



Western Australia

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

**Incorporating the amendments proposed  
by the *Petroleum Legislation Amendment  
Bill 2017 Pt. 2 (Bill No. 10-1)***

**Note:**

Pt. III Div. 3A, 4 (s. 69J-86), 5 (s. 98-127A), 6 and 7, Pt. IIIA, IVA, IV  
and Sch. 1 & 2 have been omitted as they are not amended by the Bill.



# Petroleum and Geothermal Energy Resources Act 1967

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Western Australia

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

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

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

## **Part I — Preliminary**

### **1. Short title**

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

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

### **2. Commencement**

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

### **3. Repeal**

The *Petroleum Act 1936* is repealed.

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

### **5. Terms used**

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

***access authority*** means —

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

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

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

***approved*** means approved by the Minister;

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

***Barrow Island lease*** has the meaning given in section 128;

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

***boundary-change permit*** means a petroleum exploration permit granted under section 37B;

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

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

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

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

*[(a) deleted]*

- (b) which has not been lawfully granted or contracted to be granted in fee simple; or
- (c) which is not held under lease for any purpose except under —
  - (i) a pastoral lease within the meaning of the *Land Administration Act 1997*, or a lease otherwise granted for grazing purposes only; or
  - (ii) a lease for timber purposes; or
  - (iii) a lease for the use and benefit of the Aboriginal inhabitants,

and includes —

- (d) any land reserved, declared or otherwise dedicated under the *Land Administration Act 1997* or any other written law; and
- (e) without limiting paragraph (d), State forests and timber reserves within the meaning of the *Conservation and Land Management Act 1984*; and

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

- (h) all land between —
  - (i) high and low-water mark on the sea shore and on the margin of tidal rivers; and
  - (ii) low-water mark referred to in subparagraph (i) and the inner limit of the territorial sea of Australia;

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

**drilling reservation** means —

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

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**facility** means a structure for or in connection with carrying out a petroleum operation or geothermal energy operation;

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

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

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

**geothermal energy operation** means —

- (a) an operation to explore for geothermal energy resources, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (b) an operation to drill for geothermal energy resources, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (c) an operation to recover geothermal energy, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (d) any other kind of operation that is prescribed by the regulations to be a geothermal energy operation for the purposes of this definition,

but does not include an operation of a kind that is prescribed by the regulations not to be a geothermal energy operation for the purposes of this definition;

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

**geothermal exploration permit** means a permit [that confers the authority referred to in ~~issued under~~ section 38\(2\)](#);

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

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

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

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

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

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

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

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

**geothermal special prospecting authority** means a geothermal special prospecting authority under Part III;

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

**granted, in relation to a boundary-change permit, a petroleum retention lease under section 48CD or a petroleum production licence under section 61A, means taken to have been granted;**

**graticular section** means a section referred to in section 27;

**holder of a drilling reservation** means the registered holder of a drilling reservation;

**inspector** means a person appointed under section 118;

**lease** means —

- (a) a petroleum retention lease; or
- (b) a geothermal retention lease;

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

**lessee** means the registered holder of a lease;

**licence** means —

- (a) a petroleum production licence; or
- (b) a geothermal production licence;

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

**licensee** means the registered holder of a licence;

**listed OSH law** means —

- (a) section 117A; or
- (b) Schedule 1; or
- (c) a regulation made for the purposes of Schedule 1; or
- (d) a regulation made for the purposes of section 149B; or

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- (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 47 is in force;

**offshore area** has the meaning given in the *Petroleum (Submerged Lands) Act 1982* section 4;

**oil shale** includes naturally occurring hydrocarbons that are or may be contained in rocks from which they cannot be recovered otherwise than by mining those rocks as oil shale;

**operator** —

- (a) in relation to an operation to explore for petroleum or geothermal energy resources or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a permit area, means the registered holder of the permit for that area;
- (b) in relation to an operation to drill for petroleum or geothermal energy resources or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a drilling reservation area, means the registered holder of the drilling reservation for that area;
- (c) in relation to an operation to explore for petroleum or geothermal energy resources or the carrying on of such operations or the execution of such works as are necessary for that purpose, in a lease area, means the registered holder of the lease for that area;
- (d) in relation to —
  - (i) an operation to recover petroleum or geothermal energy in a licence area or to recover petroleum or geothermal energy from a licence area in another area; or
  - (ii) an operation to explore for petroleum or geothermal energy resources in a licence area; or
  - (iii) the carrying on of such operations or the execution of such works in a licence area as are necessary for those purposes,means the registered holder of the licence for that area;
- (e) in relation to an operation for the mining, obtaining or production of petroleum under the Barrow Island lease

as renewed, substituted or varied, means the lessee as defined in section 128;

- (f) in relation to a petroleum exploration operation or geothermal energy resources exploration operation specified in a special prospecting authority, means the registered holder of the special prospecting authority;
- (g) in relation to a petroleum exploration operation or geothermal energy resources exploration operation or an operation related to the recovery of petroleum or geothermal energy in or from an area specified in an access authority, means the registered holder of the access authority;
- (h) in relation to the injection of petroleum into a natural underground reservoir, means a person (other than the Minister) who is a party to an agreement under section 67(1), or who has the Minister's approval under section 67(2), in respect of that injection;
- (i) in relation to the injection of carbon dioxide, as defined in section 3 of the *Barrow Island Act 2003*, into an underground reservoir or other subsurface formation, means a person who has the BI Act Minister's approval under section 13 of that Act, in respect of that injection;
- (j) in relation to any other kind of operation that is prescribed by the regulations to be a petroleum operation for the purposes of the definition of ***petroleum operation***, means the person prescribed by the regulations to be the operator of such a petroleum operation for the purposes of this definition;
- (k) in relation to any other kind of operation that is prescribed by the regulations to be a geothermal energy operation for the purposes of the definition of ***geothermal energy operation***, means the person prescribed by the regulations to be the operator of such a geothermal energy operation for the purposes of this definition;

***other protected person***, in relation to a geothermal energy operation, means a person who is at or near a place where the geothermal energy operation is being carried on at the invitation of, or with the express or implied consent of —

- (a) the operator of the geothermal energy operation; or
- (b) a person in control of a part of the geothermal energy operation;

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***other protected person***, in relation to a petroleum operation, means a person who is at or near a place where the petroleum operation is being carried on at the invitation of, or with the express or implied consent of —

- (a) the operator of the petroleum operation; or
- (b) a person in control of a part of the petroleum operation;

***partly cancelled*** means — in relation to a permit, drilling reservation or licence — cancelled as to one or more but not all of the blocks the subject of the permit, drilling reservation or licence;

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

***permit*** means —

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

***permit area*** means —

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

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

***petroleum*** means —

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; 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, but excludes oil shale;

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

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

***petroleum exploration permit*** means a permit [that confers the authority referred to in ~~issued under~~ section 38\(1\)](#);



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

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

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

***petroleum operation*** means —

- (a) an operation to explore for petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (b) an operation to drill for petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (c) an operation to recover petroleum, and the carrying on of such operations and the execution of such works as are necessary for that purpose;
- (d) an operation for the mining, obtaining or production of petroleum under the Barrow Island lease as renewed, substituted or varied;
- (e) the injection of petroleum into a natural underground reservoir;
- (f) the injection of carbon dioxide, as defined in section 3 of the *Barrow Island Act 2003*, into an underground reservoir or other subsurface formation;
- (g) any other kind of operation that is prescribed by the regulations to be a petroleum operation for the purposes of this definition,

but does not include an operation of a kind that is prescribed by the regulations not to be a petroleum operation for the purposes of this definition;

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

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

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

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

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

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

**primary entitlement** means —

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

and

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

**private land** means any land which has been or may hereafter be alienated from the Crown for any estate of freehold, or is or may hereafter be the subject of any conditional purchase agreement, or of any lease or concession with or without the right of acquiring the fee simple thereof, other than —

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

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

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

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

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

**relinquished area** means —

- (a) in relation to a permit, drilling reservation, lease or licence that has expired — the area constituted by the blocks in respect of which the permit, drilling

reservation, lease or licence was in force but has not been renewed; and

- (b) in relation to a permit, drilling reservation, or lease that has been wholly determined or partly determined — the area constituted by the blocks as to which the permit, drilling reservation or lease was so determined; and
- (c) in relation to a permit, drilling reservation or licence that has been wholly cancelled or partly cancelled — the area constituted by the blocks as to which the permit, drilling reservation or licence was so cancelled; 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
- (d) in relation to a special prospecting authority or access authority that has been surrendered or cancelled or has expired — the area constituted by the blocks in respect of which that authority was in force;

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

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

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

**special prospecting authority** means —

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

**structure** means any fixed, moveable or floating structure or installation and includes a pipeline, pumping station, tank station and valve station;

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

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

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

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

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

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

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

*[Section 5 amended by No. 69 of 1981 s. 31; No. 12 of 1990 s. 5; No. 78 of 1990 s. 4; No. 11 of 1994 s. 4; No. 28 of 1994 s. 5; No. 31 of 1997 s. 141; No. 17 of 1999 s. 21; No. 13 of 2005 s. 4; No. 35 of 2007 s. 6 and 85; No. 42 of 2010 s. 4; [Petroleum Legislation Amendment Bill 2017 cl. 4.](#)]*

**6A. Effect of alteration of inshore 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 permit, lease or licence confers in relation to the inshore area;

*inshore area* means the area that comes within paragraph (h) of the definition of *Crown land* in section 5(1).

- (2) This section applies to a change to the boundary of the inshore area whether occurring before, on or after the day on which the

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*Petroleum and Energy Legislation Amendment Act 2010*<sup>1</sup>  
section 5 comes into operation.

- (3) If—
- (a) a permit, lease or licence has been granted on the basis that an area (the ***affected area***) is within the inshore area; and
  - (b) as a result of a change to boundary of the inshore area, the affected area ceases to be within the inshore area,

this Act applies in relation to the permit, lease or licence as if the affected area were still within the inshore area.

- (4) Subsection (3) continues to apply in relation to the affected area only while the permit, lease or licence remains in force.

- (5) If—

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

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

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

(ii) falls within the inshore area,

then this Act does not apply to the second affected area.

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

*[Section 6A inserted by No. 42 of 2010 s. 5; amended by the Petroleum Legislation Amendment Bill 2017 cl. 5.]*

## Part II — General

### 6. Act to be construed subject to State's legislative powers

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

### 7. Application of Act

- (1) This Act applies to all natural persons, whether Australian citizens or not, and whether resident in the State or not, and to all corporations, whether incorporated or carrying on business in the State or not.
- (2) The conferral by or under this Act or by any permit, drilling reservation, lease, licence, special prospecting authority or access authority of rights over any land to which Part III of the *Aboriginal Affairs Planning Authority Act 1972* applies does not prevent or in any way affect the application of section 31 of that Act to any person exercising those rights.
- (3) The taking or use of any water for the purposes of any operations carried out under the authority of a permit, drilling reservation, access authority, special prospecting authority, lease or licence is subject to the *Rights in Water and Irrigation Act 1914*.
- (4) This Act does not apply to operations for the recovery of geothermal energy —
  - (a) that are carried out for the purposes of a small scale ground source heat pump used at or near the source of the geothermal energy; or
  - (b) that involve small scale recovery of geothermal energy not for a commercial purpose; or
  - (c) that are of a kind prescribed by the regulations.
- (5) Without limiting subsection (4)(b), the regulations may specify whether the small scale recovery of geothermal energy in prescribed circumstances or for a prescribed reason is or is not for a commercial purpose.

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

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**7AA. Disapplication of State occupational safety and health laws**

- (1) The prescribed occupational safety and health laws do not apply in relation to —
  - (a) a petroleum operation or geothermal energy operation;  
or
  - (b) a person engaged in a petroleum operation or geothermal energy operation or any other protected person.

- (2) In this section —

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

*[Section 7AA inserted by No. 13 of 2005 s. 5; amended by No. 35 of 2007 s. 86.]*

**7A. Geothermal resources area in, or extending into, other areas~~Petroleum pool or geothermal resources area extending into 2 licence areas~~**

- (1) The provisions of this section have effect for the purposes of this Act (including any Act with which this Act is incorporated) and of licences (whether granted before or after the commencement of this section).
- (2) Where a well-head is situated in a licence area or in an area in respect of which a geothermal access ~~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 geothermal resources area, being an ~~petroleum pool or geothermal resources area, being a pool or~~ area that does not extend to that licence area or access authority area, at a place within an adjoining licence area of the same licensee or registered holder of the geothermal access authority, any ~~access authority, any petroleum or~~ geothermal energy recovered through that well shall be deemed to have been recovered in that adjoining licence area under the geothermal production licence ~~under the licence~~ in respect of that area.
- (3) Where a ~~petroleum pool or~~ geothermal resources area is partly in one licence area and partly in an adjoining licence area of the same licensee and ~~petroleum or~~ geothermal energy is recovered from that ~~pool or~~ geothermal resources area through a well or wells in one or both of the licence areas, there shall be deemed to have been recovered in each of the licence areas, under the



geothermal production licence ~~under the licence~~ in respect of that area, such proportion of all ~~petroleum or~~ geothermal energy so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the ~~pool or~~ geothermal resources area, and the respective proportions shall be determined in accordance with subsection (4).

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

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

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- (b) in the case of a licensee having authority under a law of another State, by agreement between —
  - (i) that licensee; and
  - (ii) the Minister; and
  - (iii) the State Minister administering the law of the other State,

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

(7) Where —

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

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

(8) In this section —

- (a) a reference to a geothermal production licence includes a reference to a geothermal exploration permit and a geothermal retention lease; and
- (b) a reference to a licensee is a reference to the registered holder of a geothermal production licence and includes a reference to a geothermal permittee and a geothermal lessee; and
- (c) a reference to a licence area is a reference to the area constituted by the blocks that are the subject of a geothermal production licence and includes a reference to a geothermal permit area and a geothermal lease area; and

(d) a reference to a State includes a reference to the Northern Territory; and

(e) a reference to the Supreme Court is a reference to the Supreme Court of the State, or of one of the States, in which the petroleum pool is wholly or partly situated.

~~(8) In this section —~~

~~(a) a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee or a permit area and a lease area; and~~

~~(b) a reference to a State shall be read as including a reference to the Northern Territory; and~~

~~(c) a reference to the Supreme Court of a State shall be read as a reference to the Supreme Court of the State, or of one of the States, in which the petroleum pool or geothermal resources area is wholly or partly situated.~~

*[Section 7A inserted by No. 12 of 1990 s. 7; amended by No. 35 of 2007 s. 8; Petroleum Legislation Amendment Bill 2017 cl. 6.]*

**7B. Petroleum pool in, or extending into, other areas**

(1) The provisions of this section have effect for the purposes of this Act (including any Act with which this Act is incorporated) and of licences (whether granted before or after the commencement of this section).

(2) If a well-head is situated in a licence area or in an area in respect of which a petroleum 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 petroleum access authority, any petroleum recovered through that well is taken to have been recovered in that adjoining licence area under the petroleum production licence in respect of that area.

(3) If 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 is taken to have been recovered in each of the licence areas, under the petroleum production 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

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pool, and the respective proportions are to be determined in accordance with subsection (4).

(4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee or the Minister.

(5) If a petroleum pool is partly in a licence area and partly in another area in which the licensee has authority under another written law or a law of another State or the Commonwealth 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 the licence area, having regard to the nature and probable extent of the pool, and that proportion is to be determined in accordance with subsection (6).

(6) The proportion to be determined for the purposes of subsection (5) may be determined —

(a) in the case of a licensee having authority under another written law, by agreement between —

(i) that licensee; and

(ii) the Minister; and

(iii) if the other written law is administered by a Minister of the Crown other than the Minister, that Minister of the Crown,

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

(b) in the case of a licensee having authority under a law of another State, by agreement between —

(i) that licensee; and

(ii) the Minister; and

(iii) the State Minister administering the law of the other State,

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

(c) in the case of a licensee having authority under a law of the Commonwealth, by agreement between —

(i) that licensee; and

(ii) the Minister; and

(iii) the Joint Authority,

or, in the absence of agreement, may be determined by the Supreme Court on the application of that licensee, the Minister or the Joint Authority.

(7) In subsection (6) —

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

(8) If —

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

(i) 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; or

(ii) a licensee, the Minister and the State Minister administering a law of another State 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 law of the other State; or

(iii) a licensee, the Minister and the Joint Authority 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 a law of the Commonwealth;

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

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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 (5) does not apply to any of those petroleum pools.

(9) The question of whether there is or was a petroleum pool covered by subsection (8)(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.

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

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

(12) If —

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

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

(i) 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; or

(ii) if the licensee has authority under a law of another State — the licensee, the Minister and the State Minister administering the law of the other State; or

(iii) if the licensee has authority under a law of the Commonwealth — the licensee, the Minister and the Joint Authority;

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

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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 (5) does not apply to a petroleum pool  
located in the specified part.

(13) The question of whether there is or was a petroleum pool  
covered by subsection (12)(a) at a particular time is to be  
determined on the basis of information known at that time.

(14) The question of whether subsection (12)(g) applies is to be  
determined on the basis of information known at the time of the  
commencement of the apportionment provision.

(15) If —

(a) a petroleum pool is partly in a licence area and partly in  
another area, whether in the State or not, in respect of  
which another person has authority, whether under this  
Act or another written law or under the law of another  
State or the Commonwealth, to explore for or recover  
petroleum; and

(b) a unit development agreement in accordance with  
section 69 is in force between the licensee and that other  
person; and

(c) petroleum is recovered from that pool through a well or  
wells in the licence area, the other area or both,

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

(16) In this section —

(a) a reference to a petroleum production licence includes a  
reference to a petroleum exploration permit and a  
petroleum retention lease; and

(b) a reference to a licensee is a reference to the registered  
holder of a petroleum production licence and includes a



reference to a petroleum permittee and a petroleum lessee; and

(c) a reference to a licence area is a reference to the area constituted by the blocks that are the subject of a petroleum production licence and includes a reference to a petroleum permit area and a petroleum lease area; and

(d) a reference to a State includes a reference to the Northern Territory; and

(e) a reference to the Supreme Court is a reference to the Supreme Court of the State, or of one of the States, in which the petroleum pool is wholly or partly situated.

[Section 7B inserted by the Petroleum Legislation Amendment Bill 2017 cl. 7.]

**8. 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, drilling reservations, leases, licences, special prospecting authorities or access authorities granted before the regulations take effect; or
  - (b) in relation to applications for permits, drilling reservations, leases, licences, special prospecting authorities or access authorities pending when the regulations take effect; or
  - (c) for any other purpose.
- (4) Regulations referred to in subsection (3) may modify or otherwise affect the operation of this Act.

*[Section 8 inserted by No. 54 of 2000 s. 7(2); amended by No. 13 of 2005 s. 16(1).]*

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**9.            Petroleum, geothermal energy resources and geothermal energy declared to be property of Crown**

Notwithstanding anything to the contrary contained in any Act, or in any grant, lease, or other instrument of title, whether made or issued before or after the commencement of this Act, all petroleum, geothermal energy resources and geothermal energy on or below the surface of all land within this State, whether alienated in fee simple or not so alienated from the Crown, are and shall be deemed always to have been the property of the Crown.

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

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

Every —

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

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

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

**11.          Minister may search for petroleum or geothermal energy resources**

- (1) The Minister may by his officers, agents, or workmen search for petroleum or geothermal energy resources, and conduct all operations deemed necessary for or incidental to searching for, obtaining, refining, or disposing of petroleum, geothermal energy resources or geothermal energy produced in Western Australia; and, for such purposes, may enter upon and occupy, either temporarily or permanently —
  - (a) any vacant Crown land; or
  - (b) any other land.

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

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

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

- (1) Subject to this Act and to any rights of other persons, on the recovery of any petroleum by a petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee or petroleum licensee in the permit area, drilling reservation, lease area or licence area, the petroleum becomes the property of the petroleum permittee, holder of the petroleum drilling reservation, petroleum lessee or petroleum licensee.
- (2) Subject to this Act and to any rights of other persons, on the recovery of any geothermal energy by a geothermal permittee, holder of a geothermal drilling reservation, geothermal lessee or geothermal licensee in the permit area, drilling reservation, lease area or licence area, the geothermal energy becomes the property of the geothermal permittee, holder of the geothermal drilling reservation, geothermal lessee or geothermal licensee.
- (3) Nothing in subsection (2) operates to confer rights in relation to any water by means of which geothermal energy is transferred from geothermal energy resources for the purposes of its recovery.

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

**12. Land may be resumed**

- (1) The Minister administering the *Land Administration Act 1997* may from time to time, under and subject to Part 9 of the *Land Administration Act 1997*, take on behalf of the Crown any land which in his opinion ought to be taken for the purposes of this

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Act, and for the purpose of any such proposed taking may cause the land to be inspected, surveyed, explored, and reported upon by such officers and workmen as he directs, all of whom may thereupon enter upon the land and carry out all necessary operations.

- (2) The Minister administering the *Land Administration Act 1997* may from time to time under and subject to Part 9 of the *Land Administration Act 1997*, and at the request of a person interested in land taken or intended to be taken under subsection (1), take on behalf of the Crown any land which is being or is intended to be used in conjunction with the land so taken or so intended to be taken.
- (3) Upon any such taking the owner shall be entitled to compensation, and the amount of such compensation shall be determined in the manner prescribed by Part 10 of the *Land Administration Act 1997*.
- (4) Whenever it is proved to the satisfaction of the State Administrative Tribunal that damage has been sustained by a claimant by reason of the severance of the land resumed from other adjoining land of the claimant, the Tribunal may order that such adjoining land or some portion thereof shall also be resumed.

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

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

- (1) Upon the Governor proclaiming a state of national or State emergency, the Governor shall have the right of pre-emption of all petroleum produced by a licensee and of all the products of such petroleum; and in the event of the Governor exercising such right, the licensee concerned shall take all reasonable steps to facilitate the delivery of the petroleum or products thereof, as the Governor may direct.
- (2) No licensee shall sell or otherwise dispose of petroleum produced by him or the products thereof, without the written consent of the Minister.  
Penalty: a fine of \$10 000.
- (3) Any sale or other disposition of petroleum or the products thereof made in contravention of subsection (2) shall, as against

the Governor when exercising the right conferred by subsection (1), be null and void.

- (4) The price to be paid for petroleum or products thereof purchased by the Governor pursuant to the right of pre-emption conferred by subsection (1) shall, failing mutual agreement between the Minister and the vendor, be determined by arbitration under the provisions of the Commercial Arbitration Act 2012.

*[Section 13 amended by No. 12 of 1990 s. 8; No. 42 of 2010 s. 62(15); No. 23 of 2012 s. 45.]*

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

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

- (a) erect poles and posts thereon, and carry overhead across or along such land electric lines, and from time to time repair, alter, or remove such poles, posts, or lines; and
- (b) make or construct any tramways thereon, and from time to time repair, alter, or remove the same; and
- (c) construct any road, race or drain, or lay water-pipes under, over, across, or through such land; and
- (d) any act or thing for or relating to a public purpose or the exercise of any right granted pursuant to law; and
- (e) for carrying out any of the said purposes, break or otherwise disturb the surface and soil of such land.

- (2) If the permittee, holder of the drilling reservation, lessee or licensee suffers any estimable damage by reason of the exercise by any person of any of the powers mentioned in subsection (1), that person shall be liable to compensate the permittee, holder of the drilling reservation, lessee or licensee, as the case requires, in respect of the damage so caused.

- (3) In default of agreement between the parties concerned, the permittee, holder of the drilling reservation, lessee or licensee may make application to the Magistrates Court at the place nearest to the place at which the land is situated in the prescribed manner to fix the amount of compensation to be paid.

*[Section 14 amended by No. 12 of 1990 s. 9; No. 78 of 1990 s. 7; No. 59 of 2004 s. 141.]*

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

- (1) Subject to this Act and to any condition referred to in section 91B(2), but notwithstanding the provisions of any other Act or law, the authority conferred by section 38, 43D, 48C or 62 upon a permittee, holder of a drilling reservation, lessee or licensee is, by virtue of this Act, exercisable on any land within the permit area, drilling reservation, lease area or licence area, as the case may be, whether Crown land or private land or partly Crown land and partly private.

*[(2) deleted]*

*[Section 15 amended by No. 12 of 1990 s. 10; No. 78 of 1990 s. 7; No. 31 of 1997 s. 141; No. 17 of 1999 s. 22(1) and (2).]*

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

- (1) A permittee, holder of a drilling reservation, access authority or special prospecting authority, lessee or licensee shall not enter upon any land that is —
- (a) comprised in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of which he is the holder; and
  - (b) reserved, declared or otherwise dedicated under the *Land Administration Act 1997* or any other written law,
- for the purpose of —
- (c) exploring for petroleum or geothermal energy resources; or
  - (d) carrying out operations for the recovery of petroleum or geothermal energy,

unless the consent in writing of the Minister has been first obtained.

- (2) Consent may be given for the purposes of subsection (1) subject to the inclusion in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of such conditions as the Minister thinks fit and specifies in the consent.
- (3) Before giving consent for the purposes of subsection (1), the Minister shall consult with the responsible Minister and obtain that Minister's recommendations on the conditions, if any, which should be included in the permit, drilling reservation, access authority, special prospecting authority, lease or licence.

- (4) Without limiting subsection (2), the Minister may specify in the consent conditions for the purpose of ensuring, so far as is practicable, that any operations carried out on the land under the authority of the permit, drilling reservation, access authority, special prospecting authority, lease or licence are carried out in such a manner as to minimise the risk of damage to any native fauna or flora on the land.
- (5) The responsible Minister for the purposes of subsection (3) is the Minister responsible for the administration of the land or the written law under which the land is reserved, declared or dedicated, and if any question arises as to who is the responsible Minister under subsection (3), the question is to be determined by the Governor whose decision is final.
- (6) Nothing in this section limits or otherwise affects the operation of sections 13A(3) and 13B(9) of the *Conservation and Land Management Act 1984*.

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

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

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

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

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

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

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

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

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

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



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

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

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

**19. Compensation for further damage**

If while in occupation of any land comprised in a permit, drilling reservation, lease or licence the permittee, holder of the drilling reservation, lessee or licensee, as the case requires, causes any damage to the surface of any private land comprised within the boundaries of the land the subject of the permit, drilling reservation, lease or licence belonging either to the same or any other owner, or to any improvement on any such private land, not being damage already assessed under the provisions of this Part, the owner and occupier of the private land or improvement shall severally be entitled to compensation for the damage sustained by each of them, and the amount of such compensation shall be ascertained in accordance with the provisions of section 17.

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

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

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

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Act or he has made an agreement in writing with the owner or occupier as to the amount, times and mode of payment of the compensation, if any.

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

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

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

- (1) If a permittee, holder of a drilling reservation, lessee or licensee has by himself, his agent or his employee in the exercise or purported exercise of any of the powers conferred by or under this Act or by reason of any operation conducted or other action taken by him or any of them caused damage to any improvements on land leased by way of —
- (a) a pastoral lease within the meaning of the *Land Administration Act 1997*, or a lease otherwise granted for grazing purposes only; or
  - (b) a lease for timber purposes; or
  - (c) a lease for the use and benefit of the Aboriginal inhabitants,

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

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

commence an action claiming a declaration as to the amount of compensation payable.

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

**22. Determination of partial compensation**

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

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

**23. Security for compensation**

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

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

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

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- (2) Compensation is not payable for any gold, minerals, petroleum, geothermal energy resources or geothermal energy known or supposed to be on or under the land.

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

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

- (1) If compensation is payable to native title holders for or in respect of the grant of an authorisation, the person liable to pay the compensation is —
- (a) if an amount is to be paid and held in trust, the applicant for the grant of, or the holder of, the authorisation at the time the amount is required to be paid; or
  - (b) otherwise, the applicant for the grant of, or the holder of, the authorisation at the time a determination of compensation is made.

- (2) If, at the relevant time, there is no holder of the authorisation because the authorisation has been surrendered or cancelled or has expired, a reference in subsection (1) to the holder of the authorisation is a reference to the holder of the authorisation immediately before its surrender, cancellation or expiry.

- (3) In this section —
- authorisation** means a permit, drilling reservation, lease, licence, special prospecting authority or access authority;
- native title holders** has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

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

**25. Delegation**

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

- (b) if the exercise of the power or the performance of the function is dependent upon the opinion, belief or state of mind of the Minister in relation to a matter — upon the opinion, belief or state of mind of the delegate in relation to that matter.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of the function by the Minister.
- (4) A copy of each instrument making, varying or revoking a delegation under this section shall be published in the *Gazette*.  
*[Section 25 amended by No. 13 of 2005 s. 16(1).]*

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

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**26. Term used: State**

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

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

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

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

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

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

## **28. Reservation of blocks**

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

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geothermal access authority shall not be granted in respect of that block.

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

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

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

*[(2) deleted]*

- (3) In this section —

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

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

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

**29. Exploration for petroleum and geothermal energy resources restricted**

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

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

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

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

- (3) In this section —



*explore for*, in relation to petroleum or geothermal energy resources, includes to conduct any geophysical survey the data from which are intended for use in the search for petroleum or geothermal energy resources.

*[Section 29 inserted by No. 12 of 1990 s. 20; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 6; No. 35 of 2007 s. 19; No. 42 of 2010 s. 62(15).]*

**30. Advertisement of blocks**

- (1) The Minister may, by instrument published in the *Gazette* —
  - (a) invite applications for the grant of a permit in respect of the block or blocks specified in the instrument; and
  - (b) specify a period within which applications may be made.
- (2) The Minister may, for reasons that he thinks sufficient, in an instrument under subsection (1), direct that subsection (2) or (3) of section 31 does not apply, or that both of those subsections do not apply, to or in relation to the applications.

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

**31. Application for permit**

- (1) An application under section 30 or 105(3)(a)(ii) —
  - [(a) deleted]*
  - (b) shall be made in an approved manner; and
  - (c) shall be in respect of not more than —
    - (i) 400 blocks, if the application relates to the exploration for petroleum; or
    - (ii) 160 blocks, if the application relates to the exploration for geothermal energy resources;and
  - (d) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and
    - (ii) the technical qualifications of the applicant and of his employees; and
    - (iii) the technical advice available to the applicant; and
    - (iv) the financial resources available to the applicant; and

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- (e) may set out any other matters that the applicant wishes the Minister to consider; and
  - (f) shall be accompanied by the prescribed fee.
- (2) The number of blocks specified in the application —
- (a) if 16 blocks or more are available — shall not be less than 16; or
  - (b) if less than 16 blocks are available — shall be the number available.
- (3) The blocks specified in the application shall be blocks that are constituted by graticular sections that —
- (a) constitute a single area; and
  - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

*[Section 31 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 22; No. 28 of 1994 s. 7; No. 35 of 2007 s. 20; No. 42 of 2010 s. 6.]*

**32A. More than one permit application for same block or blocks**

- (1) This section applies if —
- (a) 2 or more applications are made under section 30 for the grant of a petroleum exploration permit for the same block or blocks; or
  - (b) 2 or more applications are made under section 30 for the grant of a geothermal exploration permit for 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 the 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 which of the applicants is most deserving of the grant of the permit.

*[Section 32A inserted by No. 42 of 2010 s. 7.]*

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

- (1A) In sections 32, 33A and 33B —  
***permit application*** means an application for the grant of a permit made under section 30 or 105(3)(a)(ii).
- (1) Where a permit application has been made, 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

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period, not exceeding one month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the permit referred to in the first-mentioned instrument.

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

*[Section 32 amended by No. 28 of 1994 s. 8; No. 35 of 2007 s. 21; No. 42 of 2010 s. 8.]*

**33A. Withdrawal of application**

The person who has made, or all the persons who have jointly made, a permit application may, by written notice served on the Minister, withdraw the application at any time before the permit is granted.

*[Section 33A inserted by No. 42 of 2010 s. 9.]*

**33B. Application continued after withdrawal of joint applicant**

If —

- (a) a permit application 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 to the effect 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 informed the applicants to that effect.

*[Section 33B inserted by No. 42 of 2010 s. 9.]*

**33C. Effect of withdrawal or lapse of s. 30 application**

If —

- (a) 2 or more applications have been made under section 30 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 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 to the effect that the Minister was prepared to grant to that applicant a permit in respect of the block or blocks to which the application related — the Minister is taken not to have informed the applicant or applicants to that effect;
- (e) if the applicant or one of the applicants whose application had been withdrawn had requested the Minister under section 32(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 to any of the remaining applicants — the refusal or refusals are taken not to have occurred.

*[Section 33C inserted by No. 42 of 2010 s. 9.]*

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

(1) Where —

- (a) a petroleum retention lease is surrendered, cancelled or determined as to a block or blocks; or
- (aa) a petroleum production licence is surrendered or cancelled as to a block or blocks; or
- (b) a petroleum exploration permit is surrendered, cancelled or determined as to a block or blocks and, at the time of

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the surrender, cancellation or determination, the block was, or was included in, or the blocks were, or were included in, a location; or

- (c) a petroleum pool from which petroleum has been recovered is within or extends to a block which is, or to blocks which are, not the subject of a permit, drilling reservation, lease or licence,

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

(2) If —

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

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

*[(3) 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 31(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 34(1)(a), in respect of the grant of a permit to him on the application; and

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

*[Section 33 amended by No. 12 of 1990 s. 23; No. 28 of 1994 s. 9; No. 35 of 2007 s. 22; No. 42 of 2010 s. 10.]*

**34. Application fee etc.**

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

*[Section 34 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 24; No. 42 of 2010 s. 11.]*

**35. Consideration of application**

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

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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 to which the permit is to be granted; and
  - (b) a statement to the effect that the application will lapse if the applicant does not —
    - (i) make a request under section 36(1); and
    - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant.

*[Section 35 amended by No. 12 of 1990 s. 25; No. 28 of 1994 s. 10; No. 35 of 2007 s. 23; No. 42 of 2010 s. 12.]*

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

- (1) An applicant on whom there has been served an instrument under section 35 may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows —
  - (a) by instrument in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned instrument; and
  - (b) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant.



- (2) Where an applicant on whom there has been served an instrument under section 35 —
- (a) has not made a request under subsection (1); or
  - (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to 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 35(2) lapses as provided by subsection (2), section 35(2) applies in respect of the application or applications, if any, then remaining unrejected.

*[Section 36 amended by No. 28 of 1994 s. 11; No. 42 of 2010 s. 13.]*

**37. Grant of permit on request**

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

- (a) has made a request under subsection (1) of section 36; and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to the applicant,

within the period applicable under that subsection, the Minister shall grant to that person a petroleum exploration permit or a geothermal exploration permit, as the case requires, in respect of the block or blocks specified in the instrument.

*[Section 37 amended by No. 28 of 1994 s. 12; No. 35 of 2007 s. 24; No. 42 of 2010 s. 14.]*

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

- (1) Where a permit (in this section called the *original permit*) is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the permittee may make an application to the Minister for the grant to him of 2 or more petroleum exploration permits (if the original permit is a petroleum exploration permit) or 2 or more geothermal exploration permits (if the original permit is a geothermal exploration permit) in respect of the blocks the subject of the original permit in exchange for the original permit.

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- (2) An application under subsection (1) —
- (a) shall be made in the approved form; and
  - (b) shall be made in an approved manner; and
  - (c) shall specify the number of permits required; and
  - (d) shall specify the block or blocks the subject of the original permit in respect of which each permit is sought; and
  - (e) shall be accompanied by the prescribed fee; and
  - (f) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the areas comprised in the block or blocks the subject of the original permit; and
  - (g) shall set out the reasons why the applicant is applying under this section, and any other matters that the applicant wishes the Minister to consider in relation to the application.
- (3) Where an application has been made under subsection (1) the Minister may —
- (a) grant to the permittee the permits in accordance with the application; or
  - (b) refuse to grant to the permittee the permits requested.
- (4) A permit granted on an application under this section —
- (a) remains in force, subject to this Part, for the remainder of the term of the original permit; and
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original permit was subject, and any other conditions that the Minister thinks fit and specifies in the permit in respect of the information referred to in subsection (2)(f); and
  - (c) shall be granted subject to any directions under this Act previously given to the holder of the original permit in respect of the permit area of the original permit; and
  - (d) shall be granted subject to any instruments and agreements in respect of the original permit a memorial of which is entered in the Register under section 70, insofar as such instruments and agreements apply to the permit, (or any such instruments and agreements which are in effect at the time that an application is granted under this section but in respect of which a memorial is not yet entered under that section).

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

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

### **37B. Grant of boundary-change permit**

- (1) In this section —

*section 27 block* means —

- (a) a block constituted as provided by section 27; 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.

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 inshore 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 —

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(a) one or more, but not all, of the section 27 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 27 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 27 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 27 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 27 blocks that are —

(iii) covered by the Commonwealth permit; and

(iv) in the relevant area;

and

(b) there are one or more section 27 blocks (the *relevant section 27 blocks*) that —

(i) correspond to the section 27 blocks covered by paragraph (a); and

(ii) are in the inshore area; and

(iii) are not the subject of a variation under section 97A,

the Minister is taken —

(c) to have granted the holder of the Commonwealth permit a petroleum exploration permit over those relevant section 27 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 petroleum exploration permit, see section 39(1A).

(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 27 blocks that are —

(iii) covered by the Commonwealth permit; and

(iv) in the relevant area;

and

(b) there are one or more section 27 blocks (the *relevant section 27 blocks*) that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth permit immediately before the change; and

(ii) are in the inshore area; and

(iii) are not the subject of a variation under section 97A,

the Minister is taken —

(c) to have granted the holder of the Commonwealth permit a petroleum exploration permit over those relevant section 27 blocks; and

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(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 petroleum exploration permit, see section 39(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 27 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 27 block is in the inshore 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 27 block.

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

[Section 37B inserted by the Petroleum Legislation Amendment Bill 2017 cl. 8.]

**38. Rights conferred by permit**

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

- (b) to recover geothermal energy in the permit area for the purpose of establishing the nature and probable extent of a discovery of geothermal energy resources; and
- (c) to carry on such operations and execute such works in the permit area as are necessary for those purposes.

*[Section 38 amended by No. 13 of 2005 s. 16(2); No. 35 of 2007 s. 26.]*

**39. 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 37B(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 37B(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 —

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- (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 48B(2) or (3A) of the instrument or notice refusing to grant the lease; or
- (e) if the Minister decides not to grant the permittee such a licence — notice of the decision is served on the permittee.

*[Section 39 amended by No. 12 of 1990 s. 26; No. 28 of 1994 s. 14; No. 42 of 2010 s. 15; [Petroleum Legislation Amendment Bill 2017 cl. 9.](#)]*

**40. Application for renewal of permit**

- (1) Subject to [sections 41, 42A and 42B](#), ~~sections 41 and 42A~~, 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 40 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 27; No. 42 of 2010 s. 16; [Petroleum Legislation Amendment Bill 2017 cl. 10.](#)]*



**41. 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, half of that number; or
  - (b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder, half of that last-mentioned number.
- (2) A block that is, or is included in, a location and in respect of which a permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1).
- (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 40(1) and 42, 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

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(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 inshore 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 inshore 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 11 comes into operation.

*[Section 41 amended by No. 12 of 1990 s. 28; No. 28 of 1994 s. 15; No. 42 of 2010 s. 17; Petroleum Legislation Amendment Bill 2017 cl. 11.]*

**42A. Certain permits cannot be renewed more than twice**

(1) This section applies to a permit if —

(a) the permit was granted under section 32 —

(i) on or after the day of the coming into operation of the *Petroleum and Energy Legislation Amendment Act 2010*<sup>1</sup> section 18 (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 30(1) on or after the commencement day;

or

- (b) the permit was granted under section 37 on or after the commencement day.
- (2) Despite sections 40(1) and 42, 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 42A inserted by No. 42 of 2010 s. 18.]*

**42B. Limits on renewal of boundary-change permits**

(1) If —

(a) a boundary-change permit is granted under section 37B(5); and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 37B(3)(b) or (4)(b), was granted otherwise than by way of renewal,

then —

(c) section 41 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 37B(5); and

(b) the relevant Commonwealth permit that ceases to be in force, as mentioned in section 37B(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 37B(6), an application must not be made for the renewal of the permit.

*[Section 42B inserted by the Petroleum Legislation Amendment Bill 2017 cl. 12.]*

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

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

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

- (2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the permit, the Minister shall, subject to subsection (3), by instrument in writing served on the person who is then the permittee, refuse to grant to that person the renewal of the permit.
- (3) The Minister shall not refuse to grant the renewal of the permit unless —
- (a) he has, by instrument in writing served on the permittee, given not less than one month's notice of his intention to refuse to grant the renewal of the permit; 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 the permittee the renewal of the permit.
- (6) Where a permittee on whom there has been served an instrument under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Minister shall grant to him the renewal of the permit.
- (7) Where a permittee on whom there has been served an instrument under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that period.
- (8) Where —
- (a) an application for the renewal of a permit has been made; and
  - (b) the permit expires —
    - (i) before the Minister grants, or refuses to grant, the renewal of the permit; or
    - (ii) before the application lapses as provided by subsection (7),
- the permit shall be deemed to continue in force in all respects —
- (c) until the Minister grants, or refuses to grant, the renewal of the permit; or
  - (d) until the application so lapses,

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whichever first happens.

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

**43. Conditions of permit**

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

(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 work to be carried out by the permittee in or in relation to the permit area during the term of the permit, or amounts to be expended by the permittee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the permittee to comply with directions given in accordance with the permit concerning those matters.

(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, when a boundary-change permit is granted, the relevant Commonwealth permit that ceases to be in force, as mentioned in section 37B(3)(b) or (4)(b), is of a kind that corresponds to a petroleum exploration permit granted under section 32(4) or 37, any or all of the conditions mentioned in subsection (7) may be specified in —

(a) the boundary-change permit; or

(b) 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 37B(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 43 amended by No. 12 of 1990 s. 29; Petroleum Legislation Amendment Bill 2017 cl. 13.]*

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

- (1) The Minister may, by instrument published in the *Gazette* —
- (a) invite applications for the grant of a drilling reservation in respect of the block or blocks specified in the instrument; and
  - (b) specify the period within which applications may be made.

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

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

**43B. Application for drilling reservation**

- (1) An application under section 43A or 105(3)(a)(ii) —
- [(a) deleted]*
  - (b) shall be made in an approved manner; and
  - (c) shall be in respect to a block or blocks containing potential sites of petroleum deposits or geothermal energy resources, as the case requires; and
  - (d) shall be accompanied by particulars of —
    - (i) the proposals of the applicant for the drilling of a well or wells and other work in respect of the block or blocks specified in the application; and
    - (ii) the technical qualifications of the applicant and of the employees of the applicant; and
    - (iii) the technical advice available to the applicant; and
    - (iv) a statement as to the size and configuration of the potential petroleum deposit or geothermal energy resources, as the case requires and a geological prognosis of the well; and
    - (v) a statement of the approximate time of the completion of the well; and



- (vi) the financial resources available to the applicant;  
and
  - (e) may set out any other matters that the applicant wishes the Minister to consider; and
  - (f) subject to section 43A(3), shall be accompanied by the prescribed fee.
- (2) The number of blocks specified in the application shall be not less than one.
- (3) If more than one block is available the blocks specified in the application shall be blocks that are constituted by graticular section that —
- (a) constitute a single area; and
  - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

*[Section 43B inserted by No. 78 of 1990 s. 6; amended by No. 28 of 1994 s. 18; No. 35 of 2007 s. 28; No. 42 of 2010 s. 19.]*

**43CA. More than one drilling reservation application for same block or blocks**

- (1) This section applies if —
- (a) 2 or more applications are made under section 43A for the grant of a petroleum drilling reservation for the same block or blocks; or
  - (b) 2 or more applications are made under section 43A for the grant of a geothermal drilling reservation for the same block or blocks.
- (2) The Minister may grant the drilling reservation to whichever applicant, in the Minister's opinion, is most deserving of the grant of the drilling reservation, 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.

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- (4) The Minister may exclude from the ranking any applicant that, in the Minister's opinion, is not deserving of the grant of the drilling reservation.
- (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 drilling reservation, the Minister may, by written notice served on each of those applicants, invite them to give to the Minister, within the 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 drilling reservation.
- (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 which of the applicants is most deserving of the grant of the drilling reservation.

*[Section 43CA inserted by No. 42 of 2010 s. 20.]*

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

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

such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the expiration of the first-mentioned period of one month, allows, by instrument in writing served on the Minister, request the Minister to grant to the applicant the drilling reservation referred to in the first-mentioned instrument.

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

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

**43DA. Withdrawal of application**

- (1) In this section and section 43DB —  
***drilling reservation application*** means an application for the grant of a drilling reservation made under section 43A or 105(3)(a)(ii).
- (2) The person who has made, or all the persons who have jointly made, a drilling reservation application may, by written notice served on the Minister, withdraw the application at any time before the drilling reservation is granted.

*[Section 43DA inserted by No. 42 of 2010 s. 21.]*

**43DB. Application continued after withdrawal of joint applicant**

If —

- (a) a drilling reservation application 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;

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- (d) if the Minister had informed the joint applicants to the effect that the Minister was prepared to grant to the applicants a drilling reservation in respect of the block or blocks to which the application relates, the Minister is taken not to have informed the applicants to that effect.

*[Section 43DB inserted by No. 42 of 2010 s. 21.]*

**43DC. Effect of withdrawal or lapse of s. 43A application**

If —

- (a) 2 or more applications have been made under section 43A for the grant of a drilling reservation 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 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 to the effect that the Minister was prepared to grant to that applicant a drilling reservation in respect of the block or blocks to which the application related — the Minister is taken not to have informed the applicant or applicants to that effect;
- (e) if the applicant or one of the applicants whose application had been withdrawn had requested the Minister under section 43C(3) to grant a drilling reservation to the applicant concerned — the request is taken not to have been made;
- (f) if the Minister had refused to grant a drilling reservation to the remaining applicant or to any of the remaining applicants — the refusal or refusals are taken not to have occurred.

*[Section 43DC inserted by No. 42 of 2010 s. 21.]*

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

- (1) A petroleum drilling reservation, while it remains in force, authorises the holder of the drilling reservation, subject to this Act and in accordance with the conditions to which the drilling reservation is subject, to drill for petroleum, and to carry on

such operations and execute such works as are necessary for that purpose, in the drilling reservation area.

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

*[Section 43D inserted by No. 78 of 1990 s. 6; amended by No. 13 of 2005 s. 16(2); No. 35 of 2007 s. 29.]*

**43E. Term of drilling reservation**

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

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

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

- (1) The holder of a drilling reservation may, before the expiry of the drilling reservation, apply to the Minister for the extension of the period for which the drilling reservation is effective.
- (2) An extension of the period for which a drilling reservation is effective shall not be granted unless the holder of the drilling reservation has drilled or is in the course of drilling a well to the depth specified in the instrument issued under section 43C in relation to the grant of the drilling reservation and has submitted a report to the Minister in relation to the well.

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- (2a) An extension of the period for which a drilling reservation is effective shall not be granted if that period has previously been extended under this section.
- (3) An application under subsection (1) shall be accompanied by —
- [(a) deleted]*
  - (b) a statement of each type of work carried out on the drilling reservation; and
  - (c) a statement of the reasons for the extension of the drilling reservation; and
  - (d) the prescribed fee.
- (4) For the purposes of this section no account shall be taken of any delay arising from any assignment of interests in the drilling reservation.
- (5) Subject to subsections (2) and (2a), where —
- (a) an application has been made under subsection (1); and
  - (b) the conditions to which the drilling reservation is, or has from time to time been, subject, and the provisions of this Part and the regulations, have been complied with,
- the Minister shall grant an extension of a drilling reservation for a period of 12 months commencing from the expiration of the period for which the drilling reservation is effective.
- (6) Where —
- (a) under subsection (1) an application for an extension of the period for which a drilling reservation is effective has been made; and
  - (b) the period for which the drilling reservation is effective expires before the Minister grants, or refuses to grant, the extension referred to in paragraph (a),

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

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

**44. Discovery of petroleum or geothermal energy resources to be notified etc.**

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

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

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

Penalty for an offence under subsection (1), (1a) or (1b): a fine of \$10 000.

*[(2) deleted]*

*[Section 44 amended by No. 12 of 1990 s. 30; No. 78 of 1990 s. 7; No. 35 of 2007 s. 30; No. 42 of 2010 s. 22.]*

*[45. Deleted by No. 42 of 2010 s. 23.]*

**46. Nomination of blocks as location**

- (1) Where a petroleum pool is identified in a petroleum permit area or petroleum drilling reservation, the permittee or the holder of the drilling reservation, as the case requires, may nominate the block in which the pool is situated, or the blocks (being blocks

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within the permit area or drilling reservation) to which the pool extends, for declaration as a location.

- (1a) If a geothermal resources area is identified in a geothermal permit area or geothermal drilling reservation, the permittee or the holder of the drilling reservation, as the case requires, may nominate the block in which the geothermal resources area is situated, or the blocks (being blocks within the permit area or drilling reservation) to which the geothermal resources area extends, for declaration as a location.
- (2) Where 2 or more petroleum pools are identified in a petroleum permit area or petroleum drilling reservation, the permittee or holder of the drilling reservation, as the case requires, may, instead of making a nomination under subsection (1) in relation to each pool, nominate all of the blocks to which the pools extend, or to which any 2 or more of the pools extend, for declaration as a single location.
- (2a) If 2 or more geothermal resources areas are identified in a geothermal permit area or geothermal drilling reservation, the permittee or holder of the drilling reservation, as the case requires, may, instead of making a nomination under subsection (1a) in relation to each geothermal resources area, nominate all of the blocks to which the geothermal resources areas extend, or to which any 2 or more of the geothermal resources areas extend, for declaration as a single location.
- (3) A nomination may not be made under subsection (2) or (2a) unless, in the case of each of the pools or geothermal resources areas to which the nomination relates, at least one of the blocks to which the pool or geothermal resources area extends immediately adjoins a block to which the other, or another, of those pools or geothermal resources areas extends.
- (4) A nomination by a permittee or holder of a drilling reservation shall be in writing and served on the Minister.
- (5) A nomination may not be made by a permittee or holder of a drilling reservation unless the permittee or holder of the drilling reservation, as the case requires, or another person has, whether within or outside the permit area or drilling reservation, recovered petroleum from the petroleum pool, or geothermal energy from the geothermal resources area, to which the nomination relates or, if the nomination relates to more than one pool or geothermal resources area, from each of those pools or geothermal resources areas.



- (6) Where —
- (a) the Minister is of the opinion that a permittee or a holder of a drilling reservation is entitled to nominate a block or blocks under subsection (1), (1a), (2) or (2a); and
  - (b) the permittee or a holder of the drilling reservation, as the case requires, has not done so,

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

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

*[Section 46 inserted by No. 12 of 1990 s. 32; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 32 (correction to reprint in Gazette 23 Jun 2009 p. 2470).]*

#### **47. Declaration of location**

(1A) In this section —

section 27 block means —

- (a) a block constituted as provided by section 27; 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.

(1) Where —

- (a) a permittee or holder of a drilling reservation has made a nomination under section 46; and

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

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

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

(2A) Subsection (2B) applies if —

- (a) a boundary-change permit is granted over one or more section 27 blocks; and  
(b) immediately before the grant, those section 27 blocks were, or were part of, a location as defined in the Commonwealth Act section 7; and  
(c) apart from this subsection, those section 27 blocks are not, and are not part of, a location as defined in section 5 of this Act.

(2B) The Minister is taken —

- (a) to have declared those section 27 blocks to be a location; and  
(b) to have done so immediately after the grant.

(2C) Subsection (2D) applies if —

- (a) a permit is varied under section 97A so as to include in the permit area one or more section 27 blocks; and  
(b) immediately before the variation, those section 27 blocks were, or were part of, a location as defined in the Commonwealth Act section 7; and  
(c) apart from this subsection, those section 27 blocks are not, and are not part of, a location as defined in section 5 of this Act.

(2D) The Minister is taken —

- (a) to have declared those section 27 blocks to be a location; and  
(b) to have done so immediately after the variation.

- (3) The Minister may, at the request of the permittee or the holder of the drilling reservation, as the case requires, revoke a declaration.
- (4) The Minister may vary a declaration that relates to petroleum by —
  - (a) adding to the location a block in the permit area or drilling reservation, as the case requires, to which, in the opinion of the Minister, a petroleum pool within the location extends; or
  - (b) deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.
- (4a) The Minister may vary a declaration that relates to geothermal energy resources by —
  - (a) adding to the location a block in the permit area or drilling reservation, as the case requires, to which, in the opinion of the Minister, a geothermal resources area within the location extends; or
  - (b) deleting from the location a block to which, in the opinion of the Minister, no geothermal resources area within the location extends.
- (5) The Minister may not vary a declaration unless —
  - (a) the Minister has caused to be served on the permittee or the holder of the drilling reservation, as the case requires, notice in writing of the proposed variation, identifying the block to be added to, or deleted from, the location; 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 or the holder of the drilling reservation, as the case requires, in relation to the proposed variation.
- (6) Subsection (5) does not apply where a variation is made at the request of the permittee or the holder of the drilling reservation, as the case requires.
- (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

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information in the Minister's possession, whether provided by the permittee or otherwise.

*[Section 47 inserted by No. 12 of 1990 s. 32; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 33; No. 42 of 2010 s. 24; [Petroleum Legislation Amendment Bill 2017 cl. 14.](#)]*

**48. Immediately adjoining blocks**

For the purposes of section 46, a block immediately adjoins another block if the graticular section that constitutes or includes that block and the graticular section that constitutes or includes that other block —

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

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

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

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

- (1) A permittee whose petroleum exploration permit is in force, or the holder of a drilling reservation whose petroleum drilling reservation is in force, in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a petroleum retention lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (1a) A permittee whose geothermal exploration permit is in force, or the holder of a drilling reservation whose geothermal drilling reservation is in force, in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a geothermal retention lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (2) An application under subsection (1) or (1a) —
  - [(a) 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 or geothermal energy, as the case requires, from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum or geothermal energy from that area;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 or the holder of a drilling reservation is —
- (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
  - (b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application in writing by the permittee or the holder of the drilling reservation, as the case requires, served on the Minister before the end of the first-mentioned period of 2 years, allows.

*[Section 48A inserted by No. 12 of 1990 s. 34; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 35; No. 42 of 2010 s. 25.]*

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

- (1) If —
  - (a) an application has been made under section 48A(1); and

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- (b) the applicant has furnished any further information as and when required by the Minister under section 48A(3); and
- (c) the Minister is satisfied that —
  - (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 petroleum retention lease in respect of the block or blocks as to which the Minister is satisfied as mentioned in paragraph (c).

(2A) If —

- (a) an application has been made under section 48A(1a); and
- (b) the applicant has furnished any further information as and when required by the Minister under section 48A(3); and
- (c) the Minister is satisfied that —
  - (i) the area comprised in the block, or any one or more of the blocks, specified in the application contains geothermal energy resources; and
  - (ii) the recovery of geothermal energy 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 geothermal retention 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 48A and —
- (a) the applicant has not furnished any further information as and when required by the Minister under section 48A(3); or
  - (b) the Minister is not satisfied as to the matters referred to in subsection (1)(c) or (2A)(c), whichever is applicable, 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 48A specifying 2 or more blocks; and
  - (b) the Minister is not satisfied as mentioned in subsection (1)(c) or (2A)(c), whichever is applicable, 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) or (2A)(c).

- (3) An instrument under subsection (1) or (2A) 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) or (2A) 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) or (2A) has made a request under subsection (4) within the period applicable under subsection (4), the Minister shall grant to the applicant a petroleum retention lease or geothermal retention lease, as the

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case requires, in respect of the block or blocks specified in the instrument.

- (6) Where an applicant on whom there has been served an instrument under subsection (1) or (2A) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period.
- (7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit or drilling reservation, as the case requires, in respect of the block or blocks ceases to be in force in respect of those blocks.

*[Section 48B inserted by No. 12 of 1990 s. 34; amended by No. 78 of 1990 s. 7; No. 28 of 1994 s. 21; No. 35 of 2007 s. 36; No. 42 of 2010 s. 26.]*

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

Where —

- (a) after an application has been made under section 48A in relation to a block or blocks in respect of which a permit is in force; and
- (b) before a decision has been made by the Minister under section 48B(1), (2A), (2) or (3A) in relation to the application,

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

*[Section 48BA inserted by No. 28 of 1994 s. 22; amended by No. 42 of 2010 s. 27.]*

**48CA. Application by licensee for lease**

- (1) If —
  - (a) a petroleum production licence is in force under section 63(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 petroleum retention lease in respect of the unused area.
- (2) If —
- (a) a geothermal production licence is in force under section 63(1)(c) or (2) in respect of a block or blocks; and
  - (b) no operations for the recovery of geothermal energy 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 geothermal energy resources have been found to exist,
- the licensee may, within the application period, apply to the Minister for the grant of a geothermal retention lease in respect of the unused area.
- (3) An application under this section —
- (a) is to be made in an approved manner; and
  - (b) is to be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the unused 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.
- (4) An application under subsection (1) is also to be accompanied by particulars of 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.
- (5) An application under subsection (2) is also to be accompanied by particulars of the commercial viability of the recovery of geothermal energy from the unused area at the time of the application, and particulars of the possible future commercial viability of the recovery of geothermal energy from that area.
- (6) The Minister may, at any time, by written notice served on the applicant, require the applicant to give, within the period stated

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in the notice, further written information in connection with an application under this section.

- (7) The application period in respect of an application under subsection (1) 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.
- (8) The application period in respect of an application under subsection (2) 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 geothermal energy 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 48CA inserted by No. 42 of 2010 s. 28.]*

**48CB. Grant or refusal of lease in relation to application by licensee**

- (1) If —
- (a) an application has been made under section 48CA(1); and
  - (b) the applicant has given any further information as and when required by the Minister under section 48CA(6); 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 petroleum retention lease in respect of the unused area.

- (2) If —
- (a) an application has been made under section 48CA(2); and
  - (b) the applicant has given any further information as and when required by the Minister under section 48CA(6); and
  - (c) the Minister is satisfied that recovery of geothermal energy 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 geothermal retention lease in respect of the unused area.

- (3) If an application has been made under section 48CA and —
- (a) the applicant has not given further information as and when required by the Minister under section 48CA(6); or
  - (b) the Minister is not satisfied as mentioned in subsection (1)(c) or (2)(c), as the case requires, in relation to the unused area,

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

- (4) A notice under subsection (1) or (2) 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 (5) in respect of the grant of the lease.
- (5) An applicant on whom a notice is served under subsection (1) or (2) may request the Minister to grant the lease to the applicant.
- (6) 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 (2); or

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- (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.
- (7) If the applicant makes the request within the period applicable under subsection (6), the Minister shall grant to the applicant a petroleum retention lease or geothermal retention lease, as the case requires, in respect of the unused area.
- (8) If the applicant does not make the request within the period applicable under subsection (6), the application lapses at the end of that period.
- (9) On the day on which a lease is 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 48CB inserted by No. 42 of 2010 s. 28.]*

**48CC. Application of s. 48CA and 48CB if licence is transferred**

If —

- (a) after an application has been made under section 48CA 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 48CB(1), (2) or (3) in relation to the application,

a transfer of the licence is registered under section 72, sections 48CA and 48CB 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 48CC inserted by No. 42 of 2010 s. 28.]*

**48CD. Grant of petroleum retention lease as result of change to boundary of offshore area**

(1) In this section —

section 27 block means —

- (a) a block constituted as provided by section 27; 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 inshore 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 27 blocks (the *relevant section 27 blocks*) that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth lease immediately before the change; and

(ii) are in the inshore area; and

(iii) are not the subject of a variation under section 97A.

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

(a) one or more, but not all, of the section 27 blocks that were covered by the Commonwealth lease immediately before the change are in the relevant area; and

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

(i) as to all of the section 27 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 27 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 27 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 petroleum retention lease over the relevant section 27 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 petroleum retention lease, see section 48D(2).

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

(a) a part of a section 27 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 27 block is in the inshore 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 27 block.

[Section 48CD inserted by the Petroleum Legislation Amendment Bill 2017 cl. 15.]

**48C. Rights conferred by lease**

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

*[Section 48C inserted by No. 12 of 1990 s. 34; amended by No. 13 of 2005 s. 16(2); No. 35 of 2007 s. 37.]*

**48D. Term of lease**

- (1) Subject ~~Subject~~ to this Part, a lease (whether granted by way of renewal of a lease or otherwise and other than a petroleum retention lease granted under section 48CD) ~~otherwise~~) remains in force for a period of 5 years commencing on the day on which the lease was granted or, if a later day is specified in the lease as being the day on which the lease is to come into force, on that later day.
- (2) Subject to this Part, a petroleum retention lease granted under section 48CD remains in force for a period of 5 years commencing on the day on which the lease is granted.

*[Section 48D inserted by No. 12 of 1990 s. 34; amended by the Petroleum Legislation Amendment Bill 2017 cl. 16.]*

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

- (1) Where —
  - (a) a lessee has been given a notice of the kind referred to in section 48H(3) during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice; and
  - (b) the lessee has not made an application for the renewal of the lease; and

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

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

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

(2) Where —

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

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

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

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



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

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

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

- (1) A lessee may, from time to time, make an application to the Minister for the renewal of the lease.
- (2) An application for the renewal of a lease —
- [(a) 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 petroleum lease area or geothermal energy from the geothermal lease area, as the case requires, at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area;
- and
- (d) shall be accompanied by the prescribed fee.
- (3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.
- (4) Where an application has been made for the renewal of a lease, the Minister may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

*[Section 48F inserted by No. 12 of 1990 s. 34; amended by No. 28 of 1994 s. 23; No. 35 of 2007 s. 39; No. 42 of 2010 s. 29.]*

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

(1) Where —

- (a) an application for the renewal of a lease has been made under section 48F; and
- (b) any further information required by the Minister under subsection (4) of section 48F has been furnished in accordance with that subsection; and
- (c) the Minister is satisfied that recovery of petroleum from the petroleum lease area or geothermal energy from the geothermal lease area, as the case requires —
  - (i) is not, at the time of the application, commercially viable; and
  - (ii) is likely to become commercially viable within the period of 15 years after that time,

the Minister —

- (d) shall, if the conditions to which the lease is, or has from time to time been, subject and the provisions of this Part and of the regulations have been complied with; or
- (e) may if —
  - (i) any of the conditions to which the lease is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with; and
  - (ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the lease,

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

(2) Subject to subsection (3), where an application for the renewal of a lease has been made under section 48F and —

- (a) any further information required by the Minister under subsection (4) of section 48F has not been furnished in accordance with that subsection; 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

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of service of the instrument on the lessee, by instrument in writing served on the Minister, request the Minister to grant the lessee the renewal of the lease.

- (7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.
- (8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period.
- (9) Where —
- (a) an application for the renewal of a lease has been made; and
  - (b) the lease expires —
    - (i) before the Minister grants, or refuses to grant, the renewal of the lease; or
    - (ii) before the application lapses as provided by subsection (8),

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

- (c) until the Minister grants, or refuses to grant, the renewal of the lease; or
- (d) until the application so lapses,

whichever first happens.

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

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

**48H. Conditions of lease**

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

(1A) Subsection (1) does not apply to a petroleum retention lease granted under section 48CD.

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

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

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

(5) The Minister may, by written notice given to the lessee, vary a petroleum retention lease granted under section 48CD 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 petroleum retention lease.

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

*[Section 48H inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 41; Petroleum Legislation Amendment Bill 2017 cl. 17.]*

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**48J. Discovery of petroleum or geothermal energy resources to be notified**

On the discovery of petroleum or geothermal energy resources 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 48J inserted by No. 42 of 2010 s. 30.]*

**48K. Directions by Minister on discovery of petroleum or geothermal energy resources**

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

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

Penalty for an offence under subsection (2): a fine of \$10 000.

*[Section 48K inserted by No. 12 of 1990 s. 34; amended by No. 35 of 2007 s. 43; No. 42 of 2010 s. 62(1).]*

### **Division 3 — Production licences**

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

#### **49. Recovery of petroleum or geothermal energy resources in State**

- (1) A person shall not carry on operations for the recovery of petroleum in the State except —
- (a) under and in accordance with a petroleum production licence; or
  - (b) as otherwise permitted by this Act.

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

- (2) A person shall not carry on operations for the recovery of geothermal energy in the State except —
- (a) under and in accordance with a geothermal production licence; or
  - (b) as otherwise permitted by this Act.

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

*[Section 49 inserted by No. 12 of 1990 s. 35; amended by No. 35 of 2007 s. 45; No. 42 of 2010 s. 62(15).]*

#### **50. Application by permittee for licence**

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

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



number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is his primary entitlement,

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

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

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

- (c) the period that is applicable under subsection (4);
- (d) the period of 12 months after the day of service of the instrument.

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

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

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

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

**51. Application for licence under s. 50 or 50A, requirements for**

- (1) An application under section 50 or 50A —
- [(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 51 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 38; No. 42 of 2010 s. 31.]*

**52. Determination of rate of royalty**

- (1) Where an application is made for a primary licence, the Minister shall determine a rate or rates at which royalty is to be payable in respect of petroleum recovered under the licence, being a rate that is, or rates each of which is, not less than 5% nor more than 10% of the royalty value of that petroleum.
- (2) Where the Minister determines, pursuant to subsection (1), more than one rate at which royalty is to be payable in respect of petroleum recovered under a licence, he shall also determine the period for which each rate so determined is to have effect.
- (3) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum recovered whether under the secondary licence, or, subject to section 142(6), under the primary licence, being a rate that —
- (a) for tight gas is not less than 5% nor more than 12.5% of the royalty value of that petroleum; and

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(b) for petroleum other than tight gas is not less than 10% nor more than 12.5% of the royalty value of that petroleum.

(4A) In subsection (3) —

***tight gas*** means petroleum in a gaseous state occurring in subsurface rock with a permeability of 0.1 millidarcy or less.

(4) The Minister shall not make a determination under this section unless he has given to the applicant an opportunity to confer with him concerning the matter or matters to be the subject of the determination.

*[Section 52 amended by No. 11 of 1994 s. 5; No. 42 of 2010 s. 32.]*

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

(1) If —

- (a) an application for the grant of a petroleum production licence has been made under section 50 or 50A; and
- (b) the applicant has given any further information as and when required by the Minister under section 51(2); and
- (c) 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 petroleum production licence in respect of the block or blocks as to which the Minister is satisfied as mentioned in paragraph (c).

(2A) If —

- (a) an application for the grant of a geothermal production licence has been made under section 50 or 50A; and
- (b) the applicant has given any further information as and when required by the Minister under section 51(2); and
- (c) the Minister is satisfied that the area comprised in the block, or any one or more of the blocks, specified in the application contains geothermal energy resources,

the Minister shall, by written notice served on the applicant, inform the applicant that the Minister is prepared to grant to the applicant a geothermal production licence in respect of the block

or blocks as to which the Minister is satisfied as mentioned in paragraph (c).

- (2) A notice under subsection (1) or (2A) shall —
- (a) contain a summary of the conditions subject to which the licence is to be granted; and
  - (b) in respect of an application for the grant of a petroleum production licence — specify the rate or rates, and the periods related thereto, if any, of royalty determined by the Minister in pursuance of section 52(1), (2) or (3); and
  - (c) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 54(1) in respect of the grant of the licence.
- (3) If the Minister decides not to grant to the applicant a licence in respect of a block specified in the application because —
- (a) the applicant has failed to comply with a requirement made by the Minister under section 51(2); or
  - (b) the Minister is not satisfied as mentioned in subsection (1)(c) or (2A)(c), whichever is applicable, in respect of the block,

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 53 amended by No. 12 of 1990 s. 39; No. 28 of 1994 s. 26; No. 35 of 2007 s. 48; No. 42 of 2010 s. 33.]*

#### **54. Grant of licence**

- (1) An applicant on whom there has been served an instrument under section 53(1) may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by instrument in writing served on the Minister, request the Minister to grant to him the licence referred to in the first-mentioned instrument.
- (2) Where an applicant on whom there has been served an instrument under section 53(1) has made a request under subsection (1) within the period applicable under subsection (1), the Minister shall grant to the applicant a petroleum production licence or geothermal production licence, as the case requires, in

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respect of the block or blocks as to which the Minister is satisfied as mentioned in section 53(1)(c) or (2A)(c).

- (3) A secondary licence shall not be granted to a permittee, the holder of the drilling reservation or lessee in respect of any one or more of the blocks that constitute a location unless —
- (a) a primary licence has been granted in respect of a block or blocks forming part of that location; and
  - (b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 55, is the primary entitlement of the permittee, holder of the drilling reservation or lessee, as the case requires.
- (4) Where an applicant on whom there has been served an instrument under section 53(1) has not made a request under subsection (1) within the period applicable under subsection (1), the application lapses upon the expiration of that period.
- (5) On the day on which a licence granted under this section comes into force, the permit, drilling reservation or lease in respect of the blocks in respect of which the licence was granted ceases to be in force in respect of those blocks.

*[Section 54 amended by No. 12 of 1990 s. 40; No. 78 of 1990 s. 7; No. 28 of 1994 s. 27; No. 35 of 2007 s. 49; No. 42 of 2010 s. 34.]*

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

Where —

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

and

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

a transfer of the permit, drilling reservation or lease, as the case may be, is registered under section 72, then, after the time of the transfer sections 51 to 54 have effect in relation to the

application as if any reference in those sections to the applicant were a reference to the transferee.

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

**55. Variation of licence area**

- (1) Where an application is made under section 50(2) for a variation of a licence, the Minister shall, by instrument in writing served on the licensee, vary the licence to include in the licence area such of the blocks specified in the application as are blocks as to which the Minister is satisfied as mentioned in section 53(1)(c) or (2A)(c).
- (2) On and from the day on and from which a variation of a licence under this section has effect —
  - (a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and
  - (b) the permit that is in force in respect of the blocks so included ceases to be in force in respect of those blocks.

*[Section 55 amended by No. 12 of 1990 s. 41; No. 42 of 2010 s. 35.]*

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

- (1) Subject to subsection (2), where —
  - (a) a permittee or the holder of a drilling reservation, as the case requires, who may make an application under section 50 in respect of a block does not, within the application period, make the application; or
  - (b) all applications made by a permittee or the holder of a drilling reservation, as the case requires, under that section in respect of a block have lapsed,

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

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

whichever is the later.

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- (1a) Subject to subsection (2), where all applications made by a lessee under section 50A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.
- (2) Where a permittee, the holder of a drilling reservation or lessee makes an application for a secondary licence —
- (a) the permit, drilling reservation or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
  - (b) the determination has effect upon the making of the application.
- (3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit, drilling reservation or lease, the Minister shall, by instrument published in the *Gazette* —
- (a) in a case where that block or those blocks constitutes or constitute that location, revoke the declaration made under section 47 in respect of that location; or
  - (b) in a case where that block or those blocks forms or form part of that location, revoke the declaration made under section 47 in respect of that location to the extent that it relates to that block or those blocks.
- (4) Subsection (3) does not apply in relation to a block —
- (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or
  - (b) in respect of which a lease or licence is in force.
- (5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 47 to the extent that it relates to the block or blocks that is or are not within the lease area.
- (6) Where —
- (a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and



- (b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 48B(1)(c)(ii),

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

(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 inshore 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 inshore 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 18 comes into operation.

*[Section 56 amended by No. 12 of 1990 s. 42; No. 78 of 1990 s. 7; Petroleum Legislation Amendment Bill 2017 cl. 18.]*

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

(1) Where —

(a) a petroleum production licence is surrendered or cancelled as to a block; or

(b) a petroleum exploration permit, petroleum drilling reservation or petroleum retention lease is surrendered, cancelled or determined as to a block —

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

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

or

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

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

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

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

(1a) If —

(a) a geothermal production licence is surrendered or cancelled as to a block; or

(b) a geothermal exploration permit, geothermal drilling reservation or geothermal retention lease is surrendered, cancelled or determined as to a block —

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

(ii) in which, in the opinion of the Minister, there are geothermal energy resources;

or

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

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

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

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

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

(a) that an applicant is required to specify an amount that he would be prepared to pay in respect of the grant of a

- petroleum production licence to him on his application;  
or
- (b) that an applicant is required to specify a rate of royalty that he would be prepared to pay, if a petroleum production licence were granted to him on his application, in respect of petroleum recovered under the licence, being a rate that exceeds 10% of the royalty value of that petroleum.
- (3) Where the Minister, in an instrument under subsection (1), states that an applicant is required to specify a rate of royalty as mentioned in subsection (2)(b), the Minister may, in that instrument, state that an applicant on whose application he is prepared to grant a petroleum production licence will also be required to pay to him, in respect of the grant of the licence to the applicant, the amount specified in that behalf in that instrument.
- (4) The Minister shall, in an instrument under subsection (1a), state that an applicant is required to specify an amount that the applicant would be prepared to pay in respect of the grant of a geothermal production licence to the applicant on the application.
- [(5) 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 51(1)(c); and
- (d) in the case of an application under subsection (1), shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount, or the rate of royalty, that the applicant would be prepared to pay; and
- (e) in the case of an application under subsection (1a), shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount that the applicant would be prepared to pay; and
- (f) may set out any other matters that the applicant wishes the Minister to consider.

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

*[Section 57 amended by No. 12 of 1990 s. 43; No. 78 of 1990 s. 7; No. 11 of 1994 s. 5; No. 28 of 1994 s. 29; No. 35 of 2007 s. 50; No. 42 of 2010 s. 36.]*

**58. Application fee etc. for s. 57 applications**

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

*[Section 58 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 44; No. 42 of 2010 s. 37.]*

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

- (1) Where, at the expiration of the period specified in an instrument under subsection (1) or (1a) of section 57, only one application has been made under that subsection in respect of the block specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform him that he is prepared to grant to him a licence in respect of that block.
- (2) Where, at the expiration of the period specified in an instrument under subsection (1) or (1a) of section 57, 2 or more applications

have been made under that subsection in respect of the block specified in the instrument, the Minister may reject any or all of the applications and, if he does not reject all of the applications, may —

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

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

*[(3), (4) 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

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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 59 amended by No. 12 of 1990 s. 45; No. 28 of 1994 s. 30; No. 35 of 2007 s. 51; No. 42 of 2010 s. 38.]*

**60. Grant of licence on request**

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

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

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

*[Section 60 amended by No. 28 of 1994 s. 31; No. 35 of 2007 s. 52; No. 42 of 2010 s. 39.]*

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

- (1) Where a licence (in this section called the *original licence*) is in force in respect of 2 or more blocks (not being blocks that form or form part of a location), the licensee may make an application to the Minister for the grant to him of —
- (a) if the original licence is a petroleum production licence — 2 or more petroleum production licences; or
  - (b) if the original licence is a geothermal production licence — 2 or more geothermal production licences,
- in respect of the blocks the subject of the original licence in exchange for the original licence.
- (2) An application under subsection (1) —
- [(a) 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 petroleum production licences or geothermal production licences, as the case requires, in accordance with the application.
- (5) A licence granted on an application under this section —
- (a) remains in force, subject to this Part, but notwithstanding section 63, for the remainder of the term of the original licence; and
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject; and
  - (c) shall be granted subject to any directions under this Act previously given to the holder of the original licence in respect of the licence area of the original licence; and
  - (d) shall be granted subject to any instruments and agreements in respect of the original licence a memorial of which is entered in the Register under section 70,

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insofar as such instruments and agreements apply to the licence, (or any such instruments and agreements which are in effect at the time that an application is granted under this section but in respect of which a memorial is not yet entered under that section).

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

*[Section 61 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 46; No. 28 of 1994 s. 32; No. 35 of 2007 s. 53; No. 42 of 2010 s. 40.]*

**61A. Grant of petroleum production licence as result of change to boundary of offshore area**

(1) In this section —

**section 27 block** means —

- (a) a block constituted as provided by section 27; 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 inshore 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 27 blocks (the *relevant section 27 blocks*) that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth licence immediately before the change; and

(ii) are in the inshore area; and

(iii) are not the subject of a variation under section 97A.

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

(a) one or more, but not all, of the section 27 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 27 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 27 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 27 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.

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(5) The Minister is taken —

(a) to have granted the holder of the Commonwealth licence a petroleum production licence over the relevant section 27 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 63(3).

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

(a) a part of a section 27 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 27 block is in the inshore 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 27 block.

[Section 61A inserted by the Petroleum Legislation Amendment Bill 2017 cl. 19.]

**62. Rights conferred by licence**

- (1) A petroleum production licence, while it remains in force, authorises the licensee, subject to this Act and in accordance with the conditions to which the licence is subject —
- (a) to recover 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.
- (2) A geothermal production licence, while it remains in force, authorises the licensee, subject to this Act and in accordance with the conditions to which the licence is subject —
- (a) to recover geothermal energy in the licence area and to recover geothermal energy from the licence area in another area to which the licensee has lawful access for that purpose; and
  - (b) to explore for geothermal energy resources in the licence area; and

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

*[Section 62 amended by No. 12 of 1990 s. 47; No. 13 of 2005 s. 16(2); No. 35 of 2007 s. 54.]*

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

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

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

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

- (1) The Minister may, by instrument in writing served on a geothermal licensee, direct the licensee to vary the approved development plan that applies to the geothermal production licence, as specified in the instrument, for the purpose of securing the more effective recovery of geothermal energy under the licence.
- (2) The Minister is not to give a direction under subsection (1) unless the Minister has given to the geothermal licensee an opportunity to confer with the Minister concerning the proposed direction.
- (3) On the written application of the geothermal licensee, the Minister may approve a variation of the approved development plan.

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- (4) An approved development plan that is varied under this section has effect as so varied.

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

**63. Term of licence**

- (1) Subject to this Part, a licence granted before the commencement of the *Petroleum and Energy Legislation Amendment Act 2010*<sup>1</sup> section 41(3) remains in force —

- (a) in the case of a licence granted otherwise than by way of renewal of a licence, for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day; 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 day is specified in the licence as being the day on which the licence is to come into force, on that later day; and
- (c) in the case of a licence granted by way of the 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*<sup>1</sup> [section 41\(3\)](#), other than a [petroleum production licence granted under section 61A](#), ~~section 41(3)~~ remains in force indefinitely.

- [\(3\) Subject to this Part, a petroleum production licence granted under section 61A remains in force for the period of 21 years commencing on the day on which the licence is granted.](#)

*[Section 63 inserted by No. 12 of 1990 s. 48; amended by No. 42 of 2010 s. 41; [Petroleum Legislation Amendment Bill 2017 cl. 20.](#)]*

**64A. Termination of licence if no operations for 5 years**

- (1) If —
- (a) a petroleum production licence is in force under section 63(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; or

- (b) a geothermal production licence is in force under section 63(1)(c) or (2) and the licensee has not carried on any operations for the recovery of geothermal energy 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 —
- (a) for the purposes of subsection (1)(a) the duration of the period in which no operations for the recovery of petroleum were carried on under a petroleum production licence; or
- (b) for the purposes of subsection (1)(b) the duration of the period in which no operations for the recovery of geothermal energy were carried on under a geothermal production licence,

any period in which no such operations were carried on because of circumstances beyond the licensee's control is to be disregarded.

*[Section 64A inserted by No. 42 of 2010 s. 42.]*

#### **64. Application for renewal of licence**

(1) Subject to this section, a licensee under a licence to which section 63(1)(a) or (b) or (3) applies may, from time to time, make an application to the Minister for the renewal of the licence.

~~(1) A licensee under a licence to which section 63(1)(a) or (b) 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]*

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- (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 petroleum production licence is granted under section 61A; and

(b) the relevant Commonwealth licence that ceases to be in force, as mentioned in section 61A(3)(b) or (4)(b), was granted otherwise than by way of renewal,

an application must not be made for the renewal of the petroleum production licence if the Minister has previously granted a renewal of the licence.

(5) If —

(a) a petroleum production licence is granted under section 61A; and

(b) the relevant Commonwealth licence that ceases to be in force, as mentioned in section 61A(3)(b) or (4)(b), was granted by way of renewal,

an application must not be made for the renewal of the petroleum production licence.

*[Section 64 amended by No. 69 of 1981 s. 34; No. 12 of 1990 s. 49; No. 42 of 2010 s. 43; [Petroleum Legislation Amendment Bill 2017 cl. 21.](#)]*

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

(1) Where —

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

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

the Minister —

- (c) shall if —
  - (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 within 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 the person that the Minister is prepared to grant to the person the renewal of the licence.

- (2) Where —

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

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

- (3) If any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part and of the regulations has not been complied with, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4), by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.

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- (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 64 in respect of a renewal other than the first renewal of the licence, the Minister may, by instrument in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.
- [(6) *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 64; and
  - (b) the licence expires —
    - (i) before the Minister grants, or refuses to grant, the renewal of the licence; or
    - (ii) before the application lapses as provided by subsection (10),

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

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

whichever first happens.

*[Section 65 amended by No. 28 of 1994 s. 33; No. 42 of 2010 s. 44.]*

## **66. Conditions of licence**

- (1) A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.
- (2) Without limiting subsection (1), a geothermal production licence is subject to the condition that geothermal energy may be recovered under the licence only in accordance with the approved development plan.
- (3) Subsection (1) does not apply to a petroleum production licence granted under section 61A.
- (4) The Minister may, by written notice given to the licensee, vary a petroleum production licence granted under section 61A by imposing one or more conditions to which the licence is subject.
- (5) A notice under subsection (4) may only be given within 14 days after the grant of the petroleum production licence.

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(6) A variation under subsection (4) takes effect on the day on which notice of the variation is given to the licensee.

*[Section 66 amended by No. 35 of 2007 s. 56; Petroleum Legislation Amendment Bill 2017 cl. 22.]*

**67. Storage of petroleum underground**

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

Penalty: a fine of \$10 000.

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

*[Section 67 inserted by No. 28 of 1994 s. 34; amended by No. 42 of 2010 s. 62(15).]*

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

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

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

**69. Unit development**

(1A) In this section —

*Joint Authority* and *offshore area* have the respective meanings given in the Commonwealth Act section 7.

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- (1) In this section, the expression *unit development* —
- (a) applies in relation to —
    - (i) a petroleum pool that is partly in a particular licence area of a petroleum licensee and partly in another area, whether in the State or not, in respect of which another person has authority, whether under this Act or another written law or under the law of another [State, the Northern Territory or the Commonwealth](#), ~~State or of the Northern Territory~~, to carry on operations for the recovery of petroleum from the pool; or
    - (ii) a geothermal resources area that is partly in a particular licence area of a geothermal licensee and partly in another area, whether in the State or not, in respect of which another person has authority, whether under this Act or another written law or under the law of another State or of the Northern Territory, to carry on operations for the recovery of geothermal energy from the geothermal resources area;
- and
- (b) means the carrying on of operations for the recovery of petroleum from that pool or geothermal energy from that geothermal resources area, as the case requires, under cooperative arrangements between the persons entitled to carry on such operations in each of those areas.
- (2) A licensee may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum pool or geothermal resources area, as the case requires, but nothing in this subsection derogates from the operation of section 75(2).
- (3) The Minister, of his own motion or on application made to him in writing by —
- (a) a licensee in whose licence area there is a part of a particular petroleum pool or particular geothermal resources area; or
  - (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum or geothermal energy in an area outside the State that includes part of a particular petroleum pool or particular geothermal resources area that extends into the State,

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

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

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

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

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- (b) the geothermal licensee in respect of 2 or more licence areas in each of which there is part of a particular geothermal resources area,

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

- (7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by instrument in writing served on the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as he thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool or geothermal energy from the geothermal resources area.
- (8) The Minister shall not give a direction under either subsection (6) or (7) unless he has given to the licensee or licensees concerned an opportunity to confer with him concerning the proposed direction.
- (9) Directions under subsection (5), (6), or (7) may include directions as to the rate at which petroleum or geothermal energy is to be recovered.
- (10) In this section, **dealing** means a dealing to which section 75 applies.
- (11) If a petroleum pool extends, or is reasonably believed by the Minister to extend, from an area of the State into —
- (a) lands to which other written laws or the laws of another State or of a Territory relating to the exploitation of petroleum resources apply; or
  - (b) the adjacent area of an adjoining State or [Territory](#); ~~or Territory~~;
  - (c) [the offshore area](#).

each Minister concerned shall consult concerning the exploitation of the petroleum pool with any other Minister concerned and with the appropriate authority of [the other State or the Territory if paragraph \(a\) or \(b\) applies and with the Joint Authority if paragraph \(c\) applies](#). ~~another State or a Territory referred to in paragraph (a).~~

- (11a) If a geothermal resources area extends, or is reasonably believed by the Minister to extend, from an area of the State into —
- (a) lands to which other written laws or the laws of another State or of a Territory relating to the exploitation of geothermal energy resources apply; or
  - (b) the adjacent area of an adjoining State or Territory,

each Minister concerned shall consult concerning the exploitation of the geothermal resources area with any other Minister concerned and with the appropriate authority of the other State or the Territory. ~~another State or a Territory referred to in paragraph (a).~~

- (12) Where subsection (11) applies in relation to a petroleum pool or subsection (11a) applies in relation to a geothermal resources area, a Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool or geothermal resources area except with the approval of any other Minister concerned and any State or Territory authority concerned and with the approval of the Joint Authority if subsection (11)(c) applies. ~~concerned.~~

*[Section 69 amended by No. 12 of 1990 s. 52; No. 35 of 2007 s. 57; Petroleum Legislation Amendment Bill 2017 cl. 23.]*

***[Pt. III Div. 4 (s. 69J-86) has been omitted as it is not amended by the Bill]***

### Division 5 — General

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

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

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

- (a) the grant, and the grant of the renewal, of a permit, lease or licence; and
- (aa) the grant, and the extension of, a drilling reservation; and
- (b) the variation of a licence; and
- (c) the surrender or cancellation of a permit, drilling reservation, lease or licence as to all or some of the blocks in the permit area, drilling reservation, lease area or licence area; and

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- (d) the determination of a permit, drilling reservation or lease as to a block or blocks; and
- (e) the expiry of a permit, drilling reservation, lease or licence,

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

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

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

*[(1) deleted]*

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

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

**90. Commencement of works**

- (1) Where a permit, drilling reservation, lease or licence is granted subject to a condition that works or operations specified in the permit, drilling reservation, lease or licence are to be carried out, the permittee, holder of the drilling reservation, lessee or licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, drilling reservation, lease or licence, as the case may be, comes into force.
- (2) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, holder of a drilling reservation, lessee or licensee —
  - (a) exempt him from compliance with the requirements of subsection (1); and
  - (b) direct him to commence to carry out the works or operations specified in the permit, drilling reservation, lease or licence, as the case may be, within such period after the day on which the permit, drilling reservation,



lease or licence, as the case may be, comes into force as is specified in the instrument.

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

Penalty for an offence under subsection (1) or (3): a fine of \$10 000.

*[Section 90 amended by No. 12 of 1990 s. 71; No. 78 of 1990 s. 7; No. 42 of 2010 s. 62(7).]*

## **91. Work practices**

- (1) A permittee, holder of a drilling reservation, lessee or licensee shall carry out —

- (a) all petroleum exploration operations and operations for the recovery of petroleum; or
- (b) all geothermal energy resources exploration operations and operations for the recovery of geothermal energy,

as the case requires, in the permit area, drilling reservation, lease area or licence area in a proper and workmanlike manner and in accordance with good oil-field practice.

- (1a) Subsections (2) and (2a) have effect without limiting the generality of subsection (1) but subject to any authorisation, requirement or direction given or made by or under this Act.

- (2) A petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee or petroleum licensee shall —

- (a) control the flow and prevent the waste or escape in the permit area, drilling reservation, lease area or licence area of petroleum or water; and
- (b) prevent the escape in the permit area, drilling reservation, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter; and
- (c) prevent damage to petroleum-bearing strata in an area, whether in the State or not, in respect of which the permit, drilling reservation, lease or licence is not in force; and
- (d) keep separate —
  - (i) each petroleum pool discovered in the permit area, drilling reservation, lease area or licence area; and

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

operations, as the case requires, in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oil-field practice.

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

Penalty for an offence under subsection (1), (2), (2a) or (3): a fine of \$10 000.

*[Section 91 amended by No. 12 of 1990 s. 72; No. 78 of 1990 s. 7; No. 28 of 1994 s. 40; No. 13 of 2005 s. 7; No. 35 of 2007 s. 63; No. 42 of 2010 s. 62(8).]*

**91A. Conditions relating to insurance**

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

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- (c) the Minister is satisfied that the required insurance is in effect,

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

- (4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, drilling reservation, lease or licence, being a security that was required under this Act before the commencement of section 41 of the *Acts Amendment (Petroleum) Act 1994*<sup>1</sup>, is discharged.
- (5) The discharge of a security under subsection (4) has no effect on any liability arising under or in relation to the security before its discharge.

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

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

- (1) In this section —  
**holder** means the holder of the permit, drilling reservation, lease or licence.
- (2) The conditions subject to which a permit, drilling reservation, lease or licence is granted may include a condition prohibiting the holder from entering specified land within the permit area, drilling reservation, lease area or licence area.
- (3) The Minister may, at any time, by instrument in writing served on the holder, vary or revoke a condition referred to in subsection (2).

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

**92. Maintenance etc. of property**

- (1) In this section —  
**operations area** —
- (a) in relation to an operator who is a permittee, holder of a drilling reservation, lessee or licensee — means the permit area, drilling reservation, lease area or licence area, as the case may be; and
- (b) in relation to an operator who is the holder of a special prospecting authority or access authority — means the area in respect of which that authority is in force;

**operator** means a permittee, holder of a drilling reservation, lessee, 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 92 amended by No. 12 of 1990 s. 74; No. 78 of 1990 s. 7; No. 28 of 1994 s. 42; No. 42 of 2010 s. 62(9).]*

**93. Operation of s. 91, 91A and 92 subject to this Act and other laws**

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

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

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

**[94.] Deleted by No. 42 of 2010 s. 46.]**

**95. Directions by Minister**

- (1) The Minister may, by instrument in writing served on the registered holder of a permit, drilling reservation, lease, licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.

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- (2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to —
- (a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons —
    - (i) servants or agents of, or persons acting on behalf of, the registered holder;
    - (ii) persons performing work or services, whether directly or indirectly, for the registered holder;

or

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

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

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

Penalty: 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 State.

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 State, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

Penalty: a fine of \$5 000.

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

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

*[Section 95 inserted by No. 12 of 1990 s. 76; amended by No. 78 of 1990 s. 7; No. 35 of 2007 s. 65; No. 42 of 2010 s. 62(15).]*

## **96. Compliance with directions**

- (1) Where a person does not comply with a direction given or applicable to the person under this Part or under the regulations, the Minister may do all or any of the things required by the direction to be done.
- (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the

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person to whom the direction was given or was applicable to the Crown and are recoverable in a court of competent jurisdiction.

(2a) Where —

- (a) a direction given under section 95 applies to a permittee, lessee or licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and
- (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

- (3) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Part or under the regulations or a defendant in an action under subsection (2) proves that he took all reasonable steps to comply with the direction.

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

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

(1) Where —

- (a) a permit, drilling reservation, lease or licence is, under this Part, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, drilling reservation, lease or licence; or
- (b) a licence is varied under section 55; or
- (c) a licensee enters into an agreement under section 69, or a direction is given to a licensee under that section; or
- (d) a permit, drilling reservation, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force; or
- (e) a permittee, holder of a drilling reservation, lessee or licensee consents to the making of a determination under section 135; or
- (f) an access authority is granted in respect of a block the subject of a permit, drilling reservation, lease or licence,



or an access authority as in force in respect of such a block is varied; or

- (g) a permittee, holder of a drilling reservation, lessee, licensee or the holder of a special prospecting authority or access authority applies, by instrument in writing served on the Minister —
  - (i) for a variation or suspension of; or
  - (ii) for exemption from compliance with, any of the conditions to which the permit, drilling reservation, lease, licence, special prospecting authority or access authority is subject; or
- (h) the Minister under this Part or the regulations gives a direction or consent to a permittee, holder of a drilling reservation, lessee, licensee or the holder of a special prospecting authority or access authority,

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

- (i) vary or suspend; or
- (j) exempt the permittee, holder of the drilling reservation, lessee, licensee or the holder of the special prospecting authority or access authority from compliance with,

any of the conditions to which the permit, drilling reservation, lease, licence, special prospecting authority or access authority is subject, upon such conditions, if any, as the Minister determines and specifies in the instrument.

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

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the instrument of suspension or exemption or by a later instrument in writing served on the permittee, the holder of a drilling reservation or lessee, extend the term of the permit, drilling reservation or lease by a period not exceeding the period of the suspension or exemption.

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

**97A. 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 petroleum production licence* means a petroleum production licence granted for a fixed period of years;

*petroleum title* means a petroleum exploration permit, petroleum retention lease or fixed-term WA petroleum production licence;

*section 27 block* means —

- (a) a block constituted as provided by section 27; 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 inshore 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 27 block covered by the petroleum title immediately adjoined at least one other section 27 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 27 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 27 blocks that were covered by the Commonwealth title immediately before the change and that are in the offshore area; and

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(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 27 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 27 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 petroleum exploration 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 27 blocks that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the inshore area;

and

(b) the section 27 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 petroleum retention 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 27 blocks that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the inshore area;

and

(b) the section 27 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 petroleum production 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 27 blocks that —

(i) correspond to the section 27 blocks that were covered by the Commonwealth title immediately before the change; and

(ii) are in the inshore area;

and

(b) the section 27 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 27 block immediately adjoins another section 27 block if —

(a) the graticular section that constitutes or includes that section 27 block and the graticular section that constitutes or includes that other section 27 block —

(i) have a side in common; or

(ii) are joined together at one point only;

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or

(b) that section 27 block and that other section 27 block are in the same graticular section.

(13) For the purposes of this section —

(a) a petroleum exploration permit granted otherwise than by way of renewal corresponds to a Commonwealth permit granted otherwise than by way of renewal; and

(b) a petroleum retention lease corresponds to a Commonwealth lease; and

(c) a fixed-term WA petroleum production licence granted otherwise than by way of renewal corresponds to a Commonwealth licence granted otherwise than by way of renewal; and

(d) a petroleum exploration permit granted by way of first renewal corresponds to a Commonwealth permit granted by way of first renewal; and

(e) a fixed-term WA petroleum production licence granted by way of first renewal corresponds to a Commonwealth licence granted by way of first renewal; and

(f) a petroleum exploration permit granted by way of second renewal corresponds to a Commonwealth permit granted by way of second renewal; and

(g) a fixed-term WA petroleum production licence granted by way of second or subsequent renewal corresponds to a fixed-term petroleum production licence, as defined in the Commonwealth Act section 7, 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 27 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 27 block is in the inshore 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 27 block.

[Section 97A inserted by the Petroleum Legislation Amendment Bill 2017 cl. 24.]

*[Pt. III Div. 3A, 4, 5 (s. 98-127A), 6, 7, Pt. IIIA, IVA, IV & Sch. 1 & 2  
have been omitted as they are not amended by the Bill]*

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### Notes

- <sup>1</sup> This is a compilation of the *Petroleum and Geothermal Energy Resources Act 1967* and includes the amendments made by the other written laws referred to in the following table <sup>1a,4</sup>. The table also contains information about any reprint.

### Compilation table

| Short title  | Number and year                                | Assent      | Commencement  |
|--|--|-------------|---|
| <i>Petroleum Act 1967</i> <sup>5</sup>   | 72 of 1967                                     | 11 Dec 1967 | 5 Sep 1969 (see s. 2 and <i>Gazette</i> 5 Sep 1969 p. 2540)   |
| <i>Metric Conversion Act 1972</i> s. 4   | 94 of 1972 (as amended by No. 19 of 1973 s. 8) | 4 Dec 1972  | Relevant amendments (see First Sch. <sup>6</sup> ) took effect on 1 Jan 1973 (see s. 4(2) and <i>Gazette</i> 29 Dec 1972 p. 4811) |
| <i>Acts Amendment (Mining) Act 1981</i> Pt. III <sup>7</sup>   | 69 of 1981                                     | 30 Oct 1981 | 30 Oct 1981   |
| <b>Reprint of the <i>Petroleum Act 1967</i> approved 20 Sep 1982</b> (includes amendments listed above)  |  |             |   |
| <i>Acts Amendment (Aboriginal Affairs Planning Authority) Act 1982</i> Pt. III   | 107 of 1982                                    | 7 Dec 1982  | 7 Dec 1982  |
| <i>Barrow Island Royalty Variation Agreement Act 1985</i> Pt. III  | 113 of 1985                                    | 7 Jan 1986  | 7 Jan 1986 (see s. 2)   |
| <i>Petroleum Amendment Act 1987</i>  | 90 of 1987                                     | 9 Dec 1987  | Act other than s. 6: 14 Feb 1983 (see s. 2(1)); s. 6: 9 Dec 1987 (see s. 2(2))  |
| <i>Acts Amendment (Petroleum) Act 1990</i> Pt. II <sup>8-14</sup>  | 12 of 1990                                     | 31 Jul 1990 | 1 Oct 1990 (see s. 2(1) and <i>Gazette</i> 28 Sep 1990 p. 5099)   |
| <i>Petroleum (Drilling Reservations) Amendment Act 1990</i>  | 78 of 1990                                     | 22 Dec 1990 | s. 1 and 2: 22 Dec 1990; Act other than s. 1 and 2: 1 Mar 1991 (see s. 2 and <i>Gazette</i> 22 Feb 1991 p. 868)                   |
| <b>Reprint of the <i>Petroleum Act 1967</i> as at 17 Dec 1992</b> (erratum in <i>Gazette</i> 26 Feb 1993 p. 1362) (includes amendments listed above) |  |             |   |
| <i>Land (Titles and Traditional Usage) Act 1993</i> s. 45  | 21 of 1993                                     | 2 Dec 1993  | 2 Dec 1993 (see s. 2)   |
| <i>Petroleum Royalties Legislation Amendment Act 1994</i> Pt. 2  | 11 of 1994                                     | 15 Apr 1994 | 1 Mar 1994 (see s. 2)   |
| <i>Acts Amendment (Petroleum) Act 1994</i> Pt. 3 <sup>15-17</sup>  | 28 of 1994                                     | 29 Jun 1994 | 22 Jul 1994 (see s. 2 and <i>Gazette</i> 22 Jul 1994 p. 3728)   |
| <i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4   | 73 of 1994                                     | 9 Dec 1994  | 9 Dec 1994 (see s. 2)   |



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| Short title  | Number and year | Assent      | Commencement   |
|--|-----------------|-------------|--|
| <i>Acts Amendment and Repeal (Native Title) Act 1995 Pt. 7</i>   | 52 of 1995      | 24 Nov 1995 | 9 Dec 1995 (see s. 2 and <i>Gazette</i> 8 Dec 1995 p. 5935)  |
| <i>Local Government (Consequential Amendments) Act 1996 s. 4</i>   | 14 of 1996      | 28 Jun 1996 | 1 Jul 1996 (see s. 2)  |
| <i>Acts Amendment (Marine Reserves) Act 1997 Pt. 4</i>   | 5 of 1997       | 10 Jun 1997 | 29 Aug 1997 (see s. 2 and <i>Gazette</i> 29 Aug 1997 p. 4867)  |
| <i>Acts Amendment (Land Administration) Act 1997 Pt. 49 and 68</i>   | 31 of 1997      | 3 Oct 1997  | 30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)  |
| <i>Acts Amendment (Land Administration, Mining and Petroleum) Act 1998 Pt. 4</i>   | 61 of 1998      | 11 Jan 1999 | 11 Jan 1999 (see s. 2(1))  |
| <i>Acts Amendment (Mining and Petroleum) Act 1999 Pt. 3</i> <sup>18, 19</sup>  | 17 of 1999      | 15 Jun 1999 | 24 Jul 1999 (see s. 2 and <i>Gazette</i> 23 Jul 1999 p. 3385)  |
| <b>Reprint of the <i>Petroleum Act 1967</i> as at 14 Jan 2000</b> (includes amendments listed above)   |                 |             |  |
| <i>Acts Amendment (Australian Datum) Act 2000 s. 7</i>   | 54 of 2000      | 28 Nov 2000 | 16 Dec 2000 (see s. 2 and <i>Gazette</i> 15 Dec 2000 p. 7201)  |
| <i>Corporations (Consequential Amendments) Act (No. 2) 2003 Pt. 15</i>   | 20 of 2003      | 23 Apr 2003 | 15 Jul 2001 (see s. 2(1) and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)  |
| <i>Criminal Code Amendment Act 2004 s. 58</i>  | 4 of 2004       | 23 Apr 2004 | 21 May 2004 (see s. 2)   |
| <i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>   | 59 of 2004      | 23 Nov 2004 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)   |
| <i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 98</i> <sup>20</sup>   | 55 of 2004      | 24 Nov 2004 | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)   |
| <i>Petroleum Legislation Amendment and Repeal Act 2005 Pt. 2</i>   | 13 of 2005      | 1 Sep 2005  | 15 May 2010 (see s. 2 and <i>Gazette</i> 14 May 2010 p. 2015)  |
| <b>Reprint 4: The <i>Petroleum Act 1967</i> as at 13 Apr 2007</b> (includes amendments listed above except those in the <i>Petroleum Legislation Amendment and Repeal Act 2005</i> ) |                 |             |  |
| <i>Petroleum Amendment Act 2007 Pt. 2</i>  | 35 of 2007      | 21 Dec 2007 | Div. 1: 19 Jan 2008 (see s. 2(b) and <i>Gazette</i> 18 Jan 2008 p. 147);<br>Div. 2: 15 May 2010 (see s. 2(b) and <i>Gazette</i> 14 May 2010 p. 2015) |

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| Short title  | Number and year | Assent                                | Commencement   |
|--|-----------------|---------------------------------------|--|
| <b>Reprint 5: The Petroleum and Geothermal Energy Resources Act 1967 as at 2 May 2008</b> (includes amendments listed above except those in the <i>Petroleum Legislation Amendment and Repeal Act 2005</i> and the <i>Petroleum Amendment Act 2007</i> Pt. 2 Div. 2) (correction in <i>Gazette</i> 23 Jun 2009 p. 2470)        |                 |                                       |  |
| <i>Revenue Laws Amendment Act (No. 2) 2008</i> s. 34   | 31 of 2008      | 27 Jun 2008                           | 28 Jun 2008 (see s. 2(b))  |
| <b>Reprint 6: The Petroleum and Geothermal Energy Resources Act 1967 as at 22 Oct 2010</b> (includes amendments listed above)  |                 |                                       |  |
| <i>Petroleum and Energy Legislation Amendment Act 2010</i> Pt. 2   | 42 of 2010      | 28 Oct 2010                           | Pt. 2 other than s. 51, 57, 58(b) (to the extent that it inserts s. 153(2)(lc)), 61 (to the extent that it inserts Sch. 2 cl. 3): 25 May 2011 (see s. 2(b) and <i>Gazette</i> 24 May 2011 p. 1892); s. 51, 57, 58(b) (to the extent that it inserts s. 153(2)(lc)), 61 (to the extent that it inserts Sch. 2 cl. 3): 1 Jul 2015 (see s. 2(b) and <i>Gazette</i> 30 Jun 2015 p. 2321) |
| <b>Reprint 7: The Petroleum and Geothermal Energy Resources Act 1967 as at 5 Aug 2011</b> (includes amendments listed above except those in the <i>Petroleum and Energy Legislation Amendment Act 2010</i> s. 51, 57, 58(b) (to the extent that it inserts s. 153(2)(lc)) and 61 (to the extent that it inserts Sch. 2 cl. 3)) |                 |                                       |  |
| <i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011</i> Pt. 9 Div. 3   | 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)  |
| <i>Statutes (Repeals and Minor Amendments) Act 2011</i> s. 15  | 47 of 2011      | 25 Oct 2011                           | 26 Oct 2011 (see s. 2(b))  |
| <i>Commercial Arbitration Act 2012</i> s. 45 it. 15  | 23 of 2012      | 29 Aug 2012                           | 7 Aug 2013 (see s. 1B(b) and <i>Gazette</i> 6 Aug 2013 p. 3677)  |
| <i>Statutes (Repeals and Minor Amendments) Act 2014</i> s. 8   | 17 of 2014      | 2 Jul 2014                            | 6 Sep 2014 (see s. 2(b) and <i>Gazette</i> 5 Sep 2014 p. 3213)   |
| <b>Reprint 8: The Petroleum and Geothermal Energy Resources Act 1967 as at 15 Jan 2016</b> (includes amendments listed above)  |                 |                                       |  |
| <a href="#">Petroleum Legislation Amendment Bill 2017 Pt. 2</a>  |                 | <a href="#">Current Bill No. 10-1</a> |  |

<sup>1a</sup> On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this reprint. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

| <b>Short title</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>  |
|--|------------------------|---------------|--|
| <i>Native Title (State Provisions) Act 1999</i><br>Sch. 2 Div. 7 <sup>21</sup> | 60 of 1999             | 10 Jan 2000   | s. 7.3 operative on earliest of commencement of Pt. 2 (except s. 2.2), Pt. 3 (except s. 3.1) and Pt. 4 |

<sup>2</sup> The *Petroleum Act 1936* was repealed by this Act, s. 3.

<sup>3</sup> The *Interpretation Act 1918* was repealed by the *Interpretation Act 1984*.

<sup>4</sup> The amendment in the *Petroleum Safety Act 1999* s. 92 is not included as it was deleted by the *Petroleum Legislation Amendment and Repeal Act 2005* s. 51 before it came into operation.

<sup>5</sup> Now known as the *Petroleum and Geothermal Energy Resources Act 1967*; short title changed (see note under s. 1).

<sup>6</sup> The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Act Amendment Act 1973*.

<sup>7</sup> The *Acts Amendment (Mining) Act 1981* s. 34(2) and (3) are transitional provisions that are of no further effect.

<sup>8</sup> The *Acts Amendment (Petroleum) Act 1990* s. 26(2) reads as follows:

- (2) A permit granted before the commencement of this section is not invalidated by reason of any error that may have occurred in specifying the date of commencement of the permit and the term of such a permit shall be deemed to have commenced on the day of commencement specified in it.

<sup>9</sup> The *Acts Amendment (Petroleum) Act 1990* s. 32(2)-(6) read as follows:

- (2) Where —
  - (a) at the commencement of this section, a nomination has been made under section 46 of the principal Act; and
  - (b) at that commencement, a declaration had not been made under section 47 of the principal Act as a result of the making of the nomination,

sections 46, 47 and 48 of the principal Act, as in force immediately before the commencement of this section, continue to have effect in relation to that nomination and the block or blocks that would be affected by a declaration as if this Act had not been enacted.

- (3) A declaration made under section 47 of the principal Act as continued in force by subsection (2) has effect, and the principal Act, as amended by this Act, applies to the declaration, as if the declaration had been made under that section as amended by this Act.

- (4) A declaration in force under section 47 of the principal Act immediately before the commencement of this section has effect after that commencement as if it were a declaration under section 47 of the principal Act, as amended by this Act.
- (5) Where —
- (a) the permittee under a permit granted before the commencement of this section applies under section 50 of the principal Act, as amended by this Act, for a licence;
  - (b) the location that includes the block or blocks to which the application relates was declared under section 47 of the principal Act, as amended by this Act;
  - (c) the location consists of not more than 8 blocks;
  - (d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and
  - (e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 50(1) of the principal Act, as amended by this Act, applies as if the firstmentioned location were constituted by the number of blocks specified in the notification referred to in paragraph (d).

- (6) Where —
- (a) a lessee under a lease of a block or blocks for which a permit was granted before the commencement of this section applies under section 50A of the principal Act, as amended by this Act, for a licence;
  - (b) the location that includes the block or blocks to which the application relates was declared under section 47 of the principal Act, as amended by this Act;
  - (c) the location consists of not more than 8 blocks;
  - (d) the Minister notifies the applicant in writing that, in his opinion, the number of blocks specified in the notification represents the maximum number of blocks that the applicant would have been entitled to have declared as a location instead of the block or blocks constituting the location referred to in paragraph (b) if this Act had not been enacted; and
  - (e) the number of blocks specified in the notification exceeds the number of blocks in the location referred to in paragraph (b),

section 50A(2) of the principal Act, as amended by this Act, applies as if the lease were in respect of the number of blocks specified in the notification referred to in paragraph (d).

<sup>10</sup> The *Acts Amendment (Petroleum) Act 1990* s. 42(2) reads as follows:

- (2) The revocation, under section 56(3) of the principal Act, of a declaration in respect of a location shall be deemed not to have affected the validity of a licence granted under the principal Act in respect of any block forming part of that location.

<sup>11</sup> The *Acts Amendment (Petroleum) Act 1990* s. 48(2) reads as follows:

- (2) A licence granted before the commencement of this section is not invalidated by reason of any error that may have occurred in specifying the date of commencement of the licence and the term of such a licence shall be deemed to have commenced on the date of commencement specified in it.

<sup>12</sup> The *Acts Amendment (Petroleum) Act 1990* s. 56(2), (3) and (4) read as follows:

- (2) Section 72 of the principal Act as amended by this Act applies in relation to applications for approval of transfers of permits, licences or access authorities lodged after the commencement of this section.
- (3) Notwithstanding the repeal of section 72 of the principal Act effected by subsection (1), that section continues to apply in relation to applications for approval of transfers of permits, licences or access authorities lodged before the commencement of this section.
- (4) A transfer approved and registered under section 72 of the principal Act shall be deemed to have been approved and registered under section 72 of the principal Act as amended by this Act.

<sup>13</sup> The *Acts Amendment (Petroleum) Act 1990* s. 58(2)-(7) read as follows:

- (2) Subject to this section, sections 75 and 75A of the principal Act as amended by this Act apply in relation to dealings evidenced by instruments executed after the commencement of this section.
- (3) A party to an instrument to which section 75 of the principal Act applied, being an instrument that had not been approved under that section of that Act, may, if the instrument evidences a dealing —
  - (a) to which section 75 of the principal Act as amended by this Act would, if the instrument had been executed after the commencement of this section, apply; and
  - (b) that relates to a permit, licence or access authority that was in existence at the time of execution of the instrument,make an application in writing, within 12 months after the commencement of this section, to the Minister for approval of the dealing.

- (4) Where —
- (a) before the commencement of this section, 2 or more persons entered into a dealing relating to a permit, licence or access authority that was not in existence at the time of execution of the instrument evidencing the dealing;
  - (b) that dealing would, if the instrument evidencing the dealing had been executed after the commencement of this section, be a dealing referred to in section 75A(1) of the principal Act as amended by this Act; and
  - (c) that permit, licence or access authority has come, or comes, into existence,
- a party to the dealing may make an application in writing within —
- (d) in a case where that permit, licence or access authority came into existence before the commencement of this section, 12 months after that commencement; or
  - (e) in any other case, 3 months after that permit, licence or access authority comes into existence,
- to the Minister for approval of the dealing.
- (5) Section 75 of the principal Act as amended by this Act (other than subsections (5) and (6) of that section) applies to a dealing in respect of which an application is made under subsection (3) or (4) of this section.
- (6) If, when the first regulations made for the purposes of section 75(4)(b) of the principal Act, as amended by this Act, take effect, an application for approval of a dealing has been made but the Minister has neither approved nor refused to approve the dealing —
- (a) the Minister shall give to the applicant written notice that the applicant is entitled to lodge an instrument for the purpose of section 75(4)(b) in relation to the application;
  - (b) the applicant may lodge an instrument for the purpose of section 75(4)(b);
  - (c) the application shall not be dealt with by the Minister until after the end of 30 days after the day on which notice is given for the purpose of paragraph (a); and
  - (d) where the applicant lodges an instrument under paragraph (b), the applicant shall lodge with the instrument 2 copies of the instrument.
- (7) An instrument lodged under subsection (6) shall be taken, for the purposes of section 75(13) of the principal Act, as amended by this Act, to have accompanied the application when the application was lodged.

<sup>14</sup> The *Acts Amendment (Petroleum) Act 1990* s. 76(2) and (3) read as follows:

- (2) A direction in force under section 95 of the principal Act immediately before the commencement of this section shall, after that commencement, continue to apply to the person or persons to whom it applied before that commencement as if it were a direction under section 95 of the principal Act as amended by this Act.
- (3) A registered holder is not required by section 95(2a) of the principal Act as amended by this Act to cause a copy of a direction to which subsection (2) applies to be given to another person or to cause a copy of such a direction to be exhibited at a place frequented by that other person if the direction or a copy of the direction was served, within the meaning of the principal Act, on the person before the commencement of this section.

<sup>15</sup> The *Acts Amendment (Petroleum) Act 1994* s. 14(2), (3) and (4) read as follows:

- (2) Where a permit referred to in section 39(a) of the principal Act is in force at the commencement of this section, the registered holder of the permit may apply to the Minister for the term of that permit to be extended from 5 years to 6 years and that application shall —
  - (a) be in accordance with a form approved by the Minister;
  - (b) be accompanied by the particulars set out in section 31(1)(d)(i) of the principal Act relevant to the year that the application is in respect of; and
  - (c) set out any other matters that the applicant wishes the Minister to consider, or that the Minister requests, in connection with the application.
- (3) By instrument in writing served on a person who has made an application under subsection (2) the Minister shall inform that person —
  - (a) that the Minister is prepared to extend the term of the permit, and the instrument shall contain a summary of any conditions subject to which the extension is to be granted; or
  - (b) that the Minister has refused to extend the term of the permit.
- (4) The Minister shall grant to an applicant on whom there has been served an instrument under subsection (3)(a) the extension referred to in the instrument if the applicant requests the Minister to do so by instrument in writing served on the Minister within one month after the service on the applicant of the instrument under subsection (3)(a).

<sup>16</sup> The *Acts Amendment (Petroleum) Act 1994* s. 16(2) reads as follows:

- (2) Section 41 of the principal Act as in force immediately before the commencement of this section continues to have effect in relation to the renewal of all permits in force at the commencement of this section, other than those permits in respect of which an extension from 5 years to 6 years has been granted under section 14 of this Act, in which case section 41 of the principal Act as amended by this section applies.

<sup>17</sup> The *Acts Amendment (Petroleum) Act 1994* s. 55(2) reads as follows:

- (2) Notwithstanding the repeal of section 134B of the principal Act, Part III of the principal Act continues to apply to and in relation to a licence granted on an application made under that section.

<sup>18</sup> The *Acts Amendment (Mining and Petroleum) Act 1999* s. 23(2) and (3) read as follows:

- (2) Section 15A as inserted into the *Petroleum Act 1967* by subsection (1) does not prohibit operations being carried out under the authority of —
  - (a) a relevant licence on land that immediately before the commencement of section 22 was declared under section 15(2) of that Act to be Crown land and land to which that Act applied; or
  - (b) the Barrow Island lease.
- (3) In subsection (2) —

**Barrow Island lease** has the meaning given in section 128 of the *Petroleum Act 1967*;

**relevant licence** means a production licence for petroleum in force under Part III of the *Petroleum Act 1967* immediately before the commencement of this section.

<sup>19</sup> The *Acts Amendment (Mining and Petroleum) Act 1999* s. 26(5) reads as follows:

- (5) Despite the amendments made by this section, section 43F of the *Petroleum Act 1967* continues to apply to and in relation to the extension of a drilling reservation in force on the commencement of this section.

<sup>20</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.



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<sup>21</sup> On the date as at which this reprint was prepared, the *Native Title (State Provisions) Act 1999* s. 7.3, which gives effect to Sch. 2, had not come into operation. It reads as follows:

**7.3. Consequential amendments**

Schedule 2 has effect.

Schedule 2 Div. 7 reads as follows:

**Schedule 2 — Consequential amendments**

[s. 7.3]

**Division 7 — *Petroleum Act 1967***

**49. The Act amended**

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

**50. Section 5 amended**

After section 5(8) the following subsection is inserted —

- (9) If the exercise of the power conferred by subsection (8) to amend or vary any instrument is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999* that exercise is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

**51. Section 11 amended**

After section 11(1) the following subsection is inserted —

- (1a) If any act to be done under subsection (1) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

**52. Section 28B inserted**

Immediately before section 29 the following section is inserted —

**28B. This Division subject to *Native Title (State Provisions) Act 1999***

The operation of this Division is subject to section 2.6, 3.5 or 4.3, as the case may be, of the *Native Title (State Provisions) Act 1999* where the grant, renewal or extension of an exploration permit or a drilling reservation is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of that Act.

**53. Section 48AA inserted**

Immediately before section 48A the following section is inserted —

**48AA. This Division subject to *Native Title (State Provisions) Act 1999***

The operation of this Division is subject to section 2.6, 3.5 or 4.3, as the case may be, of the *Native Title (State Provisions) Act 1999* where the grant or renewal of a retention lease is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of that Act.

**54. Section 48L inserted**

Immediately before section 49 the following section is inserted —

**48L. This Division subject to *Native Title (State Provisions) Act 1999***

Where the grant or renewal of a production licence is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of the provisions of this Division relating to that grant or renewal is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

**55. Section 105 amended**

After section 105(3) the following subsection is inserted —

- (3a) Where the grant of a special prospecting authority under subsection (3) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

**56. Section 106 amended**

After section 106(3) the following subsection is inserted —

- (3a) Where the grant of an access authority under subsection (3) is a Part 2 act, a Part 3 act or a Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

**57. Section 116 amended**

After section 116(1) the following subsection is inserted —

- (1a) Where the giving of a consent under subsection (1) is a Part 2 act, a Part 3 act or Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.



