude 111° 45′ 04.59″ East; and

(e) thence northerly along the loxodrome to a point of Latitude 12° 39′ 55.20″ South, Longitude 111° 45′ 04.56″ East; and

(f) thence easterly along the loxodrome to a point of Latitude 12° 39′ 55.14″ South, Longitude 114° 40′ 04.56″ East; and

(g) thence southerly along the loxodrome to a point of Latitude 13° 05′ 27.14″ South, Longitude 114° 40′ 04.57″ East; and

(h) thence easterly along the loxodrome to a point of Latitude 13° 05′ 27.00″ South, Longitude 118° 10′ 08.9″ East; and

(i) thence north easterly along the geodesic to a point of Latitude 12° 49′ 54.8″ South, Longitude 118° 14′ 22.6″ East; and

(j) thence north westerly along the geodesic to a point of Latitude 12° 04′ 24.9″ South, Longitude 118° 06′ 17.2″ East; and

(k) thence north westerly along the geodesic to a point of Latitude 12° 04′ 08.8″ South, Longitude 118° 06′ 14.4″ East; and

(l) thence south easterly along the geodesic to a point of Latitude 12° 04′ 19.0″ South, Longitude 118° 07′ 44.0″ East; and

(m) thence south easterly along the geodesic to a point of Latitude 12° 06′ 21.0″ South, Longitude 118° 20′ 45.0″ East; and

(n) thence south easterly along the geodesic to a point of Latitude 12° 07′ 46.0″ South, Longitude 118° 25′ 07.0″ East; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(o) thence south easterly along the geodesic to a point of Latitude 12° 10′ 06.0″ South, Longitude 118° 35′ 16.0″ East; and

(p) thence south easterly along the geodesic to a point of Latitude 12° 10′ 26.0″ South, Longitude 118° 37′ 28.0″ East; and

(q) thence south easterly along the geodesic to a point of Latitude 12° 11′ 01.0″ South, Longitude 118° 39′ 00.0″ East; and

(r) thence south easterly along the geodesic to a point of Latitude 12° 13′ 12.0″ South, Longitude 118° 43′ 09.0″ East; and

(s) thence south easterly along the geodesic to a point of Latitude 12° 15′ 57.0″ South, Longitude 118° 49′ 30.0″ East; and

(t) thence south easterly along the geodesic to a point of Latitude 12° 17′ 54.0″ South, Longitude 118° 55′ 12.0″ East; and

(u) thence south easterly along the geodesic to a point of Latitude 12° 18′ 50.0″ South, Longitude 118° 58′ 31.0″ East; and

(v) thence south easterly along the geodesic to a point of Latitude 12° 19′ 55.0″ South, Longitude 119° 02′ 40.0″ East; and

(w) thence south easterly along the geodesic to a point of Latitude 12° 20′ 21.0″ South, Longitude 119° 05′ 00.0″ East; and

(x) thence south easterly along the geodesic to a point of Latitude 12° 21′ 51.0″ South, Longitude 119° 09′ 03.0″ East; and

(y) thence south easterly along the geodesic to a point of Latitude 12° 23′ 42.0″ South, Longitude 119° 15′ 23.0″ East; and

(za) thence south easterly along the geodesic to a point of Latitude 12° 23′ 58.0″ South, Longitude 119° 16′ 35.0″ East; and

(zb) thence south easterly along the geodesic to a point of Latitude 12° 24′ 59.0″ South, Longitude 119° 20′ 34.0″ East; and

(zc) thence south easterly along the geodesic to a point of Latitude 12° 25′ 43.0″ South, Longitude 119° 21′ 35.0″ East; and

(zd) thence south easterly along the geodesic to a point of Latitude 12° 29′ 19.0″ South, Longitude 119° 27′ 17.0″ East; and

(ze) thence south easterly along the geodesic to a point of Latitude 12° 32′ 31.0″ South, Longitude 119° 33′ 16.0″ East; and

(zf) thence south easterly along the geodesic to a point of Latitude 12° 35′ 43.0″ South, Longitude 119° 40′ 33.0″ East; and

(zg) thence south easterly along the geodesic to a point of Latitude 12° 40′ 33.0″ South, Longitude 119° 50′ 28.0″ East; and

(zh) thence south easterly along the geodesic to a point of Latitude 12° 41′ 36.0″ South, Longitude 119° 52′ 38.0″ East; and

(zi) thence south easterly along the geodesic to a point of Latitude 12° 41′ 46.0″ South, Longitude 119° 52′ 57.0″ East; and

(zj) thence south easterly along the geodesic to a point of Latitude 12° 41′ 57.0″ South, Longitude 119° 53′ 18.0″ East; and

(zk) thence south easterly along the geodesic to a point of Latitude 12° 43′ 46.0″ South, Longitude 119° 56′ 13.0″ East; and

(zl) thence south easterly along the geodesic to a point of Latitude 12° 45′ 38.0″ South, Longitude 119° 59′ 15.0″ East; and

(zm) thence south easterly along the geodesic to a point of Latitude 12° 45′ 47.0″ South, Longitude 119° 59′ 31.0″ East; and

(zn) thence south easterly along the geodesic to a point of Latitude 12° 46′ 27.9″ South, Longitude 120° 00′ 46.9″ East; and

(zo) thence south along the loxodrome to a point of Latitude 13° 56′ 31.7″ South, Longitude 120° 00′ 46.9″ East; and

(zp) thence north easterly along the geodesic to a point of Latitude 12° 43′ 08.29″ South, Longitude 121° 49′ 15.80″ East; and

(zq) thence south easterly along the geodesic to a point of Latitude 12° 55′ 54.99″ South, Longitude 122° 06′ 04.50″ East; and

(zr) thence south easterly along the geodesic to a point of Latitude 13° 19′ 54.98″ South, Longitude 122° 41′ 04.50″ East; and

(zs) thence easterly along the geodesic to a point of Latitude 13° 19′ 24.97″ South, Longitude 123° 16′ 49.49″ East; and

(zt) thence easterly along the loxodrome to a point of Latitude 13° 19′ 24.94″ South, Longitude 124° 27′ 49.48″ East; and

(zu) thence north easterly along the geodesic to a point of Latitude 13° 13′ 09.94″ South, Longitude 124° 36′ 19.47″ East; and

(zv) thence north easterly along the geodesic to a point of Latitude 12° 46′ 09.93″ South, Longitude 124° 55′ 34.46″ East; and

(zw) thence north easterly along the geodesic to a point of Latitude 11° 50′ 54.92″ South, Longitude 125° 27′ 49.43″ East; and

(zx) thence north easterly along the geodesic to a point of Latitude 11° 44′ 24.92″ South, Longitude 125° 31′ 34.43″ East; and

(zy) thence north easterly along the geodesic to a point of Latitude 10° 21′ 24.91″ South, Longitude 126° 10′ 34.39″ East; and

(zza) thence north easterly along the geodesic to a point of Latitude 10° 12′ 54.90″ South, Longitude 126° 26′ 34.39″ East; and

(zzb) thence north easterly along the geodesic to a point of Latitude 10° 04′ 54.90″ South, Longitude 126° 47′ 34.38″ East; and

(zzc) thence south easterly along the geodesic to a point of Latitude 11° 13′ 09.88″ South, Longitude 127° 32′ 04.38″ East; and

(zzd) thence south easterly along the geodesic to a point of Latitude 11° 47′ 54.88″ South, Longitude 127° 53′ 49.38″ East; and

(zze) thence south easterly along the geodesic to a point of Latitude 12° 26′ 24.87″ South, Longitude 128° 22′ 04.39″ East; and

(zzf) thence south easterly along the geodesic to a point of Latitude 12° 32′ 39.87″ South, Longitude 128° 24′ 04.39″ East; and

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(zzg) thence south easterly along the geodesic to a point of Latitude 12° 55′ 24.86″ South, Longitude 128° 28′ 04.39″ East; and

(zzh) thence southerly along the loxodrome to a point of Latitude 13° 15′ 24.86″ South, Longitude 128° 28′ 04.40″ East; and

(zzi) thence south easterly along the geodesic to a point of Latitude 13° 39′ 39.86″ South, Longitude 128° 30′ 49.41″ East; and

(zzj) thence south easterly along the geodesic to a point of Latitude 13° 49′ 39.86″ South, Longitude 128° 33′ 19.41″ East; and

(zzk) thence south easterly along the geodesic to a point of Latitude 13° 59′ 54.86″ South, Longitude 128° 42′ 19.41″ East; and

(zzl) thence south easterly along the geodesic to a point of Latitude 14° 19′ 24.89″ South, Longitude 128° 53′ 04.39″ East; and

(zzm) thence south easterly along the geodesic to a point of Latitude 14° 32′ 24.91″ South, Longitude 129° 01′ 19.38″ East; and

(zzn) thence southerly along the geodesic to a point of Latitude 14° 37′ 24.91″ South, Longitude 129° 01′ 49.38″ East; and

(zzo) thence southerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia; and

(zzp) thence along the coastline of the State of Western Australia at mean low water to the point of commencement.

[Schedule 2 inserted: No. 42 of 2010 s. 168.]

Schedule 3 — Transitional provisions

[s. 153]

[Heading inserted: No. 42 of 2010 s. 169.]

Division 1 — Provisions for *Petroleum and Energy Legislation Amendment Act 2010*

[Heading inserted: No. 42 of 2010 s. 169.]

1. Term used: amending Act

In this Division —

amending Act means the *Petroleum and Energy Legislation Amendment Act 2010*.

[Clause 1 inserted: No. 42 of 2010 s. 169.]

2. Section 31 (permit renewals)

(1) This clause has effect despite the deletion of section 31(6) by section 86 of the amending Act.

(2) Section 31(6) as in force immediately before the commencement of section 86 of the amending Act continues to apply in respect of the first application after that commencement for the renewal of a permit that was granted before that commencement.

[Clause 2 inserted: No. 42 of 2010 s. 169.]

3. Section 70 (conditions of pipeline licence)

A renewal of a pipeline licence that was in force under section 70 immediately before section 70(3) was deleted by section 122 of the amending Act continues, subject to Part III as amended by the amending Act, to be subject to any conditions referred to in section 70(3) to which the renewed licence was subject immediately before the deletion.

[Clause 3 inserted: No. 42 of 2010 s. 169.]

4. Section 118 (release of information)

(1) This section has effect despite the deletion of section 118 by section 149 of the amending Act.

(2) Section 118 as in force immediately before it was deleted continues to apply in respect of information given to the Minister before the commencement of section 149 of the amending Act.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(3) Any regulations providing for the calculation of a fee for the purposes of a provision of section 118 as in force immediately before that section was deleted —

(a) continue in force for the purposes of that section as it continues to apply under subclause (1); and

(b) also separately continue in force on and after the commencement of section 163 of the amending Act as if they had been made for the purposes of Part IVA.

(4) Regulations as continued in force under subclause (3)(a) or (b) may, for the purposes of their application under subclause (3)(a) or (b), be amended or deleted by regulations.

[Clause 4 inserted: No. 42 of 2010 s. 169.]

5. Section 3 and Sch. 3 and 4 (former transitional provisions)

The *Interpretation Act 1984* section 37, and in particular section 37(1)(b), (c) and (d), apply in relation to the deletion of section 3(2) to (5) and Schedules 3 and 4 by sections 64 and 169 of the amending Act.

[Clause 5 inserted: No. 42 of 2010 s. 169.]

~~Division 2 — Provisions for *Petroleum (Submerged Lands) Amendment Act 2011*~~

~~*[Heading inserted: No. 57 of 2011 s. 15.]*~~

~~*[**6.** Expired on 1 Jan 2013: operation of Sch. 3 cl. 6(3) of this Act.* [6] *]*~~

[Schedule 3 Div. 2 deleted: Work Health and Safety Bill 2019 cl. 343.]

[Schedule 4 deleted: No. 42 of 2010 s. 169.]

Schedule 5 — Occupational safety and health

[s. 151B]

[Heading inserted: No. 13 of 2005 s. 47.]

Division 1 — Introduction

[Heading inserted: No. 13 of 2005 s. 47.]

1. Objects

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

(a) to secure the occupational safety and health of persons at or near those facilities; and

(b) to protect persons at or near those facilities from risks to occupational safety and health arising out of activities being conducted at those facilities; and

(c) to ensure that expert advice is available on occupational safety and health 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 safety and health; and

(e) to foster a consultative relationship between all relevant persons concerning the safety and health of members of the workforce at those facilities.

[Clause 1 inserted: No. 13 of 2005 s. 47.]

2. Simplified outline

The following is a simplified outline of this Schedule —

- This Schedule sets up a scheme to regulate occupational safety and health matters at or near facilities.
- Occupational safety and health duties are imposed on the following —

(a) the operator of a facility;

(b) a person in control of a part of a facility, or of any work carried out at a facility;

(c) an employer;

(d) a manufacturer of plant, or a substance, for use at a facility;

(e) a supplier of a facility, or of any plant or substance for use at a facility;

(f) a person who erects or installs a facility, or any plant at a facility;

(g) a person at a facility.

- A group of members of the workforce at a facility may be established as a designated work group.
- The members of a designated work group may select a safety and health representative for that designated work group.
- The safety and health representative may exercise certain powers for the purpose of promoting or ensuring the occupational safety and health of group members.
- An inspector may conduct an inspection —

(a) to ascertain whether a listed OSH law is being complied with; or

(b) concerning a contravention or a possible contravention of a listed OSH law; or

(c) concerning an accident or dangerous occurrence that has happened at or near a facility.

- The operator of a facility must report accidents and dangerous occurrences to the Minister.

[Clause 2 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 16 and 34.]

3. Terms used

In this Schedule —

accident includes the contraction of a disease;

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

(a) another facility; or

(b) a supply vessel, offtake tanker, anchor handler or tugboat; or

(c) a vessel, or structure, that is declared by the regulations not to be an associated offshore place;

contract includes an arrangement or understanding;

contractor has the meaning given by clause 7;

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 clause 18 or 19; or

(b) that group as varied in accordance with clause 20 or 21;

~~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 as defined by clause 4, and~~

~~(a) includes a facility (as defined by clause 4) that is being constructed or installed; and~~

~~(b) except in the definition of ***associated offshore place***, includes an associated offshore place in relation to a facility (as defined by clause 4);~~

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

~~(a) a member of the workforce at that facility; and~~

~~(b) included in that designated work group;~~

~~improvement notice means an improvement notice issued under clause 61(1);~~

~~inspection means an inspection conducted under Division 4 and includes an investigation or inquiry;~~

~~member of the workforce, in relation to a facility, means a natural person who does work at the facility, whether~~

~~(a) as an employee of the operator of the facility or of 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 that facility or proposed facility;~~

~~operator's representative means a person present at a facility in compliance with the obligations imposed on the operator by clause 5;~~

~~own includes own jointly and own in part;~~

~~plant includes any machinery, equipment or tool, or any component;~~

~~premises includes the following~~

~~(a) a structure or building;~~

~~(b) a place (whether or not enclosed or built on);~~

~~(c) a part of a thing referred to in paragraph (a) or (b);~~

~~prohibition notice means a prohibition notice issued under clause 59(1);~~

~~proposed facility means a facility proposed to be constructed, installed or operated;~~

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

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

registered organisation means an organisation —

(a) within the meaning of the *Workplace Relations Act 1996*[7] of the Commonwealth; or

(b) as defined in section 7(1) of the *Industrial Relations Act 1979*;

regulated business premises means —

(a) a facility; or

(b) premises that are —

(i) occupied by a person who is the operator of a facility; and

(ii) used, or proposed to be used, wholly or principally in connection with an offshore petroleum operation;

regulations means regulations made for the purposes of this Schedule;

Tribunal has the meaning given to that term in the *Occupational Safety and Health Act 1984* section 51G(2);

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

workforce representative means —

(a) in relation to a person who is a member of the workforce at a facility — a registered organisation of which that person is a member, if the person is qualified to be a member of that organisation because of the work the person performs at the facility; or

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

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

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

[Clause 3 inserted: No. 13 of 2005 s. 47.]

4. 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 that site —

(i) for the recovery of petroleum, for the processing of petroleum, or for the storage and offloading of petroleum, or for any combination of those activities; or

(ii) for the provision of accommodation for persons working on another facility, whether connected by a walkway to that other facility or not; or

(iii) for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process; or

(iv) for laying pipes for petroleum, including any manufacturing of such pipes, or for doing work on an existing pipe; or

(v) for the erection, dismantling or decommissioning of a vessel or structure referred to in subparagraph (i), (ii), (iii) or (iv); or

(vi) for any other purpose related to an offshore petroleum operation that is prescribed for the purposes of this subparagraph.

(2) Subclause (1) applies to a vessel or structure —

(a) whether it is floating or fixed; and

(b) whether or not it is capable of independent navigation.

(3) Subclause (1) has effect subject to subclauses (6) and (7).

(4) A vessel or structure used for a purpose referred to in subclause (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.

(5) For the purposes of subclause (1), a vessel or structure that is located offshore for the purpose of laying pipes as described in subclause (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 subclause (1), a vessel or structure is taken not to be a facility for the purposes of this Schedule if the vessel or structure is —

(a) an offtake tanker; or

(b) a tug or an anchor handler; or

(c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore; or

(d) a vessel or structure used for any purpose such that it is declared by the regulations not to be a facility.

(7) In determining when a vessel or structure that has the potential to be used for one or more of the purposes referred to in subclause (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 — that pipeline, together with —

(i) that well and associated plant and equipment; and

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

(9) In subclause (8)(b) —

facility does not include a pipeline.

[Clause 4 inserted: No. 13 of 2005 s. 47.]

5. Operator must ensure presence of operator's representative

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

Penalty: a fine of $5 500.

(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.

Penalty: a fine of $5 500.

(3) Subclause (1) does not imply that, if the operator is a natural person, the operator's representative at the facility may not be, from time to time, the operator.

[Clause 5 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

6. Safety and health of persons using an accommodation amenity

For the avoidance of doubt, a reference in this Schedule to the occupational safety and health of a person includes a reference to the safety and health of a person using an accommodation amenity provided for the accommodation of persons working on another facility.

[Clause 6 inserted: No. 13 of 2005 s. 47.]

7. Contractor

For the purposes of this Schedule, a natural person is taken to be a "contractor" of another person (the relevant person) if the natural person does work at a facility under a contract for services between —

(a) the relevant person; and

(b) either —

(i) the natural person; or

(ii) the employer of the natural person.

[Clause 7 inserted: No. 13 of 2005 s. 47.]

Division 2 — Occupational safety and health

[Heading inserted: No. 13 of 2005 s. 47.]

Subdivision 1 — Duties relating to occupational safety and health

[Heading inserted: No. 13 of 2005 s. 47.]

8. Duties of operator

(1) The operator of a facility must take all reasonably practicable steps to ensure that —

(a) the facility is safe and without risk to the health of any person at or near the facility; and

(b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Penalty: a fine of $110 000.

(2) Without limiting the generality of subclause (1), the operator of a facility must —

(a) provide and maintain a physical environment at the facility that is safe and without risk to health; and

(b) provide and maintain adequate amenities for the safety and health of all members of the workforce at the facility; and

(c) ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health; and

(d) implement and maintain systems of work at the facility that are safe and without risk to health; and

(e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility; and

(f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the occupational safety and health of persons at the facility; and

(g) monitor the occupational safety and health of all members of the workforce and keep records of that monitoring; and

(h) provide appropriate medical and first aid services at the facility; and

(i) develop, in consultation with members of the workforce and workforce representatives, a policy relating to occupational safety and health that —

(i) will enable the operator and the members of the workforce to cooperate effectively in promoting and developing measures to ensure the occupational safety and health of persons 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 subclauses (4) and (5).

Penalty: a fine of $110 000.

(3) Subclause (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 referred to in subclause (2)(i)(iii) must be between —

(a) on the one hand — the operator; and

(b) on the other hand —

(i) the members of the workforce; and

(ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement — that workforce representative.

(5) The agreement referred to in subclause (2)(i)(iii) must provide appropriate mechanisms for continuing consultation between —

(a) on the one hand — the operator; and

(b) on the other hand —

(i) the members of the workforce; and

(ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion — that workforce representative.

(6) The agreement may provide for any other matters agreed between the parties to it.

[Clause 8 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

9. 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 that —

(a) that part of the facility, or the place where that work is carried out, is safe and without risk to health; and

(b) if the person is in control of particular work — the work is carried out in a manner that is safe and without risk to health.

Penalty: a fine of $110 000.

(2) Without limiting the generality of subclause (1), a person who is in control of any part of a facility, or of any particular work carried out at a facility, must —

(a) ensure that the physical environment at that part of the facility, or at the place where the work is carried out, is safe and without risk to health; and

(b) ensure that any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health; and

(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; and

(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; and

(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.

Penalty: a fine of $110 000.

[Clause 9 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

10. Duties of employers

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

Penalty: a fine of $110 000.

(2) Without limiting the generality of subclause (1), an employer must —

(a) provide and maintain a working environment that is safe for employees and without risk to their health; and

(b) ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health; and

(c) implement and maintain systems of work that are safe and without risk to health; and

(d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health; and

(e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: a fine of $110 000.

(3) A person has, in respect of a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in respect of an employee of that employer, but only in relation to —

(a) matters over which the first-mentioned person has control; or

(b) matters over which —

(i) the first-mentioned person would have had control apart from express provision to the contrary in a contract; and

(ii) the first-mentioned person would, in the circumstances, usually be expected to have had control.

(4) An employer must take all reasonable steps to —

(a) monitor the safety and health of employees; and

(b) keep records of that monitoring.

Penalty: a fine of $110 000.

[Clause 10 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

11. Duties of manufacturers in relation to plant and substances

(1) A manufacturer of any plant that the manufacturer knows or ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps —

(a) to ensure that the plant is so designed and constructed as to be, when properly used, safe and without risk to health; and

(b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover, and to eliminate or minimise, any risk to safety or health that may arise from the use of the plant; and

(c) to make available, in connection with the use of the plant 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.

Penalty: a fine of $22 000.

(2) A manufacturer of any substance that the manufacturer knows or ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps —

(a) to ensure that the substance is so manufactured as to be, when properly used, safe and without risk to health; and

(b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to safety or health that may arise from the use of the substance; and

(c) to make available, in connection with the use of the substance 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.

Penalty: a fine of $22 000.

(3) If —

(a) plant or a substance is imported into Australia by a person who is not its manufacturer; and

(b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia,

the first-mentioned person is taken, for the purposes of this clause, to be the manufacturer of the plant or substance.

(4) This clause does not affect the operation of any other law of this State that imposes an obligation on a manufacturer in respect of defective goods or in respect of information to be supplied in relation to goods.

[Clause 11 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

12. Duties of suppliers of facilities, plant and substances

(1) A supplier of a facility, or of any plant or substance that the supplier ought reasonably to expect will be used by members of the workforce 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 safety or health that may arise from the condition of the facility, plant or substance; and

(c) to make available —

(i) in the case of a facility — to the operator of a facility; and

(ii) in the case of plant or substance — to the person to whom the plant or substance is supplied,

adequate written information, in connection with the use of the facility, plant or substance (as the case requires) about —

(iii) the condition of the facility, plant or substance at the time of supply; and

(iv) any risk to the safety and health of members of the workforce at the facility to which the condition of the facility, plant or substance may give rise unless it is properly used; and

(v) the steps that need to be taken in order to eliminate that risk; and

(vi) in the case of a substance — the first aid and medical procedures that should be followed if the condition of

the substance causes injury to a member of the workforce at the facility.

Penalty: a fine of $22 000.

(2) For the purposes of subclause (1), if a person (the ostensible supplier) supplies to a person either a facility, or any plant or substance that is to be used by members of the workforce at a facility, and the ostensible supplier —

(a) carries on the business of financing the acquisition or the use of goods by other persons; and

(b) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the actual supplier), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and

(c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied,

a reference in subclause (1) to a supplier is, in relation to the facility, plant or substance referred to in this subclause, to be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

(3) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the sale or supply of goods or in respect of the information to be supplied in relation to goods.

[Clause 12 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

13. Duties of persons erecting facilities 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 that the facility or plant is not erected or installed in such a way that it is unsafe or constitutes a risk to health.

Penalty: a fine of $22 000.

(2) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the erection or installation of structures or goods or the supply of services.

[Clause 13 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

14. Duties of persons in relation to occupational safety and health

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

(a) to ensure that the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the occupational safety and health of that person or of any other person at or near the facility; and

(b) in respect of any obligation imposed on the operator or on any other person under a listed OSH law — to cooperate with the operator or that other person to the extent necessary to enable the operator or that other person to fulfil that obligation; and

(c) to use equipment that is —

(i) supplied to the person by the operator, an employer of the person or any other person having control of work at a facility (the equipment supplier); and

(ii) necessary to protect the occupational safety and health of the person, or of any other person at or near the facility,

in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Penalty: a fine of $5 500.

(2) Despite subclause (1), the choice or manner of use, or choice and manner of use, of equipment of the kind referred to in subclause (1)(c)(ii) is a matter that may be, consistently with each listed OSH law —

(a) agreed on between the equipment supplier and any relevant safety and health representative; or

(b) agreed on by a safety and health committee.

(3) If an agreement of the kind referred to in subclause (2)(a) or (b) provides a process for choosing equipment of a particular kind that is to be provided by the equipment supplier, action must not be taken against a person for failure to use equipment of that kind that is so provided unless the equipment has been chosen in accordance with that process.

(4) If an agreement of the kind referred to in subclause (2)(a) or (b) provides a process for determining the manner of use of equipment of a particular kind, action must not be taken against a person for failure to use, in the manner required by the equipment supplier, equipment of that kind that is so provided unless the manner has been determined in accordance with that process.

[Clause 14 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

15. Reliance on information supplied or results of research

(1) For the purpose of the application of clause 8, 9 or 10 to the use of plant or a substance, a person on whom an obligation is imposed under any of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to the use of the plant or substance, to the extent that —

(a) the person ensured, so far as practicable, that its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to occupational safety and health in its use; and

(b) it was reasonable for the person to rely on that information.

(2) For the purpose of the application of clause 11 or 12 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under either of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to carrying out research, testing and examining the facility, plant or substance, to the extent that —

(a) the research, testing or examination has already been carried out by or on behalf of someone else; and

(b) it was reasonable for the person to rely on that research, testing or examination.

(3) For the purpose of the application of clause 13 to the erection of a facility or the erection or installation of plant at a facility, a person on whom an obligation is imposed under that clause is regarded as having taken reasonably practicable steps as required by that clause to the extent that —

(a) the person ensured, so far as is reasonably practicable, that the erection of the facility, or the erection or installation of the plant, was —

(i) in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation; and

(ii) consistent with the occupational safety and health of persons at the facility;

and

(b) it was reasonable for the person to rely on that information.

(4) Nothing in this clause limits the generality of what constitutes reasonably practicable steps as required by clause 8, 9, 10, 11, 12 or 13.

[Clause 15 inserted: No. 13 of 2005 s. 47.]

Subdivision 2 — Regulations relating to occupational safety and health

[Heading inserted: No. 13 of 2005 s. 47.]

16. Regulations relating to occupational safety and health

(1) The regulations may make provision relating to any matter affecting, or likely to affect, the occupational safety and health of persons at a facility.

(2) Regulations made for the purposes of subclause (1) may make provision for any or all of the following —

(a) prohibiting or restricting the performance of all work or specified work at a facility;

(b) prohibiting or restricting the use of all plant or specified plant at a facility;

(c) prohibiting or restricting the carrying out of all processes or a specified process at a facility;

(d) prohibiting or restricting the storage or use of all substances or specified substances at a facility;

(e) specifying the form in which information required to be made available under clause 11(1)(c) or 12(1)(c) is to be so made available;

(f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or specified substances 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 specified plant or specified substances for use at a facility;

(k) prohibiting the performance, at a facility, of specified activities or work except —

(i) by persons who satisfy requirements of the regulations as to qualifications, training or experience; or

(ii) under the supervision specified in the regulations;

(l) requiring specified action to avoid accidents or dangerous occurrences;

(m) providing for, or prohibiting, specified action in the event of accidents or dangerous occurrences;

(n) providing for the employment at a facility of persons to perform specified duties relating to the maintenance of occupational safety and health 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 safety and health of employees;

(r) providing for the provision of first aid equipment and amenities at a facility.

[Clause 16 inserted: No. 13 of 2005 s. 47.]

Division 3 — Workplace arrangements

[Heading inserted: No. 13 of 2005 s. 47.]

Subdivision 1 — Introduction

[Heading inserted: No. 13 of 2005 s. 47.]

17. Simplified outline

The following is a simplified outline of this Subdivision —

- A group of members of the workforce at a facility may be established as a designated work group.
- The members of a designated work group may select a safety and health representative for that designated work group.
- The safety and health representative may exercise certain powers for the purpose of promoting or ensuring the occupational safety and health of group members.
- A safety and health committee may be established in relation to the members of the workforce at a facility.
- The main function of a safety and health committee is to assist the operator in relation to occupational safety and health matters.

[Clause 17 inserted: No. 13 of 2005 s. 47.]

Subdivision 2 — Designated work groups

[Heading inserted: No. 13 of 2005 s. 47.]

18. 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) any member of the workforce; or

(b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator — that workforce representative.

(2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with —

(a) if any member of the workforce made a request to establish designated work groups —

(i) that member of the workforce; and

(ii) if that member requests that the operator enter into consultations with a workforce representative in relation to the member — that workforce representative; and

(iii) each employer (if any) of members of the workforce; and

(b) if a workforce representative made a request to establish designated work groups —

(i) if a member of the workforce requests that the operator enter into consultations with that workforce representative — that workforce representative; and

(ii) each employer of members of the workforce.

(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.

[Clause 18 inserted: No. 13 of 2005 s. 47.]

19. 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 — that workforce representative; and

(c) each employer (if any) of members of the workforce.

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

[Clause 19 inserted: No. 13 of 2005 s. 47.]

20. 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) any member of the workforce; or

(b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator — that workforce representative.

(2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with —

(a) if any member of the workforce made a request to vary designated work groups —

(i) that member of the workforce; and

(ii) the safety and health representative of each designated work group affected by the proposed variation; and

(iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation;

and

(b) if a workforce representative made a request to vary designated work groups —

(i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group — that workforce representative; and

(ii) the safety and health representative of each designated work group affected by the proposed variation; and

(iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

(3) If

(a) consultations take place about the variation of designated work groups that have already been established; and

(b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified,

then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

[Clause 20 inserted: No. 13 of 2005 s. 47.]

21. 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 safety and health representative of each of the designated work groups affected by the proposed variation; and

(b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group — that workforce representative; and

(c) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

(2) If

(a) consultations take place about the variation of designated work groups that have already been established; and

(b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified,

then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

[Clause 21 inserted: No. 13 of 2005 s. 47.]

22. Referral of disagreement to reviewing authority

(1) If, in the course of consultations under clause 18, 19, 20 or 21, there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a designated work group, any party may, for the purpose of facilitating that consultation, refer the matter of disagreement to the reviewing authority.

(2) The party referring the matter to the reviewing authority must give notice of the referral to all the other parties to the disagreement.

(3) The reviewing authority is to —

(a) resolve the matter of the disagreement referred to the reviewing authority; and

(b) notify all parties to the disagreement of the decision.

(4) If the matter of a disagreement is referred to the reviewing authority, the parties to the disagreement must complete the consultation in accordance with the resolution of that matter by the reviewing authority.

(5) In this clause —

reviewing authority means a person prescribed by the regulations to be a reviewing authority for the purposes of this clause.

[Clause 22 inserted: No. 13 of 2005 s. 47.]

23. Manner of grouping members of the workforce

(1) Consultations about the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping members of the workforce —

(a) that best and most conveniently enables their interests relating to occupational safety and health to be represented and safeguarded; and

(b) that best takes account of the need for any safety and health representative selected for that designated work group to be accessible to each group member.

(2) The parties to the consultations must have regard, in particular, to —

(a) the number of members of the workforce at the facility to which the consultation relates; and

(b) the nature of each type of work performed by those members; and

(c) the number and grouping of those members who perform the same or similar types of work; and

(d) the workplaces where each type of work is performed; and

(e) the nature of any risks to safety and health at each of those workplaces; and

(f) any overtime or shift working arrangement at the facility.

(3) The designated work groups must be established or varied in such a way that, so far as practicable, each of the members of the workforce at a facility is in a designated work group.

(4) All the members of the workforce at a facility may be in one designated work group.

[Clause 23 inserted: No. 13 of 2005 s. 47.]

Subdivision 3 — Safety and health representatives

[Heading inserted: No. 13 of 2005 s. 47.]

24. Selection of safety and health representatives

(1) One safety and health representative may be selected for each designated work group.

(2) A person is not eligible for selection as the safety and health representative for a designated work group unless the person is a member of the workforce included in the group.

(3) A person is taken to have been selected as the safety and health representative for a designated work group if —

(a) all the members of the workforce in the group unanimously agree to the selection; or

(b) the person is elected as the safety and health representative of the group in accordance with clause 25.

[Clause 24 inserted: No. 13 of 2005 s. 47.]

25. Election of safety and health representatives

(1) If —

(a) there is a vacancy in the office of safety and health representative for a designated work group; and

(b) within a reasonable time after the vacancy occurs, a person has not been selected under clause 24(3)(a),

the operator of the facility must invite nominations from all group members for election as the safety and health representative of the group.

(2) If the office of safety and health representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Minister may direct the operator to do so.

(3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.

(4) An election conducted or arranged to be conducted under subclause (3) must be conducted in accordance with regulations made for the purposes of this subclause if this is requested by the lesser of —

(a) 100 members of the workforce normally in the designated work group; or

(b) a majority of the members of the workforce normally in the designated work group.

(5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.

(6) A person cannot be a candidate in the election if he or she is disqualified under clause 31.

(7) All the members of the workforce in the designated work group are entitled to vote in the election.

(8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Minister.

[Clause 25 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 35.]

26. List of safety and health representatives

The operator of a facility must —

(a) prepare and keep up to date a list of all the safety and health representatives of designated work groups comprising members of the workforce performing work at the facility; and

(b) ensure that the list is available for inspection, at all reasonable times, by —

(i) the members of the workforce at the facility; and

(ii) inspectors.

[Clause 26 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 17.]

27. Members of designated work group must be notified of selection etc. of safety and health 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 safety and health representative for the designated work group within a reasonable time after the vacancy arises; and

(b) notify those members of the name of any person selected (whether under clause 24(3)(a) or (b)) as safety and health representative for the designated work group within a reasonable time after the selection is made.

[Clause 27 inserted: No. 13 of 2005 s. 47.]

28. Term of office

(1) A safety and health representative for a designated work group holds office —

(a) if, in consultations that took place under clause 18, 19, 20 or 21, the parties to the consultations agreed to the period for which the safety and health representative for the group was to hold office — for that period; or

(b) if paragraph (a) does not apply — for 2 years.

(2) The term of office of a safety and health representative begins at the start of the day on which he or she was selected.

(3) Nothing in this clause prevents a safety and health representative from being selected for further terms of office.

[Clause 28 inserted: No. 13 of 2005 s. 47.]

29. Training of safety and health representatives

(1) A safety and health representative for a designated work group must undertake a course of training relating to occupational safety and health that is accredited by the Minister for the purposes of this clause.

(2) The operator of the 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, that person must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

[Clause 29 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 35.]

30. Resignation etc. of safety and health representatives

(1) A person ceases to be the safety and health representative for the designated work group if —

(a) the person resigns as the safety and health representative; or

(b) the person ceases to be a group member of that designated work group; or

(c) the person's term of office expires without the person having been selected, under clause 24, to be the safety and health representative for the designated work group for a further term; or

(d) the person is disqualified under clause 31.

(2) A person may resign as the safety and health representative for a designated work group by notice in writing delivered to the operator and to each work group employer.

(3) If a person resigns as the safety and health representative for a designated work group, the person must notify the resignation to the group members.

(4) If a person has ceased to be the safety and health representative for a designated work group because of subclause (1)(b), the person must notify in writing —

(a) the group members; and

(b) the operator and each work group employer,

that the person has ceased to be the safety and health representative for that designated work group.

[Clause 30 inserted: No. 13 of 2005 s. 47.]

31. Disqualification of safety and health representatives

(1) An application for the disqualification of a safety and health representative for a designated work group may be made to the Tribunal by —

(a) the operator; 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 subclause (1) may be made on either or both of the following grounds —

(a) that action taken by the representative in the exercise or purported exercise of a power under clause 33(1) or any other provision of this Schedule was taken —

(i) with the intention of causing harm to the operator or work group employer or to an undertaking of the operator or work group employer; or

(ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the representative;

(b) that the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a safety and health representative, information acquired from the operator or work group employer.

(3) On an application under subclause (1), the Tribunal may disqualify the representative, for a specified period not exceeding 5 years, from

being a safety and health representative for any designated work group, if the Tribunal is satisfied that the representative has acted in a manner referred to in subclause (2).

(4) In making a decision under subclause (3), the Tribunal must have regard to —

(a) the harm (if any) that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative; and

(b) the past record of the representative in exercising the powers of a safety and health representative; and

(c) the effect (if any) on the public interest of the action of the representative; and

(d) any other matters the Tribunal thinks relevant.

[Clause 31 inserted: No. 13 of 2005 s. 47.]

32. Deputy safety and health representatives

(1) One deputy safety and health representative may be selected for each designated work group for which a safety and health representative has been selected.

(2) A deputy safety and health representative is to be selected in the same way as a safety and health representative under clause 24.

(3) If the safety and health representative for a designated work group —

(a) ceases to be the safety and health representative; or

(b) is unable (because of absence or for any other reason) to exercise the powers of a safety and health representative,

then —

(c) the powers may be exercised by the deputy safety and health representative (if any) for the group; and

(d) this Schedule (other than this clause) applies in relation to the deputy safety and health representative accordingly.

[Clause 32 inserted: No. 13 of 2005 s. 47.]

33. Powers of safety and health representatives

(1) A safety and health representative for a designated work group may, for the purpose of promoting or ensuring the safety and health at a workplace of the group members —

(a) do all or any of the following —

(i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is

an immediate threat of such an accident or dangerous occurrence;

(ii) inspect the whole or any part of the workplace if the safety and health representative has given reasonable notice of the inspection to the operator's representative at the facility and to any other person having immediate control of the workplace;

(iii) make a request to an inspector that an inspection be conducted at the workplace;

(iv) accompany an inspector during any inspection at the workplace by the inspector (whether or not the inspection is being conducted as a result of a request made by the safety and health representative);

(v) if there is no safety and health committee in respect of the members of the workforce 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 safety and health of those members at the workplace;

(vi) if a safety and health committee has been established in respect of the members of the workforce at the facility — examine any of the records of that committee;

and

(b) investigate complaints made by any group member to the safety and health representative about the safety and health of any of the members of the workforce (whether in the group or not); and

(c) with the consent of a group member, be present at any interview about safety and health at work between that member and —

(i) an inspector; or

(ii) the operator or a person representing the operator; or

(iii) a work group employer or a person representing that employer;

and

(d) obtain access to any information under the control of the operator or any work group employer —

(i) relating to risks to the safety and health of any group member; and

(ii) relating to the safety and health of any group member;

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

and

(e) issue provisional improvement notices in accordance with clause 37.

(2) Subclause (1)(d)(ii) has effect subject to clause 35.

[Clause 33 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 18 and 34.]

34. Assistance by consultant

(1) A safety and health representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.

(2) A safety and health representative for a designated work group may —

(a) be assisted by a consultant at a workplace at which work is performed; or

(b) provide to a consultant information that has been provided to the safety and health representative by a group member under clause 33(1)(d),

only if the operator or the Minister has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.

(3) Neither the operator nor any workplace employer becomes, because of the agreement under subclause (2) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.

(4) If a safety and health representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about safety and health at work, between a group member and —

(a) an inspector; or

(b) the operator or any work group employer or a person representing the operator or that employer,

if, and only if, the group member consents to the presence of the consultant.

[Clause 34 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34 and 35.]

35. Information

(1) Neither —

(a) a safety and health representative; nor

(b) a consultant assisting a safety and health representative,

is entitled, under clause 33(1)(d)(ii), to have access to information in respect of which a group member is entitled to claim, and does claim, legal professional privilege.

(2) Neither —

(a) a safety and health representative; nor

(b) a consultant assisting a safety and health representative,

is entitled, under clause 33(1)(d)(ii), to have access to information of a confidential medical nature relating to a person who is or was a group member unless —

(c) the person has delivered to the operator or any work group employer a written authority permitting the safety and health representative, or the safety and health representative and the consultant, as the case requires, to have access to the information; or

(d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

[Clause 35 inserted: No. 13 of 2005 s. 47.]

36. Obligations and liabilities of safety and health representatives

This Schedule does not —

(a) impose an obligation on a person to exercise any power conferred on the person because the person is a safety and health representative; or

(b) render a person liable in civil proceedings because of —

(i) a failure to exercise such a power; or

(ii) the way such a power was exercised.

[Clause 36 inserted: No. 13 of 2005 s. 47.]

37. Provisional improvement notices

(1) If —

(a) a safety and health representative for a designated work group believes, on reasonable grounds, that a person —

(i) is contravening a listed OSH law; or

(ii) has contravened a provision of a listed OSH law and is likely to contravene that provision again;

and

(b) the contravention affects or may affect one or more group members,

the representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

(2) If, in the safety and health representative's opinion, agreement is not reached within a reasonable time, the safety and health representative may issue a provisional improvement notice to any or each person (a ***responsible person***) responsible for the contravention.

(3) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.

(4) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to that responsible person —

(a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and

(b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.

(5) The notice must —

(a) specify the contravention that, in the safety and health representative's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and

(b) specify a period that —

(i) is not less than 7 days beginning on the day after the notice is issued; and

(ii) is, in the representative's opinion, reasonable,

within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.

(6) The notice may specify action that the responsible person is to take during the period specified in the notice.

(7) If, in the safety and health representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.

(8) On issuing the notice, the safety and health representative must give a copy of the notice to —

(a) if the operator is not a responsible person — the operator; and

(b) each work group employer other than a work group employer who is a responsible person; and

(c) if the supervisor is not a responsible person — the supervisor; and

(d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person

to whom a copy of the notice is given under paragraph (a), (b) or (c) — that owner.

[Clause 37 inserted: No. 13 of 2005 s. 47.]

38. Effect of provisional improvement notice

(1) Within 7 days after a notice is issued under clause 37 —

(a) the responsible person; or

(b) any other person, to whom a copy of the notice has been given under clause 37(8),

may request an inspector for an inspection of the matter to be conducted.

(2) On the request being made, the operation of the notice is suspended pending the determination of the matter by an inspector.

(3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement, and the inspector conducting the inspection must —

(a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under clause 37(8) accordingly; and

(b) make decisions, and exercise powers, under Division 4, as the inspector considers necessary in relation to the work.

(4) If the inspector varies a notice, the notice as so varied has effect —

(a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation — as if the notice as so varied resumed effect on the day of the variation; and

(b) so far as the notice concerns new obligations imposed by virtue of the variation — as if the notice as so varied were a new notice issued on the day of the variation.

(5) If the notice is issued to a responsible person, the responsible person must —

(a) notify each group member who is affected by the notice of the fact of the issue of the notice; and

(b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.

(6) The notice ceases to have effect if —

(a) it is cancelled by an inspector or by the safety and health representative; or

(b) the responsible person —

(i) takes the action, if any, specified in the notice; or

(ii) if no action is so specified — takes the action necessary to prevent the further contravention, or likely contravention, concerned.

(7) The responsible person —

(a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and

(b) must take reasonable steps to inform the safety and health representative who issued the notice of the action taken to comply with the notice.

(8) For the purposes of clause 65, if the inspector confirms or varies the notice, the inspector is taken to have decided, under clause 61, to issue an improvement notice in those terms.

[Clause 38 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 19 and 34.]

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

(1) The operator of a facility, in relation to which a designated work group having a safety and health representative has been established, must —

(a) on being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the group members perform work, being changes that may affect their safety and health; and

(b) in relation to a workplace at which some or all of the group members perform work —

(i) permit the representative to make any inspection of the workplace that the representative is entitled to make in accordance with clause 33(1)(a)(i) and to accompany an inspector during an inspection at the workplace by the inspector; and

(ii) if there is no safety and health committee in respect of the members of the workforce — on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the safety and health of group members;

and

(c) permit the representative to be present at any interview at which the representative is entitled to be present under clause 33(1)(c); and

(d) provide to the representative access to any information to which the representative is entitled to obtain access under clause 33(1)(d)(i) or (ii) and to which access has been requested; and

(e) permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to exercise the powers of a safety and health representative; and

(f) provide the representative with access to any amenities that are —

(i) prescribed for the purposes of this paragraph; or

(ii) necessary for the purposes of exercising the powers of a safety and health representative.

(2) Subclause (1)(d) has effect subject to subclauses (3) and (4).

(3) The operator must not permit a safety and health representative in relation to a designated work group to have access to information that —

(a) is of a confidential medical nature under the control of the operator; and

(b) relates to a person who is or was a group member,

unless —

(c) the person has delivered to the employer a written authority permitting the representative to have access to the information; or

(d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

(4) The operator is not required to give a safety and health representative access to any information in respect of which the operator is entitled to claim, and does claim, legal professional privilege.

(5) The duties imposed by this clause on the operator in respect of the safety and health representative for a designated work group apply equally, to the extent that the matters to which the duties relate are within the control of a work group employer or of a supervisor of particular work, to that employer and to that supervisor.

[Clause 39 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34.]

Subdivision 4 — Safety and health committees

[Heading inserted: No. 13 of 2005 s. 47.]

40. Safety and health committees

(1) A safety and health committee must be established in relation to the members of the workforce at a facility if —

(a) the number of those members normally present at the facility is not less than 50 (whether or not those members are all at work at the facility at the same time); and

(b) the members of the workforce are included in one or more designated work groups; and

(c) the operator is requested to establish the committee by the safety and health representative for the designated work group or for one of the designated work groups.

(2) The safety and health committee consists of —

(a) the number of members specified in an agreement reached between the operator and the members of the workforce; or

(b) if there is no such agreement — an equal number of —

(i) members, chosen by the members of the workforce, to represent the interests of members of the workforce; and

(ii) members, chosen by the operator, to represent the interests of the operator and the employer (other than the operator) of members of the workforce.

(3) The agreement referred to in subclause (2)(a) may —

(a) specify the persons who are to be members to represent the interests of the operator and employers (other than the operator) of members of the workforce; and

(b) provide for the way in which persons who are to be members to represent the interests of members of the workforce are to be chosen.

(4) If regulations made for the purposes of this clause specify procedures for the selection of persons as members of safety and health committees to represent the interests of members of the workforce, an agreement referred to in subclause (2)(a) must not provide for members to be chosen in a way inconsistent with the regulations.

(5) A safety and health committee must hold a meeting at least once every 3 months.

(6) The procedure at meetings of a safety and health committee must, except to the extent provided for by the regulations, be the procedure agreed upon by the committee.

(7) A safety and health committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.

(8) This clause does not prevent an operator from establishing, in consultation with registered unions or any other persons, committees concerned with occupational safety and health in relation to undertakings carried on by the operator.

[Clause 40 inserted: No. 13 of 2005 s. 47.]

41. Functions of safety and health committees

(1) A safety and health committee has the following functions —

(a) to assist the operator of the facility concerned —

(i) to develop and implement measures designed to protect; and

(ii) to review and update measures used to protect,

the safety and health at work of members of the workforce;

(b) to facilitate cooperation between the operator of the facility, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational safety and health matters;

(c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to safety and health at work;

(d) any prescribed functions;

(e) any other functions that are agreed between the operator and the safety and health committee.

(2) A safety and health committee has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(3) This Schedule does not —

(a) impose an obligation on a person to do any act, because the person is a member of a safety and health committee, in connection with the performance of a function conferred on the committee; or

(b) render such a person liable in civil proceedings because of —

(i) a failure to do such an act; or

(ii) the manner in which such an act was done.

[Clause 41 inserted: No. 13 of 2005 s. 47.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

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

(1) If there is a safety and health committee, the operator and any employer (other than the operator) of a member of the workforce must —

(a) make available to the committee any information possessed by the operator or that employer relating to risks to safety and health to members of the workforce; and

(b) permit any member of the committee who is a member of the workforce to take time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.

(2) Subclause (1)(a) has effect subject to subclauses (3) and (4).

(3) The operator or any employer (other than the operator) of a member of the workforce must not make available to a safety and health committee information of a confidential nature relating to a person who is or was a member of the workforce, unless —

(a) the person has authorised the information to be made available to the committee; or

(b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

(4) The operator or any employer (other than the operator) of a member of the workforce is not required to make available to a safety and health committee any information in respect of which the operator or employer is entitled to claim, and does claim, legal professional privilege.

[Clause 42 inserted: No. 13 of 2005 s. 47.]

Subdivision 5 Emergency procedures

[Heading inserted: No. 13 of 2005 s. 47.]

43. Action by safety and health representatives

(1) If a safety and health representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the safety or health of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must —

(a) inform a person (a ***supervisor***) supervising the group member or group members in the performance of the work of the danger; or

(b) if no supervisor can be contacted immediately —

(i) direct the group member or group members to cease, in a safe manner, to perform the work; and

(ii) as soon as practicable, inform a supervisor that the direction has been given.

(2) If a supervisor is informed under subclause (1)(a) of a danger to the safety or health of any person at or near the facility, the supervisor must take the action he or she thinks appropriate to remove that danger, which may include directing a group member or group members to cease, in a safe manner, to perform the work.

(3) If —

(a) a safety and health representative has informed a supervisor under subclause (1)(a) of a danger; and

(b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the safety or health of any person at or near the facility unless the group member or group members cease to perform particular work,

the representative must —

(c) direct the group member or group members to cease, in a safe manner, to perform the work; and

(d) as soon as practicable, inform the supervisor that the direction has been given.

(4) If —

(a) a safety and health representative gives a direction under subclause (1)(b), but is unable to agree with a supervisor whom the representative has informed under that subclause that there is a need for a direction under that subclause; or

(b) a safety and health representative gives a direction under subclause (3)(c),

the representative or the supervisor may request an inspector that an inspection be conducted of the work that is the subject of the direction.

(5) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the direction, and the inspector conducting the inspection must make decisions, and exercise powers, under Division 4 as the inspector considers necessary in relation to the work.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(6) This clause does not limit the power of a safety and health representative under clause 33(1)(a)(iii) to request an inspector that an inspection be conducted at the workplace.

[Clause 43 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 20 and 34.]

44. Directions to perform other work

If —

(a) a group member who is an employee has ceased to perform work, in accordance with the direction of a safety and health representative under clause 43(1)(b) or (3)(c); and

(b) the cessation of work does not continue after —

(i) the safety and health representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or

(ii) an inspector has, under clause 43(5), made a decision to the effect that the employee should perform the work,

the employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

[Clause 44 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34.]

Subdivision 6 — Exemptions

[Heading inserted: No. 13 of 2005 s. 47.]

45. Exemptions

(1) The Minister may, in accordance with the regulations, make a written order exempting a specified person or class of person from any or all of the provisions of this Division (other than this clause).

(2) The Minister must not make an order under subclause (1) unless the Minister is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.

[Clause 45 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 21 and 35.]

Division 4 — Inspections

[Heading inserted: No. 13 of 2005 s. 47.]

Subdivision 1 — Introduction

[Heading inserted: No. 13 of 2005 s. 47.]

46. Simplified outline

The following is a simplified outline of this Division:

- An inspector may conduct an inspection —

(a) to ascertain whether a listed OSH law is being complied with; or

(b) concerning a contravention or a possible contravention of a listed OSH law; or

(c) concerning an accident or dangerous occurrence that has happened at or near a facility.

- An inspector may issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the safety and health of any person.
- An inspector may issue an improvement notice specifying action that is to be taken to prevent contravention of a listed OSH law.
- An inspector must prepare a report about an inspection and give the report to the Minister.

[Clause 46 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 22 and 34.]

47. Powers, functions and duties of inspectors

(1) An inspector has the powers, functions and duties conferred or imposed by each listed OSH law.

(2) The Minister may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on inspectors by a listed OSH law are to be exercised. If the Minister does so, the powers of inspectors must be exercised in accordance with those directions.

(3) The Minister may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular inspector by a listed OSH law. If the Minister does so, the powers of the inspector are taken to have been restricted accordingly.

[Clause 47 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 23.]

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

~~Subdivision 2 — Inspections~~

~~*[Heading inserted: No. 13 of 2005 s. 47.]*~~

~~48. Inspections~~

~~(1) An inspector may, at any time, conduct an inspection —~~

~~(a) to ascertain whether a requirement of, or any requirement properly made under, a listed OSH law is being complied with; or~~

~~(b) concerning a contravention or a possible contravention of a listed OSH law; or~~

~~(c) concerning an accident or dangerous occurrence that has happened at a facility.~~

~~(2) The Minister may direct an inspector to conduct an inspection —~~

~~(a) to ascertain whether a requirement of, or any requirement properly made under, a listed OSH law is being complied with; or~~

~~(b) concerning a contravention or a possible contravention of a listed OSH law; or~~

~~(c) concerning an accident or dangerous occurrence that has happened at a facility,~~

~~and the inspector must, unless the Minister revokes the direction, conduct an inspection accordingly.~~

~~*[Clause 48 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34 and 35.]*~~

~~Subdivision 3 — Powers of inspectors in relation to the conduct of inspections~~

~~*[Heading inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 24.]*~~

~~49. Powers of entry and search — facilities~~

~~(1) An inspector may, for the purposes of an inspection, at any reasonable time during the day or night —~~

~~(a) enter the facility to which the inspection relates and do all or any of the following —~~

~~(i) search the facility;~~

~~(ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace at the facility or any plant, substance or thing at the facility;~~

~~(iii) take photographs of, make video recordings of, or make sketches of, any workplace at the facility or any plant, substance or thing at the facility;~~

(iv) inspect, take extracts from, or make copies of, any documents at the facility that the inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection;

and

(b) inspect the seabed and subsoil in the vicinity of the facility to which the inspection relates.

(2) Immediately on entering a facility for the purposes of an inspection, an 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 safety and health representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection — that representative,

and must, on being requested to do so by the person referred to in paragraph (a) or (b), produce for inspection by that person —

(c) the inspector's identity card; and

(d) a copy of the Minister's written direction (if any) to conduct the inspection; and

(e) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 47(3).

(3) If there is a safety and health representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the inspector must afford the safety and health representative a reasonable opportunity to consult on the matter the subject of the inspection.

[Clause 49 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 25 and 34.]

50. Powers of entry and search — regulated business premises (other than facilities)

(1) An inspector may, for the purposes of an inspection —

(a) at any reasonable time, enter any regulated business premises (other than a facility) if the inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and

(b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

(2) Immediately on entering premises referred to in subclause (1), an inspector must take reasonable steps to notify the purpose of the entry

to the occupier of those premises, and must, on being requested to do so by the occupier, produce for inspection by the occupier —

(a) the inspector's identity card; and

(b) a copy of the Minister's written direction (if any) to conduct the inspection; and

(c) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 47(3).

[Clause 50 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 26 and 34.]

51. Powers of entry and search — premises (other than regulated business premises)

(1) An inspector may, for the purposes of an inspection —

(a) enter any premises (other than regulated business premises) if the inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and

(b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

(2) An inspector may exercise the powers referred to in subclause (1) to enter premises only —

(a) if the premises are not a residence —

(i) in accordance with a warrant under clause 52;

(ii) with the consent of the occupier of the premises;

or

(b) if the premises are a residence — with the consent of the occupier of the premises.

(3) Immediately on entering premises referred to in subclause (1), an inspector must —

(a) take reasonable steps to notify the purpose of the entry to the occupier of those premises; and

(b) take reasonable steps to produce, for inspection by the occupier, the inspector's identity card; and

(c) on being requested to do so by the occupier, produce, for inspection by the occupier —

(i) a copy of the Minister's written direction (if any) to conduct the inspection; and

(ii) a copy of the restrictions (if any) imposed on the powers of the inspector under clause 47(3).

(4) If —

(a) an inspector enters premises in accordance with a warrant under clause 52; and

(b) the occupier of the premises is present at the premises,

the inspector must make a copy of the warrant available to the occupier.

(5) Before obtaining the consent of a person as mentioned in subclause (2)(a) or (b), an inspector must inform the person that —

(a) the person may refuse consent; and

(b) the consent may be withdrawn.

(6) The consent of a person is not effective for the purposes of subclause (2) unless the consent is voluntary.

[Clause 51 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 27 and 34.]

52. Warrant to enter premises (other than regulated business premises)

(1) An inspector may apply to a magistrate for a warrant authorising the inspector, with any assistance as the inspector thinks necessary, to exercise the powers referred to in clause 51(1) in relation to particular premises (other than a residence).

(2) The application must be supported by evidence on oath (whether oral or by affidavit) that sets out the grounds on which the inspector is applying for the warrant.

(3) If the magistrate is satisfied that there are reasonable grounds for issuing the warrant, the magistrate may issue the warrant.

(4) A warrant issued under subclause (3) must state —

(a) the name of the inspector; and

(b) whether the inspection may be carried out at any time or only during specified hours of the day; and

(c) the day on which the warrant ceases to have effect; and

(d) the purposes for which the warrant is issued.

(5) The day specified under subclause (4)(c) is not to be more than 7 days after the day on which the warrant is issued.

(6) The purposes specified under subclause (4)(d) must include the identification of the premises in relation to which the warrant is issued.

[Clause 52 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34.]

53. Obstructing or hindering inspector

A person must not, without reasonable excuse, obstruct or hinder an inspector in the exercise of an inspector's powers under clause 49, 50 or 51.

Penalty: a fine of $5 500.

[Clause 53 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 57 of 2011 s. 28.]

54. Power to require assistance

(1) An inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection, require —

(a) the operator of a facility; or

(b) the person in charge of operations at a workplace in relation to a facility; or

(c) a member of the workforce at a facility; or

(d) any person representing a person referred to in paragraph (a) or (b),

to provide the inspector with reasonable assistance and amenities —

(e) that is or are reasonably connected with the conduct of the inspection at or near the facility; or

(f) for the effective exercise of the inspector's powers under this Schedule in connection with the conduct of the inspection at or near the facility.

(2) The reasonable assistance referred to in subclause (1) includes, so far as the operator of the facility is concerned —

(a) appropriate transport to or from the facility for the inspector and for any equipment required by the inspector, or any article of which the inspector has taken possession; and

(b) reasonable accommodation and means of subsistence while the inspector is at the facility.

(3) A person must not fail, without reasonable excuse, to comply with a requirement under this clause.

Penalty for an offence under subclause (3): a fine of $3 300 or imprisonment for 6 months or both.

[Clause 54 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(1); No. 57 of 2011 s. 29 and 34.]

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

(1) If —

(a) an inspector believes on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of an inspection; and

(b) the person is —

(i) the operator of a facility; or

(ii) the person in charge of operations at a workplace in relation to a facility; or

(iii) a member of the workforce at a facility; or

(iv) any person representing a person referred to in subparagraph (i) or (ii),

the inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the inspector.

(2) If, at the time when a requirement under subclause (1) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement —

(a) is in writing; and

(b) specifies the day on or before which the question is to be answered (being at least 14 days after the day on which the requirement is imposed); and

(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(3) If —

(a) an inspector believes on reasonable grounds that a person is capable of producing a document or article that is reasonably connected with the conduct of an inspection; and

(b) the person is —

(i) the operator of a facility; or

(ii) the person in charge of operations at a workplace in relation to a facility; or

(iii) a member of the workforce at a facility; or

(iv) any person representing a person referred to in subparagraph (i) or (ii),

the inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(4) If, at the time when a requirement under subclause (3) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement —

(a) is in writing; and

(b) specifies the day on or before which the document or article is to be produced (being at least 14 days after the day on which the requirement is imposed); and

(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(5) A person must not —

(a) fail, without reasonable excuse, to comply with a requirement under this clause; or

(b) in purported compliance with a requirement under this clause, give information that is false or misleading in a material particular.

Penalty for an offence under subclause (5): a fine of $3 300 or imprisonment for 6 months or both.

[Clause 55 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(2); No. 57 of 2011 s. 34.]

56. Privilege against self-incrimination

(1) A person is not excused from answering a question or producing a document or article when required to do so under clause 55 on the ground that the answer to the question, or the production of the document or article, may tend to incriminate the person or make the person liable to a penalty.

(2) However —

(a) the answer given or document or article produced; or

(b) answering the question or producing the document or article; or

(c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or article,

is not admissible in evidence against the person —

(d) in any civil proceedings; or

(e) in any criminal proceedings other than proceedings for an offence against clause 55.

[Clause 56 inserted: No. 13 of 2005 s. 47.]

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

(1) In conducting an inspection, an inspector may, to the extent that it is reasonably necessary for the purposes of inspecting, examining, taking measurements of or conducting tests concerning, any plant, substance or thing at a facility in connection with the inspection —

(a) take possession of the plant, substance or thing and remove it from the facility; or

(b) take a sample of the substance or thing and remove that sample from the facility.

(2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the inspector must, by notice in writing, inform —

(a) the operator of the 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 — that employer; and

(c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b) — that person; and

(d) if there is a safety and health representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates — that representative,

of the taking of possession or the taking of the sample, as the case may be, and the reasons for it.

(3) If the inspector gives the notice to the operator of the 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 inspector takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of or conducting tests concerning, the plant, substance or thing, the inspector must —

(a) ensure that the inspection, examination, measuring or testing is conducted as soon as practicable; and

(b) return it to the workplace as soon as practicable afterwards.

(5) As soon as practicable after completing any such inspection, examination, measurement or testing, the inspector must give a written statement setting out the results to each person whom the inspector is required to notify under subclause (2).

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

[Clause 57 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34.]

58. Power to direct that workplace etc. not be disturbed

(1) An inspector may give a direction under subclause (2) if, in conducting an inspection, the inspector has reasonable grounds to believe that it is reasonably necessary to do so in order to —

(a) remove an immediate threat to the safety or health of any person; or

(b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility.

(2) If subclause (1) applies, the inspector may direct, by written notice given to the operator's representative at the facility, that the operator must ensure that —

(a) a particular workplace; or

(b) particular plant, or a particular substance or thing,

not be disturbed for a period specified in the direction.

(3) The period specified in the direction must be a period that the inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.

(4) The direction may be renewed by another direction in the same terms.

(5) If an inspector gives a notice to the operator's representative under subclause (2), the operator's representative must cause the notice to be displayed in a prominent place at the workplace —

(a) that is to be left undisturbed; or

(b) where the plant, substance or thing that is to be left undisturbed is located.

(6) As soon as practicable after giving the direction, the inspector must take reasonable steps to notify —

(a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility — that person; and

(b) if there is a safety and health representative for a designated work group that includes a group member performing work —

(i) at a workplace; or

(ii) involving the plant, substance or thing,

to which the direction relates that representative,

of the direction and the reasons for giving it.

(7) The operator of a facility to which a direction concerning a workplace, plant, substance or a thing relates must ensure that the direction is complied with.

Penalty: a fine of $27 500.

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

[Clause 58 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 57 of 2011 s. 34.]

59. Power to issue prohibition notices

(1) If, having conducted an inspection, an inspector is satisfied on reasonable grounds that it is reasonably necessary to issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the safety or health of any person, the inspector may issue a prohibition notice, in writing, to the operator.

(2) The notice must be issued to the operator by giving it to the operator's representative at the facility.

(3) The notice must

(a) specify the activity in respect of which, in the inspector's opinion, the threat to safety or health has arisen, and set out the reasons for that opinion; and

(b) either

(i) direct the operator to ensure that the activity is not engaged in; or

(ii) direct the operator to ensure that the activity is not engaged in in a specified manner.

(4) A specified manner may relate to any one or more of the following

(a) any workplace, or part of a workplace, at which the activity is not to be engaged in;

(b) any plant or substance that is not to be used in connection with the activity;

(c) any procedure that is not to be followed in connection with the activity.

(5) The notice may specify action that may be taken to satisfy an inspector that adequate action has been taken to remove the threat to safety and health.

(6) The operator's representative at the facility must —

(a) give a copy of the notice to each safety and health representative (if any) for any designated work group having group members performing work that is affected by the notice; and

(b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which that work is performed.

(7) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the inspector must, upon issuing the notice, give a copy of the notice to that person.

[Clause 59 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 30 and 34.]

60. Compliance with prohibition notice

(1) An operator must ensure that a prohibition notice issued to the operator is complied with.

Penalty: a fine of $27 500.

(2) If an inspector is satisfied that action taken by the operator to remove the threat to safety and health in respect of which the notice was issued is not adequate, the inspector must inform the operator accordingly.

(3) A prohibition notice ceases to have effect when an inspector notifies the operator that the inspector is satisfied that the operator has taken adequate action to remove the threat to safety or health.

(4) In making a decision under subclause (2), an inspector may exercise any of the powers of an inspector conducting an inspection that the inspector considers necessary for the purposes of making the decision.

[Clause 60 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 57 of 2011 s. 34.]

61. Power to issue improvement notices

(1) If, in conducting an inspection, an inspector believes on reasonable grounds that a person —

(a) is contravening a listed OSH law; or

(b) has contravened a provision of a listed OSH law and is likely to contravene that provision again,

the inspector may issue an improvement notice, in writing, to the person (the ***responsible person***).

(2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.

(3) If the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to that employer —

(a) the improvement notice may be issued to the employer by giving it to the operator's representative at the facility; and

(b) if the notice is so issued — the operator must ensure that a copy of the notice is given to the employer as soon as practicable afterwards.

(4) The notice —

(a) must specify the contravention that the inspector believes is occurring or is likely to occur, and set out the reasons for that belief; and

(b) must specify a reasonable period within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be; and

(c) may specify action that the responsible person is to take during the period specified in the notice.

(5) If the inspector believes on reasonable grounds that it is appropriate to do so, the inspector may, in writing and before the end of the period, extend the period specified in the notice.

(6) If an improvement notice is issued to an employer (other than the operator) of members of the workforce in circumstances other than the circumstance referred to in subclause (3), the employer must immediately ensure that a copy of the notice is given to the operator's representative at the facility.

(7) If a notice is issued to the operator or to an employer (other than the operator) of members of the workforce, the operator's representative at the facility must —

(a) give a copy of the notice to each safety and health representative for a designated work group having group members performing work that is affected by the notice; and

(b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.

(8) On issuing a notice, the inspector must give a copy of the notice to —

(a) if the notice is —

(i) given to a member of the workforce who is an employee; and

(ii) in connection with work performed by the employee, the employer of that employee; and

(b) if the notice relates to any workplace, plant, substance or thing that is owned by a person other than —

(i) a responsible person; or

(ii) a person who is an employer referred to in paragraph (a),

that owner; and

(c) if the notice is issued to a person who owns any workplace, plant, substance or thing, because of which a contravention of a listed OSH law has occurred or is likely to occur —

(i) the operator of the facility; and

(ii) if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator — that employer.

[Clause 61 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 34.]

62. Compliance with improvement notice

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

Penalty: a fine of $11 000.

[Clause 62 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

63. Notices not to be tampered with or removed

(1) A person must not, without reasonable excuse, tamper with any notice that has been displayed under clause 57(3), 58(5), 59(6) or 61(7) while that notice is so displayed.

(2) If a notice has been displayed under clause 57(3), a person must not, without reasonable excuse, remove the notice until the plant or thing to which the notice relates is returned to the workplace from which it was removed.

(3) If a notice has been displayed under clause 58(5), 59(6) or 61(7), a person must not, without reasonable excuse, remove the notice before it has ceased to have effect.

Penalty for an offence under subclause (1), (2) or (3): a fine of $11 000.

[Clause 63 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(3).]

Subdivision 4 — Reports on inspections

[Heading inserted: No. 13 of 2005 s. 47.]

64. Reports on inspections

(1) If an inspector has conducted an inspection, the inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Minister.

(2) The report must include —

(a) the inspector's conclusions from conducting the inspection and the reasons for those conclusions; and

(b) any recommendations that the inspector wishes to make arising from the inspection; and

(c) any other prescribed matters.

(3) As soon as practicable after receiving the report, the Minister must give a copy of the report, together with any written comments that the Minister wishes to make —

(a) to the operator of the facility to which the report relates; and

(b) if the report relates to activities performed by an employee of another person — that other person; and

(c) if the report relates to any plant, substance or thing owned by another person — that other person.

(4) The Minister may, in writing, request the operator or any other person to whom the report is given to provide to the Minister, within a reasonable period specified in the request, details of —

(a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and

(b) if a notice has been issued under clause 59 or 61 in relation to work being performed for the operator or that other person — any action taken, or proposed to be taken, in respect of that notice,

and the operator or that other person must comply with the request.

(5) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Minister on the report —

(a) if there is at least one safety and health committee in respect of some or all of the members of the workforce — to each such committee; and

(b) if there is no such committee in respect of some or all of the members of the workforce, but some or all of those members (in respect of which there is no such committee) are in at least one designated work group for which there is a safety and

health representative — to each such safety and health representative.

[Clause 64 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 31, 34 and 35.]

Subdivision 5 — Reviews of inspectors' decisions

[Heading inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 32.]

65. Reviews of decisions of inspectors

(1) If an inspector, in conducting an inspection or having conducted an inspection —

(a) decides, under clause 38, to confirm or vary a provisional improvement notice; or

(b) decides, under clause 57, to take possession of plant, a substance or a thing at a workplace; or

(c) decides, under clause 58, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or

(d) decides, under clause 59, to issue a prohibition notice; or

(e) decides, under clause 60, that the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to safety and health that caused the notice to be issued; or

(f) decides, under clause 61, to issue an improvement notice,

a person referred to in subclause (2) may apply in writing to the reviewing authority for a review of the decision.

(2) The following persons may apply for a review of a decision, as is relevant to the case —

(a) the operator of the facility or any employer (other than the operator) who is affected by the decision;

(b) a person to whom a notice has been issued under clause 37(2) or 61(1);

(c) the safety and health representative for a designated work group having a group member affected by the decision;

(d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to apply for a review of the decision;

(e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to apply for a review of the decision — that workforce representative;

(f) a person who owns any workplace, plant, substance or thing to which the decision referred to in subclause (1)(a), (b), (c) or (f) relates.

(3) If an inspector, having conducted an inspection —

(a) decides under clause 38 to cancel a provisional improvement notice; or

(b) decides under clause 60 that the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to safety and health that caused the notice to be issued,

the following persons may apply in writing to the reviewing authority for a review of the decision, as is relevant to the case —

(c) the safety and health representative for a designated work group having a group member affected by the decision;

(d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to apply for the review;

(e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to apply for the review — that workforce representative.

(4) An application under subclause (2) or (3) must be made —

(a) not later than 7 days after the day on which the person applying received notice of the inspector's decision; or

(b) within such further period as the reviewing authority may allow.

(5) A person, other than the operator of the facility concerned, who applies for a review of a decision must, as soon as is practicable, give a copy of the application to the operator.

Penalty: a fine of $5 000.

(6) The reviewing authority is to give notice in writing of the decision on the reference and the reasons for the decision to —

(a) the person who referred the matter for review; and

(b) if that person is not the operator of the facility concerned, to the operator.

(7) Subject to this clause, applying for a review of a decision does not affect the operation of the decision or prevent the taking of action to implement that decision, except to the extent that the reviewing authority makes an order to the contrary.

(8) If the decision to be reviewed is a decision under clause 61 to issue an improvement notice, the operation of the notice is suspended pending

determination of the decision, except to the extent that the reviewing authority makes an order to the contrary.

(9) If the decision to be reviewed is a decision of an inspector under clause 38 to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the review, except to the extent that the reviewing authority makes an order to the contrary.

(10) In this clause —

reviewing authority means a person prescribed by the regulations to be a reviewing authority for the purposes of this clause.

[Clause 65 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 57 of 2011 s. 34.]

66. Powers of reviewing authority on review

(1) On a review of a decision under clause 65, the reviewing authority may —

(a) affirm the decision; or

(b) affirm the decision with such modifications as the reviewing authority considers appropriate; or

(c) revoke the decision and make such other decision with respect to the matter as the reviewing authority thinks fit,

and the decision has effect or, as the case may be, ceases to have effect accordingly.

(2) If —

(a) the decision being reviewed is a decision under clause 57 to take possession of plant, a substance or a thing at a workplace; and

(b) the decision is not affirmed,

the inspector who made the decision must ensure that, to the extent that the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.

[Clause 66 inserted: No. 13 of 2005 s. 47.]

Division 5 — Referrals to the Tribunal

[Heading inserted: No. 13 of 2005 s. 47.]

67. Decision may be referred to Tribunal

(1) If a person given notice of a decision under clause 22(3)(b) or 65(6) is not satisfied with the reviewing authority's decision under that

section, the person may refer the decision to the Tribunal for further review.

(2) A reference under subclause (1) must be made —

(a) not later than 7 days after the day on which the person received notice of the decision; or

(b) within such further period as the Tribunal may allow.

(3) A person, other than the operator of the facility concerned, who refers a matter for review under this clause must, as soon as is practicable, give a copy of the duly completed prescribed form to the operator.

Penalty for an offence under subclause (3): a fine of $5 000.

[Clause 67 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(4).]

68. Determination by Tribunal

(1) On a reference under clause 67, the Tribunal is to inquire into the circumstances relating to the decision, and may —

(a) affirm the decision of the reviewing authority; or

(b) affirm the decision of the reviewing authority with such modifications as the Tribunal considers appropriate; or

(c) revoke the decision of the reviewing authority and make such other decision with respect to the notice as the Tribunal thinks fit,

and the decision has effect or, as the case may be, ceases to have effect accordingly.

(2) A review under this clause —

(a) is to be in the nature of a rehearing; and

(b) is to be completed by the Tribunal as quickly as is practicable.

(3) The Tribunal is to give notice in writing of its decision on the reference and the reasons for the decision to —

(a) the person who referred the matter for review; and

(b) if that person is not the operator of the facility concerned, to the operator.

[Clause 68 inserted: No. 13 of 2005 s. 47.]

69. Effect of pending review by Tribunal

(1) Subject to this clause, a reference to the Tribunal for further review of a decision does not affect the operation of the decision or prevent the taking of action to implement that decision, except to the extent that the Tribunal makes an order to the contrary.

(2) If the decision to be reviewed concerns a decision under clause 61 to issue an improvement notice, the operation of the notice is suspended pending determination of the review, except to the extent that the Tribunal makes an order to the contrary.

(3) If the decision to be reviewed concerns a decision of an inspector under clause 38 to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the review, except to the extent that the Tribunal makes an order to the contrary.

[Clause 69 inserted: No. 13 of 2005 s. 47.]

70. Jurisdiction of Tribunal

(1) This clause applies where —

(a) under clause 67 a matter is referred to the Tribunal; or

(b) under clause 31 an application is made to the Tribunal.

(2) Where this clause applies —

(a) the matter or application may be heard and determined; and

(b) a determination made by the Tribunal on the matter or application has effect, and may be appealed against and enforced,

as if it were —

(c) a matter in respect of which jurisdiction is conferred on the Tribunal by Part VIB of the *Occupational Safety and Health Act 1984*; or

(d) a determination made for the purposes of that Part.

(3) The provisions of —

(a) Part VIB of the *Occupational Safety and Health Act 1984*; and

(b) the *Industrial Relations Act 1979* applied by that Part,

have effect for the purposes of this clause with all necessary changes.

(4) In the operation of subclause (3), section 51J(1) of the *Occupational Safety and Health Act 1984* has effect as if it were expressed to apply where a matter has been referred to the Tribunal under clause 67 in relation to a decision made under clause 22.

[Clause 70 inserted: No. 13 of 2005 s. 47.]

Division 6 — General

[Heading inserted: No. 13 of 2005 s. 47.]

71. Notifying and reporting accidents and dangerous occurrences

(1) If, at or near a facility, there is —

(a) an accident that causes the death of, or serious personal injury to, any person; or

(b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or

(c) a dangerous occurrence,

the operator must, in accordance with the regulations, give the Minister notice of, and a report about, the accident or dangerous occurrence.

Penalty: a fine of $5 000.

(2) Regulations made for the purposes of subclause (1) (other than regulations made for the purpose of subclause (1)(b)) may prescribe —

(a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given, and the form of the notice; and

(b) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given, and the form of the report.

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

[Clause 71 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 57 of 2011 s. 35.]

72. Records of accidents and dangerous occurrences to be kept

(1) The operator of a facility must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the operator is required by clause 71 to notify the Minister.

(2) Regulations made for the purposes of subclause (1) may prescribe —

(a) the nature of the contents of a record maintained under this clause; and

(b) the period for which the record must be retained.

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1).

[Clause 72 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(5); No. 57 of 2011 s. 35.]

73. 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 in any civil or criminal proceedings for contravening a code of practice.

[Clause 73 inserted: No. 13 of 2005 s. 47.]

74. Use of codes of practice in proceedings

(1) This clause applies if, in any proceedings for an offence against a listed OSH law, it is alleged that a person contravened a provision of a listed OSH law in relation to which a code of practice was in effect at the time of the alleged contravention.

(2) The code of practice is admissible in evidence in those proceedings.

(3) If the court is satisfied, in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention, that —

(a) any provision of the code of practice is relevant to that matter; and

(b) the person failed at any material time to comply with that provision of the code of practice,

that matter is treated as proved unless the court is satisfied that in respect of that matter the person complied with that provision of the listed OSH law otherwise than by complying with the code of practice.

[Clause 74 inserted: No. 13 of 2005 s. 47.]

75. Interference etc. with equipment etc.

A person must not, without reasonable excuse, do anything that results in the interference with, or the rendering ineffective of, any protective equipment or safety device provided for the occupational safety and health of members of the workforce 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.

Penalty: a fine of $3 300 or imprisonment for 6 months or both.

[Clause 75 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

76. No charges to be levied on members of workforce

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 any charge in respect of anything done or provided in accordance with a listed OSH law in order to ensure the occupational safety and health of persons at or near the facility.

Penalty: a fine of $27 500.

[Clause 76 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6).]

77. Victimisation

(1) An employer (whether the operator or another person) must not —

(a) dismiss an employee; or

(b) perform an act that results in injury to an employee in his or her employment; or

(c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or

(d) threaten to do any of those things,

because the employee —

(e) has complained or proposes to complain about a matter concerning the safety or health of employees at work; or

(f) has assisted or proposes to assist, by giving information or otherwise, the conduct of an inspection; or

(g) has ceased, or proposes to cease, to perform work, in accordance with a direction by a safety and health representative under clause 43(1)(b) or (3)(c), and the cessation or proposed cessation does not continue after —

(i) the safety and health representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or

(ii) an inspector has, under clause 43(5), made a decision that has the effect that the employee should perform the work.

Penalty: a fine of $27 500.

(2) In proceedings for an offence against subclause (1), if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, the accused has the onus of establishing that the action was not taken for that reason.

[Clause 77 inserted: No. 13 of 2005 s. 47; amended: No. 42 of 2010 s. 170(6); No. 47 of 2011 s. 15; No. 57 of 2011 s. 34.]

78. Institution of prosecutions

(1) Proceedings for an offence against a listed OSH law may be instituted by an inspector, but an inspector is not to be personally responsible for any costs incurred by or awarded against the inspector in connection with any proceeding for an offence against a listed OSH law.

(2) A safety and health representative for a designated work group may request an inspector to institute proceedings for an offence against a listed OSH law in relation to the occurrence of an act or omission if —

(a) a period of 6 months has elapsed since the act or omission occurred; and

(b) the safety and health representative considers that the occurrence of the act or omission constitutes an offence against a listed OSH law; and

(c) proceedings in respect of the offence have not been instituted.

(3) A workforce representative in relation to a designated work group may request an inspector to institute proceedings for an offence against a listed OSH law in relation to the occurrence of an act or omission if —

(a) a period of 6 months has elapsed since the act or omission occurred; and

(b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against a listed OSH law; and

(c) proceedings in respect of the offence have not been instituted; and

(d) a group member included in the group requests the workforce representative to request an inspector to institute the proceedings.

(4) A request under subclause (2) or (3) must be in writing.

(5) An inspector must, within 3 months after receiving the request, advise the safety and health representative or the workforce representative, as the case may be, whether proceedings under subclause (1) have been or will be instituted, and, if not, give reasons why not.

[Clause 78 inserted: No. 13 of 2005 s. 47; amended: No. 57 of 2011 s. 33.]

79. Conduct of directors, employees and agents

(1) This clause has effect for the purposes of a proceeding for an offence against a listed OSH law.

(2) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show —

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of actual or apparent authority; and

(b) that the director, employee or agent had the state of mind.

(3) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(4) If it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show —

(a) that the conduct was engaged in by an employee or agent of the natural person within the scope of actual or apparent authority; and

(b) that the employee or agent had the state of mind.

(5) Any conduct engaged in on behalf of a natural person by an employee or agent of the natural person within the scope of actual or apparent authority is taken to have been engaged in also by the natural person unless the natural person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(6) If —

(a) a natural person is found guilty of an offence; and

(b) he or she would not have been found guilty of the offence if subclauses (4) and (5) had not been enacted,

he or she is not liable to be punished by imprisonment for that offence.

(7) A reference in subclause (2) or (4) to the state of mind of a person includes a reference to —

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

[Clause 79 inserted: No. 13 of 2005 s. 47.]

80. Act not to give rise to other liabilities etc.

This Schedule does not —

(a) confer a right of action in any civil proceeding in respect of any contravention of a listed OSH law; or

(b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

[Clause 80 inserted: No. 13 of 2005 s. 47.]

81. Circumstances preventing compliance may be defence to prosecution

It is a defence to a prosecution for a contravention of a listed OSH law if the accused proves that it was not practicable to comply with it because of an emergency prevailing at the relevant time.

[Clause 81 inserted: No. 13 of 2005 s. 47; amended: No. 47 of 2011 s. 15.]

82. Regulations — general

(1) The regulations may prescribe any of the following —

(a) procedures for the selection of persons, under clause 40, as members of safety and health committees, to represent the interests of members of the workforce at a facility;

(b) procedures to be followed at meetings of safety and health committees;

(c) the manner in which notices are to be served under this Schedule or the regulations;

(d) the practice and procedure to be followed in relation to the review of decisions under clause 22 or 65 by reviewing authorities;

(e) forms for the purposes of this Schedule or the regulations.

(2) If the Minister is satisfied that —

(a) a power, function or duty is conferred or imposed on a person under a law of this State or the Commonwealth; and

(b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule,

regulations made for the purposes of this subclause may declare that this Schedule, or the provision, as the case may be, does not apply to that person, or does not apply to that person in the circumstances specified in the regulations.

(3) Regulations made for the purposes of subclause (2) do not remain in force for longer than 5 years after they commence, but this subclause

~~does not prevent the making of further regulations of the same substance.~~

~~(4) In subclause (2)~~

~~this Schedule includes regulations made for the purposes of this Schedule.~~

~~*[Clause 82 inserted: No. 13 of 2005 s. 47.]*~~

[Schedule 5 (cl. 1-82) deleted: Work Health and Safety Bill 2019 cl. 344.]

Notes

[1] This is a compilation of the *Petroleum (Submerged Lands) Act 1982* and includes the amendments made by the other written laws referred to in the following table [8]. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
Petroleum (Submerged Lands) Act 1982	33 of 1982	27 May 1982	14 Feb 1983 (see s. 2(1))
Acts Amendment (Petroleum) Act 1990 Pt. IV [9-15]	12 of 1990 (as amended by No. 28 of 1994 Pt. 2)	31 Jul 1990	1 Oct 1990 (see s. 2 and *Gazette* 28 Sep 1990 p. 5099)
Reprint of the *Petroleum (Submerged Lands) Act 1982* as at 24 Mar 1992 (includes amendments listed above)			
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Land (Titles and Traditional Usage) Act 1993 s. 45 [16]	21 of 1993	2 Dec 1993	2 Dec 1993 (see s. 2)
Petroleum Royalties Legislation Amendment Act 1994 Pt. 3	11 of 1994	15 Apr 1994	1 Mar 1994 (see s. 2)
Acts Amendment (Petroleum) Act 1994 Pt. 6	28 of 1994	29 Jun 1994	22 Jul 1994 (see s. 2 and *Gazette* 22 Jul 1994 p. 3728)
Acts Amendment (Public Sector Management) Act 1994 s. 19	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Acts Amendment and Repeal (Native Title) Act 1995 Pt. 8	52 of 1995	24 Nov 1995	9 Dec 1995 (see s. 2 and *Gazette* 8 Dec 1995 p. 5935)
Acts Amendment (Marine Reserves) Act 1997 Pt. 5	5 of 1997	10 Jun 1997	29 Aug 1997 (see s. 2 and *Gazette* 29 Aug 1997 p. 4867)
Statutes (Repeals and Minor Amendments) Act 1997 s. 94	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Acts Amendment (Land Administration, Mining and Petroleum) Act 1998 Pt. 5	61 of 1998	11 Jan 1999	11 Jan 1999 (see s. 2(1))
Gas Pipelines Access (Western Australia) Act 1998 Sch. 3 Div. 10	65 of 1998	15 Jan 1999	9 Feb 1999 (see s. 2 and *Gazette* 8 Feb 1999 p. 441)

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

Short title	Number and year	Assent	Commencement
Acts Amendment (Mining and Petroleum) Act 1999 Pt. 4	17 of 1999	15 Jun 1999	24 Jul 1999 (see s. 2 and *Gazette* 23 Jul 1999 p. 3385)
Reprint of the *Petroleum (Submerged Lands) Act 1982* as at 6 Aug 1999 (includes amendments listed above)			
Acts Amendment (Australian Datum) Act 2000 s. 8	54 of 2000	28 Nov 2000	16 Dec 2000 (see s. 2 and *Gazette* 15 Dec 2000 p. 7201)
Corporations (Consequential Amendments) Act (No. 2) 2003 Pt. 18	20 of 2003	23 Apr 2003	15 Jul 2001 (see s. 2(1) and Cwlth *Gazette* 13 Jul 2001 No. S285)
Criminal Code Amendment Act 2004 s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 97 [17]	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130)
Petroleum Legislation Amendment and Repeal Act 2005 Pt. 4	13 of 2005	1 Sep 2005	28 Mar 2007 (see s. 2 and *Gazette* 27 Mar 2007 p. 1405)
Financial Legislation Amendment and Repeal Act 2006 s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Reprint 3: The *Petroleum (Submerged Lands) Act 1982* as at 15 Jun 2007 (includes amendments listed above)			
Petroleum Amendment Act 2007 s. 104	35 of 2007	21 Dec 2007	19 Jan 2008 (see s. 2(b) and *Gazette* 18 Jan 2008 p. 147)
Duties Legislation Amendment Act 2008 Sch. 1 cl. 30	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
Standardisation of Formatting Act 2010 s. 4 and 50	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and *Gazette* 10 Sep 2010 p. 4341)

[This compilation shows amendments proposed by Bill No. 155-1 (Pt. 15 Div. 3 Subdiv. 4).]

Short title	Number and year	Assent	Commencement
Petroleum and Energy Legislation Amendment Act 2010 Pt. 3	42 of 2010	28 Oct 2010	Pt. 3 (other than s. 149, 163, 165(1)(b) (to the extent that it inserts s. 152(2)(lc)) and 169 (to the extent that it inserts Sch. 3 cl. 4)); 25 May 2011 (see s. 2(b) and *Gazette* 24 May 2011 p. 1892); s. 149, 163, 165(1)(b) (to the extent that it inserts s. 152(2)(lc)) and 169 (to the extent that it inserts Sch. 3 cl. 4): 1 Jul 2015 (see s. 2(b) and *Gazette* 30 Jun 2015 p. 2321)
Reprint 4: The *Petroleum (Submerged Lands) Act 1982* as at 5 Aug 2011 (includes amendments listed above)			
Personal Property Securities (Consequential Repeals and Amendments) Act 2011 Pt. 9 Div. 5	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)
Statutes (Repeals and Minor Amendments) Act 2011 s. 15	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))
Petroleum (Submerged Lands) Amendment Act 2011	57 of 2011	30 Nov 2011	s. 1 and 2: 30 Nov 2011 (see s. 2(a)); Act other than s. 1 and 2: 1 Jan 2012 (see s. 2(b) and *Gazette* 30 Dec 2011 p. 5537)
Statutes (Repeals and Minor Amendments) Act 2014 s. 7	17 of 2014	2 Jul 2014	6 Sep 2014 (see s. 2(b) and *Gazette* 5 Sep 2014 p. 3213)
Petroleum Legislation Amendment Act 2017 Pt. 3	7 of 2017	14 Sep 2017	15 Nov 2017 (see s. 2(b) and *Gazette* 14 Nov 2017 p. 5597)
Reprint 5: The *Petroleum (Submerged Lands) Act 1982* as at 29 Jun 2018 (includes amendments listed above)			
Work Health and Safety Bill 2019 Pt. 15 Div. 3 Subdiv. 4	Current Bill No. 155-1		

[2] Repealed by the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011* Sch 4 Part 1 (Cwlth).

[3] The title of the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003* (Cwlth) was changed to the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Cwlth) by the *Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Act 2011* (Cwlth) Sch. 1 it. 2.

[4] See the *Gas Pipelines Access (Western Australia) Act 1998* s. 9.

[5] Repealed by the *Off-shore (Application of Laws) Act 1982* s. 5.

[6] Schedule 3 Division 2 clause 6 expired on 1 Jan 2013. It reads as follows:

6. Interpretation of references to Safety Authority in regulations

(1) This clause applies to these regulations —

(a) the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2007*;

(b) the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007*;

(c) the *Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007*;

(d) the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007*.

(2) On and from the commencement of the *Petroleum (Submerged Lands) Amendment Act 2011* section 12, a reference in the regulations to which this clause applies to the Safety Authority is to be taken, unless the context otherwise requires, to be a reference to the Minister.

(3) This clause expires 12 months after the commencement referred to in subclause (2).

[7] Repealed by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth). Now see *Fair Work Act 2009* (Cwlth).

[8] The amendment in the *Petroleum Safety Act 1999* s. 92 was repealed by the *Petroleum Legislation Amendment and Repeal Act 2005* s. 51 before the amendment purported to come into operation.

[9] The *Acts Amendment (Petroleum) Act 1990* s. 191(2) (as amended by the *Acts Amendment (Petroleum) Act 1994* s. 3) reads as follows:

(2) Notwithstanding anything in the principal Act —

(a) section 4 of the principal Act shall have effect in relation to the Barrow Island Pipeline and the Withnell Bay Pipeline as if —

(i) the definition of ***pipeline licence*** had been deleted and the following definition had been substituted —

“

pipeline licence means a licence under Part III to operate an existing pipeline;

”;

and

(ii) the following definitions had been inserted in the appropriate alphabetical positions —

“

existing pipeline means the Barrow Island Pipeline or the Withnell Bay Pipeline;

the Barrow Island Pipeline means the pipeline which extends from Barrow Island to an offshore mooring terminal and which is more fully described in Special lease No. 3116/3628 granted under section 116 of the *Land Act 1933*;

the Withnell Bay Pipeline means the pipeline which extends from the North West Shelf Development Project Treatment Plant to the Product Loading Jetty near Withnell Bay and which is the subject of Pipeline Licence PL9 granted under the *Petroleum Pipelines Act 1969*.

";

(b) section 64 of the principal Act shall have effect in relation to the Barrow Island Pipeline and the Withnell Bay Pipeline as if it had been enacted in the following form —

"

64. Application for pipeline licence in respect of existing pipeline

(1) An application for a pipeline licence in respect of an existing pipeline shall be made in writing to the Minister by the owner of the existing pipeline.

(2) The Minister may at any time by instrument in writing served on an applicant under subsection (1) require the applicant to furnish to the Minister, within the period specified in that instrument, further information in writing in connection with his application, and, notwithstanding section 65(2), the Minister is not obliged to grant a pipeline licence to the applicant in respect of the relevant existing pipeline until that information has been furnished to him.

";

(c) section 65 of the principal Act shall have effect in relation to the Barrow Island Pipeline and the Withnell Bay Pipeline as if it had been enacted in the following form —

"

65. Grant of pipeline licence in respect of the existing licence

(1) When a person makes an application under section 64, the Minister shall inform the person by instrument in writing served on the person that the Minister is prepared to grant a pipeline licence to that person in the form set out in that instrument, which form includes —

(a) the conditions to which the pipeline licence is to be subject; and

(b) in respect of the Withnell Bay Pipeline, all directions and conditions to which Pipeline Licence PL9 granted under the *Petroleum Pipelines Act 1969* is subject and all terms and conditions, instruments and dealings registered under Part IV of that Act in respect of that licence,

if the person within 30 days after that service requests the Minister to grant to him a pipeline licence in that form.

(2) On receiving from the person referred to in subsection (1) a request within the period referred to in that subsection, the Minister shall, subject to section 64(2), grant to that person a licence to operate a pipeline —

(a) in respect of the existing pipeline specified; and

(b) in the form set out,

in the instrument served under that subsection on that person.

(3) If a person on whom an instrument has been served under subsection (1) does not make the request referred to in that subsection within the period referred to in that subsection, the application made by that person lapses on the expiry of that period.

";

(d) section 66 of the principal Act shall have effect in relation to the Barrow Island Pipeline and the Withnell Bay Pipeline as if it had been enacted in the following form —

"

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 to the conditions to which the pipeline licence is subject —

(a) to operate the existing pipeline to which the pipeline licence relates and its pumping stations, tank stations and valve stations specified in the pipeline licence; and

(b) 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 operation of the existing pipeline, and the pumping stations, tank stations and valve stations, referred to in paragraph (a).

";

(e) section 67 of the principal Act shall have effect in relation to the Barrow Island Pipeline and the Withnell Bay Pipeline as if it had been enacted in the following form —

"

67. Term of existing pipeline licence

(1) Subject to this Part, a pipeline licence —

(a) granted otherwise than by way of renewal in respect of an existing pipeline —

(i) which is the Barrow Island Pipeline remains in force for the period of 21 years which commenced on 10 February 1988; or

(ii) which is the Withnell Bay Pipeline remains in force for the period of 21 years which commenced on 20 December 1983;

or

(b) granted by way of renewal in respect of an existing pipeline remains in force, subject to subsection (2), for a period of 21 years.

(2) If the Minister considers that, having regard to the dates of expiry of the licences that relate to the licence areas from which petroleum is conveyed by means of an existing pipeline, it is not necessary for the relevant pipeline licence to remain in force for a period of 21 years after renewal, that pipeline licence remains in force after renewal, subject to this Part, for such period of less than 21 years as the Minister determines and specifies in that pipeline licence.

";

The *Acts Amendment (Petroleum) Act 1990* s. 191(3) reads as follows:

(3) In subsection (2) —

the Barrow Island Pipeline means the pipeline which extends from Barrow Island to the offshore mooring terminal and which is more fully described in Special Lease No. 3116/3628 granted under section 116 of the *Land Act 1933*;

the Withnell Bay Pipeline means the pipeline which extends from the North West Shelf Development Project Treatment Plant to the Product Loading Jetty near Withnell Bay and which is the subject of Pipeline Licence PL9 granted under the *Petroleum Pipelines Act 1969*.

10 The *Acts Amendment (Petroleum) Act 1990* s. 172(2), (3), (4), (5) and (6) read as follows:

(2) Where —

(a) at the commencement of this section, a nomination had been made under section 36 of the principal Act; and

(b) at that commencement, a declaration had not been made under section 37 of the principal Act as a result of the making of the nomination,

sections 36, 37 and 38 of the principal Act, as in force immediately before the commencement of this section, continue to have effect in relation to that nomination and the block or blocks that would be affected by a declaration as if this Act had not been enacted.

(3) A declaration made under section 37 of the principal Act as continued in force by subsection (2) has effect, and the principal Act, as amended by this Act, applies to the declaration, as if the declaration had been made under that section as amended by this Act.

(4) A declaration in force under section 37 of the principal Act immediately before the commencement of this section has effect

after that commencement as if it were a declaration under section 37 of the principal Act as amended by this Act.

(5) Where —

(a) the permittee under a permit granted before the commencement of this section applies under section 40 of the principal Act, as amended by this Act, for a licence;

(b) the location that includes the block or blocks to which the application relates was declared under section 37 of the principal Act as amended by this Act;

(c) the location consists of not more than 8 blocks;

(d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and

(e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 40(1) of the principal Act, as amended by this Act, applies as if the first-mentioned location were constituted by the number of blocks specified in the notification referred to in paragraph (d).

(6) Where —

(a) a lessee under a lease of a block or blocks for which a permit was granted before the commencement of this section applies under section 40A of the principal Act, as amended by this Act, for a licence;

(b) the location that includes the block or blocks to which the application relates was declared under section 37 of the principal Act, as amended by this Act;

(c) the location consists of not more than 8 blocks;

(d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and

(e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 40A(1) of the principal Act, as amended by this Act, applies as if the lease were in respect of the number of blocks specified in the notification referred to in paragraph (d).

11 The *Acts Amendment (Petroleum) Act 1990* s. 181(2) reads as follows:

(2) The revocation under section 46(3) of the principal Act of a declaration in respect of a location shall be deemed not to have affected the validity of a licence granted under the principal Act in respect of any block forming part of that location.

12 The *Acts Amendment (Petroleum) Act 1990* s. 188(2) and (3) read as follows:

(2) Notwithstanding anything in section 37 of the *Interpretation Act 1984*, if, in respect of a year of the term of his licence that has elapsed prior to the commencement of this section, a licensee has not complied with section 57(1) or (2) of the principal Act, the licensee is not required after that commencement to comply with that section in respect of that year and section 57(3) of the principal Act does not apply to or in relation to such a non-compliance.

(3) in subsection (2) —

licence and ***licensee*** have the respective meanings given by the principal Act.

13 The *Acts Amendment (Petroleum) Act 1990* s. 201(2), (3) and (4) read as follows:

(2) Section 78 of the principal Act as amended by this Act applies in relation to applications for approval of transfers of permits, licences, pipeline licences or access authorities lodged after the commencement of this section.

(3) Notwithstanding the repeal of section 78 of the principal Act effected by subsection (1), that section continues to apply in relation to applications for approval of transfers of permits, licences, pipeline licences or access authorities lodged before the commencement of this section.

(4) A transfer approved and registered under section 78 of the principal Act shall be deemed to have been approved and registered under section 78 of the principal Act as amended by this Act.

14 The *Acts Amendment (Petroleum) Act 1990* s. 203(2), (3), (4), (5), (6) and (7) read as follows:

(2) Subject to this section, sections 81 and 81A of the principal Act as amended by this Act apply in relation to dealings evidenced by instruments executed after the commencement of this section.

(3) A party to an instrument to which section 81 of the principal Act applied, being an instrument that had not been approved under that section of that Act, may, if the instrument evidences a dealing —

(a) to which section 81 of the principal Act as amended by this Act would, if the instrument had been executed after the commencement of this section, apply; and

(b) that relates to a permit, licence, pipeline licence or access authority that was in existence at the time of execution of the instrument,

make an application in writing, within 12 months after the commencement of this section, to the Minister for approval of the dealing.

(4) Where —

(a) before the commencement of this section, 2 or more persons entered into a dealing relating to a permit, licence, pipeline licence or access authority that was not in existence at the time of execution of the instrument evidencing the dealing;

(b) that dealing would, if the instrument evidencing the dealing had been executed after the commencement of this section, be a dealing referred to in section 81A(1) of the principal Act as amended by this Act; and

(c) that permit, licence, pipeline licence or access authority has come, or comes, into existence,

a party to the dealing may make an application in writing within —

(d) in a case where that permit, licence, pipeline licence or access authority came into existence before the commencement of this section, 12 months after that commencement; or

(e) in any other case, 3 months after that permit, licence, pipeline licence or access authority comes into existence,

to the Minister for approval of the dealing.

(5) Section 81 of the principal Act as amended by this Act (other than subsections (5) and (6) of that section) applies to a dealing in respect of which an application is made under subsection (3) or (4) of this section.

(6) If, when the first regulations made for the purposes of section 81(4)(b) of the principal Act as amended by this Act take effect, an application for approval of a dealing has been made but the Minister has neither approved nor refused to approve the dealing —

(a) the Minister shall give to the applicant written notice that the applicant is entitled to lodge an instrument for the purpose of section 81(4)(b) of the principal Act in relation to the application;

(b) the applicant may lodge an instrument for the purpose of section 81(4)(b) of the principal Act;

(c) the application shall not be dealt with by the Minister until after the end of 30 days after the day on which notice is given for the purpose of paragraph (a); and

(d) where the applicant lodges an instrument under paragraph (b), the applicant shall lodge with the instrument 2 copies of the instrument.

(7) An instrument lodged under subsection (6) shall be taken, for the purposes of section 81(13) of the principal Act as amended by this Act, to have accompanied the application when the application was lodged.

15 The *Acts Amendment (Petroleum) Act 1990* s. 218(2) and (3) read as follows:

(2) A direction in force under section 101 of the principal Act immediately before the commencement of this section shall, after that commencement, continue to apply to the person or persons to whom it applied before that commencement as if it were a direction under section 101 of the principal Act as amended by this Act.

(3) A registered holder is not required by subsection 101(2a) of the principal Act as amended by this Act to cause a copy of a direction to which subsection (2) applies to be given to another person or to cause a copy of such a direction to be exhibited at a place frequented by that other person if the direction or a copy of the direction was served, within the meaning of the principal Act, on the person before the commencement of this section.

16 The *Land (Titles and Traditional Usage) Act 1993* Sch. 1 Pt. 4 cl. 5(2) reads as follows:

(2) Division 4A inserted by subsection (1) does not apply to an application for approval lodged before the commencement of this section.

17 The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.