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**APPLICATION TO THE NATIONAL  
COMPETITION COUNCIL  
FOR A RECOMMENDATION ON THE  
EFFECTIVENESS OF  
THE NORTHERN TERRITORY of AUSTRALIA  
THIRD PARTY  
ACCESS REGIME FOR NATURAL GAS  
PIPELINES**

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**TRADE PRACTICES ACT 1974  
SECTION 44M(2)**

**IN ACCORDANCE WITH REGULATION 6B  
TRADE PRACTICES REGULATIONS**

**NT GOVERNMENT  
JANUARY 2001**

## CONTENTS

	<b>Page</b>
<b>SECTION 1 - APPLICATION &amp; CONTACTS</b>	<b>3</b>
(a) Applicant Jurisdiction	3
(b) Responsible Minister	3
(c) Contact Officer	4
(d) Address of Responsible Minister	4
<b>SECTION 2 - BACKGROUND</b>	<b>4</b>
(a) Gas Production	4
(b) Gas Transportation Infrastructure	6
(c) Retail Market	6
(d) Legislative Structure	7
(e) Reform Background	8
<b>SECTION 3 - OVERVIEW OF NORTHERN TERRITORY ACCESS REGIME</b>	<b>9</b>
(a) Northern Territory Act	10
(b) The Commonwealth Act	14
(c) Consequential amendments arising from the Access Regime	15
(d) Description of the Service	16
<b>SECTION 4 - THE NORTHERN TERRITORY ACCESS REGIME AND THE COMPETITION PRINCIPLES AGREEMENT</b>	<b>17</b>
(a) Submission Regarding Compliance with Clause 6 of the CPA	17
(b) Prior Consultation	17
(c) Clause 6 of the CPA and How the Access Regime Complies	18
<b>SECTION 5 - DURATION OF CERTIFICATION</b>	<b>49</b>
<b>Annexure 1     NT Gas Access Legislation</b>	
<ul style="list-style-type: none"><li>• <i>Gas Pipelines Access (Northern Territory) Act 1998</i> (Application of Laws)</li></ul>	
<b>Annexure 2     Relevant NT legislation – Consequential Amendments</b>	
<ul style="list-style-type: none"><li>• <i>(I) Energy Pipelines Act.</i> (consequential amendment, Section 42)</li><li>• <i>(ii) Petroleum (Submerged Lands) Act.</i> (consequential amendment, Section 73)</li></ul>	
<b>Annexure 3     South Australian legislation</b>	
<ul style="list-style-type: none"><li>• <i>(i) Gas Pipelines Access (South Australia) Act 1997</i></li><li>• <i>(ii) Schedule 1- the Access Law</i></li><li>• <i>(iii) Schedule 2- the Access Code.</i></li></ul>	
<b>Annexure 4     National framework</b>	
<ul style="list-style-type: none"><li>• Natural Gas Pipelines Access Agreement</li></ul>	

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**APPLICATION TO THE NATIONAL COMPETITION  
COUNCIL FOR A RECOMMENDATION ON THE  
EFFECTIVENESS OF**

**THE NORTHERN TERRITORY of AUSTRALIA THIRD PARTY  
ACCESS REGIME FOR NATURAL  
GAS PIPELINES**

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This application is made under section 44M(2) of the *Trade Practices Act 1974* (Commonwealth) (**TPA**) and the following supporting information is submitted for the National Competition Council's consideration in accordance with Regulation 6B of the Trade Practices Regulations.

It seeks a recommendation from the National Competition Council (NCC) to the Commonwealth Minister that the Northern Territory of Australia Third Party Access Regime for Natural Gas Pipelines (the **Access Regime**) is an effective access regime in relation to:

1. services provided by natural gas transmission pipelines, which are specified in Schedule A of Schedule 2 of the *Gas Pipelines Access (South Australia) Act 1997* (as amended during 2000), as being under the Northern Territory's jurisdiction and thus initially "covered", and
2. services provided by natural gas transmission and distribution pipelines, which subsequently become "covered" within the Northern Territory.

## **SECTION 1 - APPLICATION & CONTACTS**

**(a) Applicant Jurisdiction**

This application is made on behalf of the Northern Territory of Australia.

**(b) Responsible Minister**

The responsible Minister for the Northern Territory concerning this application is the Hon. Denis Gabriel Burke MLA, Chief Minister.

**(c) Contact Officer**

The contact officer for The Northern Territory concerning this application is:

Mr Donald Hudson  
Senior Policy Officer  
Policy and Community Services Division  
Department of Mines and Energy  
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Darwin NT 0801

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**(d) Address of Responsible Minister**

The responsible Minister's address for delivery of documents, including the notification of any decision of the Commonwealth Minister and recommendation of the NCC, relating to this application is:

The Hon. Denis Gabriel Burke MLA  
The Chief Minister of the Northern Territory  
Parliament House  
State Square  
Mitchell Street,  
Darwin NT 0800

## **SECTION 2 - BACKGROUND**

This section provides brief background information in relation to the Northern Territory gas industry.

**(a) Gas Production**

Currently all of the natural gas supplied into the Northern Territory market is obtained from oil and gas fields found in the Amadeus basin of Central Australia – the Palm Valley gas field and Mereenie oil and gas field.

Significant discoveries of gas are also found offshore in the oil fields of the Bonaparte and Browse basins, commonly referred to as the Timor Sea reserves. At present there is no commercial gas production from these offshore fields and no existing infrastructure to bring gas from these fields to Darwin. The full utilisation of these reserves is presently constrained by their physical location and technical limitations, which impact on their commercial viability.

Development in the Northern Territory of an oil and gas industry has only occurred in the past 15 to 20 years, although exploration commenced in the 1950's.

Onshore developments are the Palm Valley gas field and the Mereenie oil and gas field operated by Magellan Petroleum Australia Ltd and Santos Ltd. Both are located to the west of Alice Springs in the Amadeus Basin and were discovered in the early 1960's.

The low petroleum prices of the mid-70's and the passage of the *Aboriginal Land Rights (Northern Territory) Act 1976 (ALRt)* combined to hamper further development. The *ALR (NT) Act* created uncertainty about access to Aboriginal land for exploration and development purposes. However, exploration resumed in the early 1980's together with appraisal and development drilling in the Mereenie and Palm Valley fields. This growth has provided further impetus and incentive to exploration that will eventually result in the discovery of other sources of supply.

The Amadeus basin of central Australia provides the Territory with useable oil and gas deposits. The Palm Valley gas field reserves were first discovered in 1965 and was successfully tested by two further wells drilled in 1969 and 1973.

Gas produced from the Palm Valley field was first delivered into the Alice Springs market in 1983. Initially all the delivered gas was used by the Power and Water Authority (PAWA) for electricity generation. Later, PAWA allowed some of its contracted gas supply to be used by Boral Energy Ltd for reticulation to approximately 600 domestic, commercial and industrial customers in Alice Springs.

Larger scale utilisation of the gas reserves following the construction of more than 2000kms of transmission pipeline allowing for the supply of natural gas to Darwin and several other smaller population centres. Commercial gas production from Mereenie commenced in 1987.

On shore gas production has grown since 1983 (when the first commercial production commenced) to a level in 1996 of 1.5 million cubic metres per day. Approximately 45% of this volume comes from Palm Valley, the remainder from the Mereenie field.

The prospectivity of the Timor Sea has long been highly regarded and a number of operators have been active over many years exploiting the oil reserves that are located in an area comprising various political jurisdictions, further exploration is assured.

Several oil and gas discoveries remain to be developed and the feasibility of constructing an under sea pipeline to bring gas onshore is currently being investigated.

## **(b) Gas Transportation Infrastructure**

A 140km-long pipeline from Palm Valley to Alice Springs was constructed in 1983. This is now licensed by Envestra Limited and operated by Origin Energy Asset Management Ltd.

The central Australia to Darwin transmission pipeline, licensed and operated by NT Gas Pty Ltd, was completed in 1986 and runs for 1528 km from the Amadeus Basin fields (Mereenie and Palm Valley) to Channel Island near Darwin. Lateral lines service Katherine, Tennant Creek, Pine Creek and several nearby gold mines. A longer line supplies gas to a major lead, zinc mine at McArthur River to the east.

In 1999, contractual flexibility was improved by construction of a short interlink between the above two pipelines just downstream of the two Palm Valley gas plants.

A 270km oil pipeline from Mereenie to Brewer Estate south of Alice Springs, constructed in 1985, may be used for high-pressure gas transmission some time in the future.

There is a small natural gas distribution system in Alice Springs operated by Origin Energy Asset Management Ltd. Darwin has about 28km of pipelines operated by NT Gas Pty Ltd serving a small number of commercial/industrial customers, but there is no domestic gas reticulation.

## **(c) Retail Market**

Natural gas supplies 24% of the Northern Territory's primary energy requirements and 99.2% of the gas produced is used for electricity power generation. Approximately 84% of the electricity that is consumed in the NT is generated from gas. Supply is currently derived from two central Australian fields – Palm Valley and Mereenie, with exploration continuing for alternative sources of supply.

The Power and Water Authority (PAWA), a Government-owned statutory authority, has historically been the major user of gas for electricity generation, although this is changing with greater use of gas in reticulation and independent power projects. It is anticipated that this latter sector will grow more rapidly above the 1995 figure of 12% of the market. Over 90% of electricity consumption occurs in the Darwin area and the major regional centres of Katherine and Alice Springs.

Gas supply arrangements made with PAWA were originally to run to the year 2012 but the quantities of gas contracted are not sufficient to meet forecast needs. The PAWA demand forecast was based on a conservative 3% annual growth, however actual demand growth has always exceeded that, averaging 5% per annum for the past 10 to 12 years. This high demand in the residential, Government and commercial segments has a

strong correlation with the population growth of approximately 1.9% annually since 1985. Growth in 1995/96 was close to 10%.

In terms of gas demand, the increasing need for power is balanced to some extent by the anticipated increases in the thermal efficiency of power generation facilities. The possibility of Timor Sea gas being delivered on-shore in the NT will greatly alleviate any potential short falls of supply from central Australia, predicted to occur later in the decade.

Other centres of population, not served by PAWA (and in many instances associated with mining operations) generate their own power. There is the prospect in the future of these operations converting from the current reliance on diesel fuel generation to gas, given the right conditions and incentives.

Further increases in the demand for gas demand will largely be driven by several factors, including the growth of the Northern Territory's population and an expansion in the use by the mining industry of gas generated energy. Provided prices are competitive, PAWA is keen to diversify its sources of supply.

In the mining sector, the major potential gas market in the Northern Territory is the Nabalco bauxite mining and alumina refining plant at Nhulunbuy, 600kms east of Darwin.

For local producers, the gas market is by no means limited to the Northern Territory. The share of natural gas in the energy consumption of the Australian domestic market is anticipated to increase from 17% in 1993/94 to 23% by 2010.

The development of an integrated national gas market and an interconnected pipeline grid across various jurisdictions may, in the longer-term, result in lower energy costs for Northern Territory domestic and commercial consumers. At present it remains uneconomic for the Territory to connect to the national gas market and so the benefits of national competition in relation to gas is not to be immediately realised.

#### **(d) Legislative Structure**

Until the commencement in the Northern Territory of the *Gas Pipelines Access (Northern Territory) Act 1998*, there had been no specific legislative regulation of commercial gas operations through the transmission systems. Gas transmission pipelines, like all other pipelines in the Northern Territory used for the conveyance of energy producing hydrocarbon, have to comply with the *Energy Pipelines Act*, *Petroleum (Submerged Lands) Act* and the *Dangerous Goods Act*.

The *Energy Pipelines Act* provides for the construction, operation and maintenance of pipelines for conveying energy producing hydrocarbons in

the Northern Territory. Section 42 of the Act provides a mechanism that allows for third party access to pipelines.

The *Petroleum (Submerged Lands) Act* makes provision for exploration and exploitation of petroleum resources of the submerged lands adjacent to the coasts of the Northern Territory. Section 73 of the *Petroleum (Submerged Lands) Act* allows for a pipeline to be declared by the Minister to be a common carrier.

### **(e) Reform Background**

In February 1994 the Council of Australian Governments (COAG) agreed to progress a number of reforms to promote free and fair trade in natural gas in Australia. Significantly, the Agreement requires the development of a uniform framework for the regulation of *third party* access to natural gas transmission pipelines.

On 7 November 1997, COAG endorsed a national regulatory regime for natural gas transmission and distribution pipelines in Australia. This occurred following the signing by the Commonwealth, State and Territory Heads of Government of the Natural Gas Pipelines Access Agreement (the **Agreement** which is contained in Annexure 4).

The Agreement, amongst other things, records each jurisdiction's commitment in relation to implementing the national regime and maintaining its integrity. It also records each jurisdiction's obligations to carry out a range of other actions to promote free and fair trade in natural gas.

Under the Agreement, key commitments include:

- the national regime will be implemented through an application of laws model (with the exception of WA which will give effect to the regime through complementary legislation) with all reasonable measures to be taken to have the necessary legislation in place by 30 June 1998 (a date later amended);
- the legislation of each government is to be approved by all other governments prior to its enactment;
- South Australia is to be the lead legislator;
- governments will not amend their legislation without gaining the approval of all other governments;
- governments will repeal, amend or modify any other legislation that is inconsistent with the operation of the national regime (in the case of the Northern Territory, this has meant a number of consequential changes to other legislation, which are discussed in section 3 (d));



- each State and Territory will submit the national regime as it is applied in their jurisdiction to the National Competition Council (NCC) for certification as an effective access regime under Part IIIA of the Trade Practices Act;
- transitional arrangements and derogations in relation to the national regime will only be allowed if they have been approved by all governments and are specifically identified in the relevant government's legislation; and
- franchising and licensing arrangements are to be reformed in line with principles set out in the Agreement.

Approved under the Agreement is the legislation put in place by South Australia (as the lead legislator) that includes the Gas Access Law (drafted as schedules to the South Australian Act) and the Commonwealth legislation.

The **Access Regime**, which is the subject of this application for certification, represents the Northern Territory's enactment of the national regime pursuant to the Agreement.

*In this submission section 4 uses the terms "owner/operator" for the provider of the services defined in section 3 (f), whereas in section 3 the term "service provider" is used. The terms are synonymous, with the later term being used owing to its prevalence in the **Access Regime**, and the former being used owing to its prevalence in the Competition Principles Agreement.*

### **SECTION 3 - OVERVIEW OF NORTHERN TERRITORY ACCESS REGIME**

The **Access Regime** in the Northern Territory is constituted by the following legislation:

- The *Gas Pipelines Access (Northern Territory) Act* that has the effect of applying in the Northern Territory the Gas Pipelines Access Law (that is constituted by Schedules 1 and 2 of the Gas Pipelines Access (South Australian) Act and regulations. (*Annexure 3(i)*).
- The *Gas Pipelines Access (Commonwealth) Act*. Schedules 1 and 2 of the South Australian Act that are applied as laws of the Northern Territory are described below at (a) and (b); and
  - (a) **Schedule 1**, which provides the legal framework for the operation of the **Access Regime** (the **Law**) (*Annexure 3(ii)*); and

- (b) **Schedule 2**, which contains the National Third Party Access Code for Natural Gas Pipeline Systems (the **Code**). The **Code** contains the detailed access principles that are to apply under the **Access Regime** (*Annexure 3(iii)*).

It is proposed that each State and Territory (except Western Australia) will enact legislation that applies the *Gas Pipelines Access Law* (that is Schedules 1 and 2 to the South Australian Act) as a law of each State and Territory. This process has been substantially completed with Western Australia enacting complementary legislation. State and Territory "*application legislation*" also deal with certain other matters specific to the particular State or Territory, such as local **Code** bodies and transitional arrangements.

The **Commonwealth Act** facilitates the national coverage of the **Access Regime** by ensuring it will apply to offshore waters, the relevant external territories and adjacent areas (including the Jervis Bay Territory and the Moomba to Sydney pipeline). In addition, the Commonwealth legislation contains provisions, which facilitates the use of Commonwealth bodies in the national scheme.

**(a) Northern Territory Act**

The **Northern Territory Act** (*Gas Pipelines Access (Northern Territory) Act 1998*) commenced on 2 September 1998 (NT Gazette No G34). The Act contains provisions that have the effect of:

- Applying the *Gas Pipelines Access Law*, as a law of the Northern Territory, pursuant to section 7;
- Applying the regulation making provisions of the **South Australian Act**. The regulations apply in each jurisdiction by means of application legislation (other than Western Australia). They deal with such things as the penalties to be imposed for breaches of certain provisions of the **Law** and the **Code**, along with defining the start of certain "*covered*" transmission pipelines, pursuant to Section 8. It was originally intended that the Regulations would be gazetted after the approval of parties to the **Agreement** and before June 30 1998 but this did not occur as planned. The Regulations were finalised and gazetted by South Australia (as the lead legislator) during 2000;
- Defining various bodies that are to exercise functions under the **Code** in the Northern Territory, pursuant to section 9 (read in conjunction with the definitions in Section 3);
- Conferring functions and powers on the various Commonwealth and Territory Code bodies and the Federal Court, pursuant to sections 10 to 16. However, following the *Wakim* High Court decision it is proposed to

amend Section 15 of the **Northern Territory Act** by deleting section 15(b) in respect of the Federal Court jurisdiction in respect of the NT. This proposed amendment (along with the proposal to delete sections 17&18) has been circulated to all relevant Ministers and the NT is currently awaiting responses from all Ministers advising of their support for the NT amendments;

- The **Northern Territory Act** currently states that the Commonwealth *Administrative Decisions (Judicial Review) Act* applies to certain decisions made under the Code, pursuant to sections 17 to 18 of the **Northern Territory Act**. However, in the aftermath of the *Wakim* High Court decision, all State and Territory gas access enabling legislation is required to be amended to take account of these changed circumstances. Each jurisdiction has proposed amendments that are particular to each Act. The proposed amendments to the **Northern Territory Act** are currently being circulated to relevant Ministers seeking support, as required under the terms of the **Agreement**. The **Northern Territory Act** is to be amended by deleting sections 17 and 18 in the light of the *Wakim* decision. These amendments are currently being circulated to all relevant Ministers seeking support for this course of action; and
- General matters dealing with such issues as: “exemption from taxes” and “actions in relation to cross-boundary pipelines”, pursuant to sections 19 and 20.

## **The Law**

The *Gas Pipelines Access (Northern Territory) Act 1998* incorporates the Gas Pipelines Access Law as enacted by South Australia. This is comprised of the legal framework for the operation of the Access Regime (“the Law”) and the Code containing the detailed access principles that apply under the access regime.

As mentioned above the Law contains the provisions necessary to give the **Code** legal effect including the following provisions that:

- define the **Code** and provide a means for its possible amendment, pursuant to sections 5 and 6 (when read in conjunction with the definition of scheme participants in section 3 and other definitions in section 2);
- establish a procedure for classifying pipelines as transmission or distribution pipelines and for determining which jurisdiction a cross-border distribution pipeline is most closely connected, pursuant to sections 9 to 11. This is for the purposes of allocating which of the various **Code** bodies will be used for the purposes of the **Code** (see the definitions of relevant appeals body, relevant Minister and relevant Regulator in section 2);
- prohibit certain persons from preventing or hindering access to **Code** pipelines, pursuant to section 13;
- establish procedures for arbitrating on access disputes under the **Code**, pursuant to sections 14 to 31;
- provide for legal proceedings to be brought in the Supreme Court or Federal Court in relation to breaches of certain provisions of the **Law** and the **Code**, pursuant to sections 32 to 37;
- establish a right of administrative review of certain decisions made under the **Code**, pursuant to sections 38 to 39;
- place an obligation on producers of natural gas who are also prepared to offer to supply delivered gas that they also offer to supply gas at the exit flange of the producer's processing plant, pursuant to section 40; and
- general provisions relating to the Regulator's ability to obtain information and documents, pursuant to sections 41 to 43.

The **Law** is applied as a law in the Northern Territory and will also be applied as a law in each other State and the ACT (subject to certain modifications in Western Australia to facilitate the enactment of complementary legislation).

## **The Code**

The **Code** establishes, amongst other things:

- **Part 1:** A mechanism by which natural gas pipelines become subject to the **Code** (called "Covered Pipelines" or "Code Pipelines"). Within the Northern Territory the following pipeline is specified as being "*covered*" from the commencement of the **Access Regime**:

- Amadeus Basin to Darwin (including laterals) transmission system:

N.T.PL1 Palm Valley to Alice Springs;

N.T.PL 4 Amadeus Basin to Darwin (including Mereenie to Tylers Pass, Tennant Creek lateral and Katherine laterals);

N.T. PL 18 City Gateway to Berrimah;

N.T. PL 5 Alice metering and pressure station;

Not licenced Alice Springs Town Reticulation -P/L.

Consultation with the pipeline owners was made, and agreement was reached at the time of passing of the legislation that the above pipelines be covered.

***Note: Since the original Agreement was signed NT:PL1, NT:PL5 and the Alice Springs town gas distribution network have has coverage revoked by the Northern Territory Minister. This action was taken on the recommendation of the NCC following a public inquiry.***

- **Part 2:** Where a pipeline is “covered”, it is a requirement for the service provider (i.e. owner/operator) to establish with the relevant Regulator an up-front Access Arrangement. It must set out the terms on which access will be granted to certain services provided by the Covered Pipeline, including the Reference Tariffs for such services. The content of an Access Arrangement, (see section 3) and the principles which must be applied in setting the Reference Tariffs (see section 8) are also specified;
- **Part 6:** This section deals with dispute resolution. There is a right to arbitration where a service provider of a Covered Pipeline and a prospective user cannot agree on the terms of access to a service. The arbitrator is obliged in any such arbitration to apply the terms of the Access Arrangement established with the relevant Regulator;
- **Part 4:** Places obligations on service providers of Covered Pipelines to ring fence their operations;
- **Part 5:** States the obligations on service providers and users to disclose market information that is relevant to obtaining access; and
- **Part 7:** A requirement that the service provider of a Covered Pipeline not enter into contracts with associates without first obtaining the approval of the relevant Regulator.

The **Code** is applied as a law in the Northern Territory and will also be applied as a law in each other State and the ACT (subject possibly to certain modifications in Western Australia).

The Northern Territory, unlike many other jurisdictions has no need for Derogations nor Savings and Transitional provisions.

**(b) The Commonwealth Act**

The Commonwealth Act completes the coverage of the **Access Regime**. It will ensure the Access Regime applies to offshore waters, to relevant external territories and adjacent areas (through amendments to the *Petroleum (Submerged Lands) Act (PSLA)*), the Jervis Bay Territory, and to the Moomba-Sydney pipeline.

In the case of the Moomba-Sydney pipeline, the Commonwealth Act repeals the Commonwealth's specific access legislation contained in Part 6 of the *Moomba-Sydney Pipeline System Sale Act 1994*, thus clearing the way for the relevant State or Territory Gas Pipeline Access Law to apply.

The repeal of Part 6 of the *Moomba-Sydney Pipeline System Sale Act 1994* will take effect once the national scheme is applied in New South Wales and South Australia.

To facilitate a nationally consistent judicial review mechanism, the Commonwealth legislation provides for the Federal Court to deal with matters arising under Commonwealth Law and to review decisions of a Code Body under the Commonwealth Law or Regulations.

The Commonwealth legislation also amends the **Trade Practices Act (TPA)** to:

- ensure that national competition bodies can carry out the functions conferred on them by States and Territories, ie. to enable the NCC to advise on coverage of pipelines under section 1 of the **Code**;
- to enable the Australian Competition and Consumer Commission (ACCC) to be the Regulator for transmission pipelines;
- to enable individual jurisdictions to confer on the ACCC the regulatory role for distribution pipelines; and
- to enable the Australian Competition Tribunal to hear administrative appeals from decisions of certain Ministers in relation to coverage decisions, and from decisions of the ACCC on specified access matters.

The Commonwealth legislation also amends Part IIIA of the **TPA** to ensure these provisions will apply to gas pipelines that extend offshore, but are within Australian territorial waters.

Related amendments to the **TPA** will mitigate any perceived uncertainty surrounding the nature of the application of the Competition Principles Agreement (CPA) which underpins the National Competition Policy, and is

relevant through S 44M (4) of Part IIIA of the **TPA**. The changes emphasise the flexibility in the application of the CPA principles, by the NCC and the Commonwealth Minister, in determining whether a State or Territory access regime is effective.

**(c) Consequential amendments arising from the Access Regime**

Arising from the introduction of the *Gas Pipelines Access (Northern Territory) Act*, consequential amendments have been made to certain Northern Territory legislation. They are:

- *Energy Pipelines Act*; and
- *Petroleum (Submerged Lands) Act*.

*Energy Pipelines Act.*

Section 42 of the *Energy Pipelines Act* provides a mechanism to allow for third party access to Northern Territory licensed energy pipelines that are used for the conveyance of hydrocarbons.

The amendment to section 42 of the Act has been made by inserting a new sub-section (1A) stating that the requirements of section 42 (1) do not apply to pipelines that are "*covered pipelines*" within the meaning of the *Gas Pipelines Access (Northern Territory) Act*.

*(Copy of Act - Annexure 2(i))*

*Petroleum (Submerged Lands) Act.*

Section 73 of the *Petroleum (Submerged Lands) Act* allows for a pipeline to be declared by the Minister to be a common carrier. Section 73 has been amended by inserting an additional sub-section (2). This states that the requirements of S 73 (1) of the Act does not apply to pipelines that are covered pipelines within the meaning of the *Gas Pipelines Access (Northern Territory) Act*.

*(Copy of Act - Annexure 2(ii))*

The need to amend this legislation was foreshadowed by the Northern Territory Government when it agreed in late 1997 to participate in the National Gas Access Regime.

These consequential amendments were included in the *Statute Law Reform Bill (No2) 1998* that was introduced into the Northern Territory Legislative Assembly in the October 1998 sittings, debated and passed during the November sittings. The amendments commenced in December 1998 following gazettal.

**(d) Description of the Service**

The Northern Territory of Australia requests that the National Competition Council make a recommendation to the Commonwealth Minister that the **Access Regime** as applied in the Northern Territory is an effective access regime under Part IIIA of the **TPA** in relation to:

- *“Each Service provided by means of each pipeline that is or becomes a Covered Pipeline within the meaning of the **Northern Territory Act**”*

The term “Service” is defined in the **Access Regime** (Section 10.8).

“Service” means a service provided by means of a Covered Pipeline and may include without limitation:

- haulage services (such as firm haulage, interruptible haulage, spot haulage, storage balancing, backhaul);
- the right to interconnect with the Covered Pipeline; and
- services ancillary to the operation of a Pipeline,

but does not include the production, sale or purchasing of natural gas.

Under the **Northern Territory Act** (that applies **schedule 1** of the South Australian Act in the NT), a “Pipeline” is defined in section 2. It means a pipe, or part of a pipe, or system of pipes, for transporting natural gas, and any tanks, reservoirs, machinery or equipment directly attached to the pipe, or system of pipes, but does not include:

- (a) unless paragraph (b) applies, anything upstream of a prescribed exit flange on a pipeline conveying natural gas from a prescribed gas processing plant; or
- (b) if a connection point upstream of an exit flange on such a pipeline is prescribed (by regulation), anything upstream of that point; or
- (c) a gathering system operated as part of an upstream producing operation; or
- (d) any tanks, reservoirs, machinery or equipment used to remove or add components to or change natural gas (other than odourisation facilities) such as a gas processing plant; or
- (e) anything downstream of the connection point (as defined by regulation) to a consumer.



## SECTION 4 - THE NORTHERN TERRITORY ACCESS REGIME AND THE COMPETITION PRINCIPLES AGREEMENT

### (a) Submission Regarding Compliance with Clause 6 of the CPA

This section addresses the consistency of the **Access Regime** with each of the principles in clause 6 of the CPA which are relevant to an assessment of the 'effectiveness' of the **Access Regime** under Part IIIA of the **TPA**. It is submitted that the **Access Regime** should be certified as effective because it:

- complies with clauses 6(2) and 6(3) of the CPA; and
- incorporates the principles set out in clause 6(4) of the CPA.

Each of these matters is discussed further below.

### (b) Prior Consultation

The Gas Reform Task Force and its successor the Gas Reform Implementation Group (GRIG)<sup>1</sup> undertook extensive consultation with the energy industry and users throughout the period 1995 to 1997 with regard to developing the **Access Regime**. This included seeking written submissions and conducting information seminars around Australia.

The last round of public consultation was conducted in July-August 1997 and was carried out jointly by the GRIG and the NCC. After consideration of the issues raised during the course of that public consultation process, the GRIG concluded that some minor amendments were necessary to the **Access Regime**. The most notable in this regard were the changes to the Reference Tariff principles in section 8 of the Code. The changes to these principles were intended to clarify the rights and obligations created by this section of the Code.

GRIG also sought and received an "*in-principle*" agreement from the NCC that the **Access Regime** satisfied the requirements in Part IIIA of the **TPA** for recognition as an "effective" access regime. The NCC view was subject to a number of qualifications, which were taken into account by the GRIG in finalising the **Access Regime**.

The Commonwealth and each of the State and Territory Governments in November 1997 subsequently endorsed the Access Regime.

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<sup>1</sup> The GRIG comprises all State and Territory governments, the Commonwealth and peak industry/user associations (Australian Gas Association, Australian Production and Exploration Association, Australian Pipeline Industry Association, and the Business Council of Australia Energy Working Group).

**(c) Clause 6 of the Competition Principles Agreement (CPA). How the Access Regime complies with CPA.**

**Clause 6(3)** *For a State or Territory access regime to conform to the principles set out in this clause, it should:*

- (a) apply to services provided by means of significant infrastructure facilities where:
  - (i) it would not be economically feasible to duplicate the facility;*
  - (ii) access to the service is necessary in order to permit effective competition in a downstream or upstream market; and*
  - (iii) the safe use of the facility by the person seeking access can be ensured at an economically feasible cost and, if there is a safety requirement, appropriate regulatory arrangements exist.**
- (b) incorporate the principles that are referred to in subclause (4).*

It is our understanding that clause 6(3) essentially sets out the types of infrastructure services which, if covered by a State or Territory access regime that incorporates the principles in clause 6(4), cannot be declared under Part IIIA of the TPA. In particular, it is understood that pursuant to clause 6(3)(a) an effective access regime should primarily cover services provided by infrastructure facilities which it would not be commercially viable to duplicate.

## The Access Regime - Coverage

### *Services and Pipelines*

The **Access Regime** applies to the 'Services' of transmission and distribution 'Pipelines' used for the haulage of natural gas. It does not apply to upstream facilities or services of upstream facilities such as processing facilities or gathering lines.

Specifically, 'Service' and 'Pipeline' are defined terms in the **Access Regime**. The definitions are set out in the **Code** and the Gas Pipelines Access Law respectively.

Section 10 of the Code defines 'Service' to mean:

*"A service provided by means of a Covered Pipeline (or when used in section 1, a service provided by means of a Pipeline) including (without limitation):*

- *haulage services (such as firm haulage, interruptible haulage, spot haulage and backhaul);*
- *the right to interconnect with the Covered Pipeline; and*
- *services ancillary to the provision of such services,*

*but does not include the production, sale or purchasing of Natural Gas."*

Section 2 of the **Law** defines 'Pipeline' to mean:

*"A pipe, or system of pipes, or part of a pipe, or system of pipes, for transporting natural gas, and any tanks, reservoirs, machinery or equipment directly attached to the pipe, or system of pipes, but does not include:*

- (a) unless paragraph (b) applies anything upstream of a prescribed exit flange on a pipeline conveying natural gas from a prescribed processing plant; or*
- (b) if a connection point upstream of an exit flange on such a pipeline is prescribed, anything upstream of that point; or*
- (c) a gathering system operated as part of an upstream producing operation; or*
- (d) any tanks, reservoirs, machinery or equipment used to remove or add components to or change natural gas (other than odourisation facilities) such as a gas processing plant; or*
- (e) anything downstream of the connection point to a consumer."*

Under the **Northern Territory Act** (Schedule 1 of the South Australian Act is applied as a law in the Northern Territory), “Natural Gas” has the following meaning:

- a substance which is in a gaseous state at standard temperature and pressure and which consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane; and
- which has been processed to be suitable for consumption.

### *Covered Pipelines*

There are four ways a Pipeline may become ‘Covered’ and as a consequence subject to all of the obligations set out in the **Access Regime**. The ways are:

1. Schedule A to the **Code** - this is a list of the transmission and distribution Pipelines that will be Covered from the time the **Access Regime** comes into operation in each State and Territory. The transmission and distribution Pipelines which will be covered from the commencement of the **Access Regime** in Northern Territory are listed in Schedule A.

All Governments have agreed that the Pipelines listed in Schedule A satisfy the coverage test that is contained in section 1 of the **Code**. The criteria in the coverage test are based on the criteria in clause 6(3)(a) and the criteria in sections 44(G) and (H) of Part IIIA of the **TPA** (see below). As such, it is submitted that the transmission and distribution Pipelines which are listed in Schedule A and which will be Covered in Northern Territory from the commencement of the **Access Regime** are ones, which exhibit the following characteristics:

- they would not be economically feasible to duplicate (eg. due to economies of scale and the technical and other costs associated with the laying of new Pipelines in residential and non-residential areas);
- access to the Services provided by the Pipelines is necessary in order to permit effective competition in upstream and downstream markets (eg. the markets for the production and retailing of natural gas); and
- the safe use of the Pipelines by parties seeking access can be ensured at an economically feasible cost under appropriate regulatory arrangements (eg. pursuant to section 2.24(c) of the **Code** the Regulator is required to consider the operational and technical requirements necessary for the safe and reliable operation of the Covered Pipeline when putting in place arrangements for access).

2. Section 1 of the Code includes a case-by-case coverage process, which can be applied to Pipelines not listed in Schedule A (eg. existing Pipelines, which are not listed, or Pipelines, which come into existence in the future). Under this process, the NCC makes a recommendation to the relevant Minister (in the State or Territory that has the greatest association with the particular Pipeline) as to whether the Pipeline should be covered. The Minister then makes a decision on coverage based on the recommendation. Section 1.9 of the **Code** sets out the criteria which must be satisfied for the NCC to recommend that a Pipeline be covered (and for the Minister to decide that a Pipeline should be covered):
  - that access would promote competition in at least one other market (whether or not in Australia);
  - that it would be uneconomical for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline;
  - that access (or increased access) to the Services provided by means of the Pipeline can be provided without undue risk to human health or safety; and
  - that access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest.
3. The owner/operator of a Pipeline can volunteer that the Pipeline be subject to the provisions of the **Code** by proposing an Access Arrangement to the relevant Regulator for approval.
4. A Pipeline is automatically covered if it is subject to a competitive tendering process approved by the Regulator under section 3 of the **Code**.

The **Access Regime** also includes a process for administrative appeals and judicial review in relation to a coverage decision (see Part 6 of the Gas Pipelines Access Law). In addition, it includes a process for any person to apply for revocation of coverage (see section 1 of the Code) on the basis that the coverage criteria are no longer satisfied. This will ensure that only the owner/operator of those Pipelines that satisfies the coverage criteria are obliged to comply with the full requirements of the **Access Regime**.

### *Classification of Pipelines as Transmission or Distribution*

All Governments have agreed to the classification of Pipelines as either transmission or distribution in Schedule A (including those listed under the Northern Territory) to the **Code**. This classification was made on the basis of the criteria specified in section 9 of the Gas Pipelines Access Law. The pipeline classified as a transmission pipeline in the Northern Territory has the primary function of conveying natural gas from the Amadeus Basin in central Australia to downstream markets.

*The Alice Springs gas distribution network was originally “covered” by the Code. However, the Northern Territory Minister later removed “coverage” in July 2000 on the recommendation of the National Competition Council (NCC) following a public inquiry.*

The sequence of events were as follows. On 20 April 2000, the NCC received applications from Envestra Limited seeking to have coverage revoked under the *Gas Pipelines Access (Northern Territory) Act 1998* of the following natural gas pipelines owned by Envestra:

- the Palm Valley to Alice Springs gas transmission pipeline;
- the Alice Springs gas distribution network; and
- Alice Springs Metering and Pressure Station.

The effect of revocation is to remove a pipeline from regulation under the National Gas Pipelines Access Code. In effect, the owner of the pipeline is relieved of any obligation to grant access to third parties. On 6 July 2000, the NCC released its recommendations that coverage of each pipeline be revoked. In essence, the NCC was not satisfied that regulated access to the pipelines would promote competition in another market or confer net public interest benefits. The Northern Territory Minister, subsequently approved the recommendations of the NCC of revoking coverage of both pipelines.

In relation to Pipelines not listed in Schedule A, Part 3 of the Gas Pipelines Access Law sets out a process whereby relevant Ministers will decide whether a Pipeline is to be classified as a transmission or distribution Pipeline, applying the criteria specified in Part 3. If the Ministers fail to reach agreement, the NCC can be requested to make a recommendation on the matter. The Pipeline can be classified in accordance with the NCC recommendation if the Ministers are still unable to agree following a recommendation from the NCC.

**Clause 6(4)(a)-(c)** *A State or Territory access regime should incorporate the following principles:*

- (a) Wherever possible third party access to a service provided by means of a facility should be on the basis of terms and conditions agreed between the owner of the facility and the person seeking access;*
- (b) Where such agreement cannot be reached, Governments should establish a right for persons to negotiate access to a service provided by means of a facility; and*
- (c) Any right to negotiate access should provide for an enforcement process.*

It is understood that the NCC considers that these three clauses should be considered together because it is of the view that they establish the framework under which access negotiations should be handled in an effective access regime. In addition, it is understood that the NCC considers that these clauses require that access seekers should have recourse to an enforceable dispute resolution process where negotiations fail to result in agreement.

It is also understood that the NCC:

- recognises that limiting commercial negotiation can sometimes promote better policy outcomes by constraining market power, reducing uncertainty and producing more 'workable' outcomes;
- considers that bodies responsible for imposing any limits on commercial negotiation should be independent from all affected parties and have resources sufficient for their task. In this context, it is understood that the NCC is concerned to ensure that regulatory bodies are independent from service providers, users, potential users and governments; and
- is of the view that any constraints on commercial negotiation and dispute resolution (such as the imposition of Reference Tariffs or regulated transitional arrangements) should be imposed through transparent or robust competitive processes.

## The Access Regime

### *Commercial Negotiation and Access Arrangements*

The **Access Regime** is primarily intended to apply in circumstances where commercial negotiations between third party access seekers and the owners/operators of Covered Pipelines are not successful. In this context it is emphasised that the **Access Regime** in no way precludes parties from negotiating commercial arrangements that suit their particular needs and circumstances.

To facilitate negotiations and to provide some degree of certainty for both access seekers and owners/operators of Covered Pipelines in the event that commercial negotiations fail, the **Code** requires the owners/operators of Covered Pipelines to submit an Access Arrangement to the appropriate Regulator for approval.

In the Northern Territory the Regulator in relation to transmission Pipelines is the **ACCC**. It is an independent statutory authority established by the Commonwealth under the **TPA**. For distribution pipelines in the Northern Territory the ACCC is appointed by the *Gas Pipelines Access (NT) Act* as the local Regulator, pursuant to section 9 of the Act.

At present there are no distribution networks "covered" by the Code and so the ACCC has no role to fulfil as the local regulator. In event of the situation changing and a distribution pipeline becoming "covered", then an agreement between the ACCC (as the local Regulator) and the Northern Territory Government would have to be entered into dealing with certain administrative arrangements.

The Access Arrangement must include at least the following elements as set out in section 3 of the **Code**:

- Services policy - a description of the Services that are provided by the Pipeline;
- Reference Tariffs and Reference Tariff Policy - a tariff (as defined in the Code) for one or more of the Services that are likely to be sought by a significant part of the market (Reference Services), and the principles used to derive the tariff;
- Terms and Conditions - terms and conditions on which Reference Services will be provided;
- Trading Policy - details of the rights of a user with certain capacity on a Covered Pipeline to trade their unused capacity. In this context it should be noted that (where commercially and technically feasible) the **Code** provides that users should have a right to obtain tradeable capacity which is intended to facilitate a secondary market in capacity;



- Capacity Management Policy - the access Arrangement must identify whether the Pipeline is a Contract Carriage Pipeline or a Market Carriage Pipeline (as defined in section 10 of the **Code**);
- Queuing Policy - rules for defining the priority that access seekers have in negotiating for capacity;
- Extensions/Expansions Policy - the approach that will be adopted to determine whether an extension or an expansion to a Covered Pipeline will be treated as part of the Covered Pipeline for the purposes of the **Code**; and
- Review Date - a date on, or by which, revisions to the Access Arrangement must be submitted to the relevant Regulator and a date on which the revised Access Arrangement is intended to take effect.

An Access Arrangement submitted to the Regulator for approval must be accompanied by an Access Arrangement information package. This document should enable users and prospective users to understand the derivation of the elements of the proposed Access Arrangement and must include the categories of information set out in Attachment A to the **Code**.

The requirement for the Regulator to approve an Access Arrangement (and particularly Reference Tariffs) up-front is intended to provide both access seekers and owners/operators of Covered Pipelines with some certainty in relation to the likely terms and conditions of access. In particular, it is intended that this will assist in redressing the imbalance in negotiating power between owners/operators of Covered Pipelines and access seekers. It is also intended that this will encourage negotiated access to non-standard services and reduce the likelihood of dispute resolution under the **Access Regime**.

#### *Approval of Access Arrangements*

The regulatory process for approval of an Access Arrangement depends on the circumstances in which the Access Arrangement is submitted.

Access Arrangements are required to be established under the **Code** because:

- a Pipeline becomes Covered as a result of being listed on Schedule A to the **Code**; or
- due to the case by case coverage process; or
- arising from an approved competitive tendering process (under section 3 of the **Code**).

The Regulator must go through a transparent process involving public consultation as set out in section 2 of the **Code**.

Ultimately the Regulator is given the power to draft and approve its own Access Arrangement if:

- an Access Arrangement or its subsequent Access Arrangement review is not submitted within the required timeframe in the **Code** (90 days unless the Regulator otherwise agrees); or
- a revised Access Arrangement or its subsequent revised Access Arrangement review incorporating amendments required by the Regulator is not submitted within the timeframe specified by the Regulator; or
- the Regulator is not satisfied that a revised Access Arrangement or its subsequent revised Access Arrangement review incorporated the amendments specified by the Regulator in his/her final decision.

A similar process applies in relation to voluntary Access Arrangements except that the service provider may withdraw the application at any time prior to approval and the Regulator may not impose its own Access Arrangement.

The Regulator's draft and final decisions on the Access Arrangement must include reasons. Final decisions must be placed on the Public Register.

Under section 2 of the **Code** the Regulator must issue a final decision on an Access Arrangement within six months of receiving the proposed arrangement. However, regulators do have the option to increase this period by two-month intervals provided notice of the extension is published in a national newspaper.

In assessing a proposed Access Arrangement, the Regulator must be satisfied that the arrangement contains the elements and satisfies the principles set out in section 3 of the **Code** and section 8 (Reference Tariff Principles) of the **Code**. In doing so, the Regulator is also required to take into account the following principles set out in section 2 of the **Code**:

- the service provider's legitimate business interests and investment in the pipeline;
- firm and binding contractual obligations of the service provider or other persons (or both) already using the pipeline;
- the operational and technical requirements necessary for the safe and reliable operation of the pipeline;
- the economically efficient operation of the pipeline;

- the public interest, including the public interest in having competition in markets (whether or not in Australia);
- the interests of users and prospective users; and
- any other matters that the Regulator thinks are relevant.

Third parties acquire an enforceable right to negotiate access to a pipeline on a date specified by the Regulator, which must be not less than 14 days after the Regulator's decision to approve the Access Arrangement (unless the decision is subject to judicial or administrative review).

### *Dispute Resolution*

Parties are free to negotiate access on the basis of information (including Reference Tariffs) contained in the Access Arrangement and Access Arrangement information package. In particular, and as noted above, parties are free to negotiate tariffs that are different to the Reference Tariffs. Moreover, the parties are free to negotiate a tariff for a non-Reference Service.

However, to the extent that commercial arrangements cannot be reached in relation to any aspect of access to a service provided by a Covered Pipeline (section 6 of the **Code** and Part 4), then the Gas Pipelines Access Law contains a dispute resolution mechanism.

Either party may invoke the dispute resolution process by referring the dispute to the relevant Regulator. If the Regulator judges that a dispute exists, the Regulator (or an independent agent appointed by the Regulator) may then arbitrate and set the terms and conditions of access.

In making a decision, the arbitrator must apply the provisions of the Access Arrangement (including the Reference Tariffs) and take account of the matters set out in section 6 of the **Code** (see section 6.15). The matters to be considered by the arbitrator are consistent with those listed in clause 6(4)(i) of the CPA.

The rationale for making Reference Tariffs binding in a dispute resolution process is to arrive at timely and efficient access outcomes. Thus promoting the economic and competitive benefits that all Governments are seeking from the gas reform process.

For example, in the absence of binding Reference Tariffs, there would be a risk that parties with substantial market power may seek to have decisions reopened through the dispute resolution process. This would be done for a variety of reasons such as: to get higher returns; or to get a better deal at the expense of other users. This could undermine the ability for approved Reference tariffs to provide a degree of certainty.

In terms of the process, any arbitration is to be conducted in private and generally would be limited to the parties involved in any given dispute. The arbitrator does, however, have the ability to involve parties that it considers have an interest in the arbitration. The procedures to be followed in conducting arbitration are contained in Part 4 of the Gas Pipelines Access Law.

The final decision of the arbitrator takes effect 14 days after the decision is made. The owner/operator of the Covered Pipeline is bound by the decision. The access seeker is also bound by the decision unless it notifies the arbitrator within 14 days of the decision that it does not intend to be bound by the decision.

### *Appeal Rights*

Appeal rights have been developed with a view to striking a balance between the right of aggrieved parties to procedural fairness and ensuring the timeliness of regulatory outcomes.

The ACCC is appointed the single national regulator for all covered transmission pipelines. In the Northern Territory the Act provides for the appointment of the ACCC as the local regulator for distribution pipelines. This will occur if and when a distribution networks in the Northern Territory becomes “covered” under the Code. The Northern Territory Minister on the recommendation of the NCC following a public inquiry lifted coverage of the Alice Springs distribution network in July 2000.

All decisions made by the relevant regulators and arbitrators are subject to judicial review. For Commonwealth bodies, judicial review is to be carried out by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977*. The Northern Territory is a common law jurisdiction and so in the aftermath of the “*Wakim*” High Court decision, the Northern Territory can no longer vest authority for judicial review with the Federal Court. Therefore, within the Northern Territory the Northern Territory Supreme Court will carry out judicial review. The Northern Territory Act has not yet been amended in the light of these changes but the draft amendments (proposing the deleting of sections 15(b), 17 and 18 have been circulated to all relevant Ministers seeking endorsement of the NT position.

An administrative appeal right is also provided for in circumstances where the Regulator imposes its own Access Arrangement. Appeals from a decision of the Australian Competition and Consumer Commission can be made to the Australian Competition Tribunal.

### *Enforcement of Decisions*

The Gas Pipelines Access Law provides for the enforcement of obligations created by the **Access Regime**. Under Part 5 of the Gas Pipelines Access Law, a range of possible sanctions and remedies are available including

injunctions and damages depending on the provision which is breached. The various sanctions and remedies are to be imposed by either the Federal Court or the Supreme Court of the Northern Territory.

**Clause 6(4)(d)** *Any right to negotiate access should include a date after which the right would lapse unless reviewed and subsequently extended; however, existing contractual rights and obligations should not be automatically revoked.*

It is understood that the NCC considers that the intent of clause 6(4)(d) is to provide for a periodic review of the need for access regulation to apply to a particular service. In this sense, it is understood that the requirements of clause 6(4)(d) could be satisfied, for example, by providing for a review of coverage decisions. Further, it is understood that this process should not automatically revoke any existing contractual rights.

## **The Access Regime**

The **Law** gives the **Code** legal effect. It makes the obligations it creates in relation to Pipelines enforceable including the mechanisms in relation to coverage. It is as a result of a Pipeline becoming Covered and an Access Arrangement being approved by the relevant Regulator that an enforceable right to negotiate third party access to its Services then arises.

### *Review of Coverage Decisions*

The **Code** does not include an automatic sunset/review provision in relation to decisions on coverage (ie. there is no requirement for a decision on coverage to specify a date at which time the decision will lapse or be reviewed). However, as noted above, section 1 of the **Code** contains a process for the revocation of coverage decisions.

Under the process for revocation of coverage, any person may apply to the NCC requesting that coverage of a particular Pipeline be revoked. The Council is then required to go through an open and transparent public process and make a recommendation to the relevant Minister as to whether coverage should be revoked. The Council cannot recommend that coverage is revoked and the Minister cannot decide to revoke coverage unless they are satisfied that the coverage criteria specified in the **Code** are no longer satisfied.

A decision to revoke coverage would effectively mean that there would no longer be an enforceable right to negotiate access to the Services of the Pipeline concerned under the **Access Regime**. It would, however, not result in any contractual (or other) rights or obligations in existence at the time being automatically revoked as a result of the operation of the **Access Regime**.

## *Approval and Review of Access Arrangements*

While a Pipeline remains Covered under the **Access Regime** an obligation exists to have an Access Arrangement approved by the relevant Regulator. As noted above, under section 3 of the **Code** an Access Arrangement must include as one of its elements a date for review. The period between reviews is to be determined by the relevant Regulator. However, if the period is longer than five years, the Regulator must give consideration to including mechanisms to address the risk of forecast errors. An Access Arrangement may also include specific major events that may trigger a review prior to the planned date.

In addition the **Code** (see section 2) provides that the Regulator may not approve an Access Arrangement or a revisions that contains provisions which would have the effect of depriving a person of a contractual right that was in existence prior to the proposed Access Arrangement being submitted. The exception to this rule being an 'Exclusivity Right' which arose on or after 30 March 1995.

'Exclusivity Right' is defined in section 10 of the **Code**. In this context, the treatment of Exclusivity Rights is consistent with the degree of protection provided to contractual rights under the arbitration provisions in Part IIIA of the **TPA** (see section 44W).

**Clause 6(4)(e)**            *The owner of a facility that is used to provide a service should use all reasonable endeavours to accommodate the requirements of persons seeking access.*

It is understood that the NCC considers that an access regime may either incorporate the principles in this clause explicitly, or contain general provisions, which have the same effect.

## The Access Regime

The **Access Regime** contains a number of elements, which it is submitted ensures that principle in clause 6(4)(e) of the CPA is satisfied.

### *Information Package*

Under section 5 of the **Code**, the owner/operator of a Covered Pipeline must establish an information package in relation to the Pipeline. The information package must contain at least the following information:

- the Access Arrangement and Access Arrangement Information for the relevant Pipeline;
- a summary of the contents of a public register which the owner/operator of the Covered Pipeline is required to establish (under section 5.9 of the **Code**) containing information on both spare and developable capacity (to the extent that it is commercially and technically possible);
- information relating to all major trunks and mains pipes which comprise the relevant pipeline;
- a description of procedures relating to specific access requests (including a detailed description of the information required in order to assess an access request); and
- any other information the relevant Regulator reasonably requires to be included to assist access seekers to decide whether or not to seek Services or to determine how to go about seeking Services.

The information package must be made available to an access seeker within 14 days of the owner/operator of a Covered Pipeline receiving a request. No fee (other than one approved by the relevant Regulator for copying the Access Arrangement Information) may be charged for the information package.

In addition, section 5 of the **Code** provides that the owner/operator of a Covered Pipeline must:

- respond to a specific request for access within 30 days of its receipt;
- where the request for access can only be properly considered after further investigations, provide details of the nature of the investigations; and
- if it advises that capacity does not exist to satisfy an access request, provide an explanation outlining those aspects of the access request that cannot be satisfied, and indicate when the access request may be able to be satisfied.

### *Access Arrangement Information*

Access Arrangements submitted to Regulators for approval must be accompanied by Access Arrangement Information (see section 2.2 of the **Code**) which is to be made publicly available. Section 2.6 of the **Code** provides that the Access Arrangement Information must include sufficient information to enable access seekers to understand the derivation of the elements in the proposed Access Arrangement and to form an opinion as to the compliance of the Access Arrangement with the **Code**. Section 2.7 of the **Code** provides that this must include at least the categories of information described in Attachment A to the **Code**.

The **Code** also provides that prior to a decision being made to approve an Access Arrangement, the relevant Regulator may require changes to be made to the Access Arrangement Information in order to satisfy section 2.7 of the code. In addition, the Regulator must, if requested to do so by any person, consider whether the Access Arrangement Information meets the requirements of section 2.6 and 2.7 of the **Code** and can require that changes be made accordingly.

The Access Arrangement Information may be aggregated to the extent considered necessary by the Regulator, to protect the legitimate business interests of the owner/operator of the Covered Pipeline, an existing user of Services provided by the Pipeline or an access seeker.

Taken together these provisions ensure that an appropriate balance is struck in each case between providing adequate information to access seekers so that they are in a position to make informed decisions and ensuring that the legitimate business interests of all parties are protected.

### *Access Arrangements*

Each Covered Pipeline must have an Access Arrangement approved by the relevant Regulator. The Access Arrangement must include the elements described above (eg. Services policy, Reference Tariffs and Reference Tariff policy, Queuing policy, Capacity Trading policy etc) and the approval process (contained in section 2 of the **Code**) requires that the relevant regulators follow an open and transparent process (including extensive public consultation).

As discussed above, the up-front approval of Access Arrangements will assist in redressing any imbalances in negotiating power between owners/operators of Covered Pipelines and access seekers. It will also encourage negotiated access to non-standard Services and reduce the likelihood of dispute resolution under the **Access Regime**.

**Clause 6(4)(f)**      *Access to a service for persons seeking access need not be on exactly the same terms and conditions.*



It is understood that this clause is an acknowledgment that an effective access regime may have different terms and conditions of access for different users. Access regimes, which allow for such an outcome, can be assessed as being 'effective' under the CPA.

### **The Access Regime**

The **Access Regime** provides the flexibility for parties to negotiate their own arrangements for access. At the same time it establishes certain 'stakes in the ground' to facilitate those negotiations and to provide some certainty in relation to likely terms and conditions of access in the event that commercial negotiations fail.

As discussed above, each Covered Pipeline must have an Access Arrangement approved by the relevant Regulator. The Access Arrangement must, as a minimum, contain a number of elements (as specified in section 3 of the **Code**) including Reference Tariffs and the terms and conditions on which Reference Services will be provided. Approval of an Access Arrangement, however, does not limit the flexibility of parties to negotiate terms and conditions of access (including tariffs) to suit their particular circumstances. In this context it is pointed out that section 2.50 of the **Code** specifically provides that nothing in an Access Arrangement (except for the Queuing policy) limits the terms and conditions that the owner/operator of a Covered Pipeline can agree with an access seeker.

However, to the extent that parties are unable to reach commercial agreements for access to Services provided by Covered Pipelines, the approved Access Arrangements would be applied in any arbitration conducted under the **Access Regime**. In these circumstances, the arbitrator is bound (under section 6 of the **Code**) to apply the approved Access Arrangement if the dispute resolution process in the **Access Regime** is invoked. To the extent that a dispute concerns access to a Service for which the Reference Tariffs and terms and conditions in the Access Arrangement are not applicable, the arbitrator is required to determine appropriate arrangements for the circumstances of the particular case.

### **Clause 6(4)(g)**

*Where the owner and a person seeking access cannot agree on terms and conditions for access to the service, they should be required to appoint and fund an independent body to resolve the dispute, if they have not already done so.*

It is understood that the NCC considers the fundamental requirement for consistency with this clause is that an access regime should provide for disputes to be referred to an independent body for arbitration. It is also understood that the NCC is of the view that an 'independent' dispute resolution process should be independent from both the parties to a dispute and from government.

## The Access Regime

### *Independent Dispute Resolution*

Parties are free to seek resolution of their disputes through any avenues, which they can agree upon (eg. such as mediation), or through the dispute resolution process contained in section 6 of the **Code** and Part 4 of the Gas Pipelines Access Law.

Under the dispute resolution process contained in the **Access Regime**, where parties are unable to agree on any aspect of access to a Service provided by a Covered Pipeline, either party may refer the dispute to the Regulator. The Regulator (or an independent agent appointed by the Regulator) may arbitrate the dispute.

In reaching a decision, the arbitrator must apply the provisions of the Access Arrangement and take account of the factors listed in section 6.15 of the **Code**. The matters to be considered by the arbitrator are consistent with those listed in clause 6(4)(i) of the CPA.

The arbitrator must issue a draft decision and consider submissions received from the parties before reaching a final decision. However, if the arbitrator decides that a dispute is solely over the tariff to be applied to a Reference Service, it may expedite the dispute resolution process and make a decision that the Reference Tariff be applied.

The procedures to be followed in conducting arbitration are contained in Part 4 of the Gas Pipelines Law. In summary, where arbitration is conducted it must be done so in private and generally limited to the parties involved in any given dispute. The arbitrator, does however, have the ability to involve parties that it considers have an interest in the arbitration.

The allocation of costs in relation to arbitration under the **Access Regime** is at the discretion of the arbitrator.

The arbitrator's decisions are subject to appeal on a question of law under Part 4 of the Gas Pipeline Access Law. In addition these decisions are also subject to judicial review. In the aftermath of the "Wakim" High Court decision this course of action will only apply to Federal bodies. Arising from the High Court decision, Part 3 of the *Gas Pipelines Access (Northern Territory) Act* is to be deleted, as it is no longer possible for the Northern Territory to confer the authority for judicial review on the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977*. The Northern Territory is a common law jurisdiction in respect of judicial review and so in future responsibility for the review of the actions of local bodies will rest with the Northern Territory Supreme Court

### *Independence of Arbitration and Regulatory Functions*

As set out in section 11 of the **Agreement**, the Northern Territory will take the necessary steps to ensure that the Northern Territory Regulator (the ACCC) shall develop arbitration guidelines. This will occur prior to any local distribution system becoming *covered* by the Code, at some future time. The guidelines shall include practices and procedure notes to be carried out independently of regulatory functions under the **Access Regime**. These practices and procedures will include provisions to the effect that if a party to a dispute so requires, the Regulator will appoint as arbitrator a person who has not been substantially involved in regulatory decision making in relation to the pipeline subject to the dispute.

The Commonwealth, as a party to the **Agreement**, is also required to take such actions as are available to ensure that the ACCC develops guidelines to ensure sufficient independence between arbitration decision making and regulatory decision made under the **Code**. In this regard it is understood that the ACCC is currently preparing a guideline paper on its intended approach to its various arbitrator roles, including its role under the **Access Regime**. It is also understood that this arbitration guideline paper will include principles that reflect the commitment of the ACCC to the appropriate separation of its regulatory decision making from its arbitration roles.

**Clause 6(4)(h)**                      *The decisions of the dispute resolution body should bind the parties; however, rights of appeal under existing legislative provisions should be preserved.*

It is understood that the NCC considers that an access regime should contain credible enforcement arrangements to ensure an arbitrator's decision is binding if it is to comply with the principle. In addition, it is understood that the regime should preserve existing legislative rights of appeal.

## **The Access Regime**

### *Binding Dispute Resolution*

The final decision of the arbitrator made under the dispute resolution process contained in the **Access Regime** takes effect 14 days after the decision is made. Pursuant to section 6 of the **Code**, the owner/operator of a Covered Pipeline is bound by the decision of the arbitrator. The access seeker is also bound by the decision unless it notifies the arbitrator within 14 days of the decision that it does not intend to be bound by the decision. As part of its decision, the arbitrator may also require the parties to represent the decision in the form of a contract within 14 days. The arbitrator may resolve any terms and conditions that have not been agreed within that time.

The decisions of the arbitrator are enforceable under Part V of the Gas Pipelines Access Law. The Regulator or any other person may in

accordance with the provisions of Part V bring civil proceedings seeking compliance with the outcome of a dispute resolution process under the **Access Regime**. The sanctions and remedies, which are provided for in relation to breaches of the Access Regime (including non-compliance with the outcome of an arbitration process), are exclusive. That is on the proviso that the action is based on a breach of the **Access Regime**, the sanctions and remedies provided for in the **Access Regime** are the only sanctions and remedies available. However, this does not limit the remedies that are available under other laws (eg. the **TPA**) if the conduct concerned in any given situation is both a breach of the **Access Regime** and another law.

#### *Appeals from the Arbitrator's Decisions*

As noted earlier, the **Access Regime** has been designed with the intention of striking a balance between the right of aggrieved parties to procedural fairness and the timeliness of regulatory outcomes.

In order to meet this objective, the **Access Regime** provides that the arbitrator's decisions are subject to an appeal on the question of law under Part 4 of the Gas Pipeline Access Law. In addition, the arbitrator's decisions involving Commonwealth bodies are also subject to judicial review pursuant to Part 4 of the Gas Pipeline Access Law. Part 3 of the *Gas Pipeline Access (Northern Territory) Act*, provides for judicial review to be conducted by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977* but this is now subject to amendment.

A right of administrative review of an arbitrator's decision is not provided for in the **Access Regime**. As noted above, that the arbitrator is required to apply the Access Arrangement (including Reference Tariffs on the terms and conditions for supply of a Reference Service) that has been approved by the Regulator (under section 2 of the **Code**). The right of administrative review does exist in relation to that approval process in certain circumstances.

#### *Appeal rights under existing legislation*

Third party access to transmission pipelines within the Northern Territory is possible under the *Energy Pipelines Act* (subject to consequential amendments made to the Act at the time of the commencement of the *Gas Pipelines Access (NT) Act*). A person may apply to the relevant Territory Minister for a direction where a licensee and the applicant fail to reach an agreement on access after 3 months. No applications or directions remain current at the time of the commencement on the **Access Regime**.

Taking all of this together, it is submitted that the policy intent of clause 6(4)(h) is met by the **Access Regime**.

**Clause 6(4)(i)**                      *In deciding on the terms and conditions for access, the dispute resolution body should take into account:*

- (i) *the owner's legitimate business interests and investment in the facility;*
- (ii) *the costs to the owner of providing access, including any costs of extending the facility but not costs associated with losses arising from increased competition in upstream or downstream markets;*
- (iii) *the economic value to the owner of any additional investment that the person seeking access or the owner has agreed to undertake;*
- (iv) *the interests of all persons holding contracts for use of the facility;*
- (v) *firm and binding contractual obligations of the owner or other persons (or both) already using the facility;*
- (vi) *the operational and technical requirements necessary for the safe and reliable operation of the facility;*
- (vii) *the economically efficient operation of the facility; and*
- (viii) *the benefit to the public from having competitive markets.*

It is understood that the NCC considers that an effective access regime should require the dispute resolution body to take account of each matter set out in clause 6(4)(i) of the CPA. It is also understood that the Council is of the view that an access regime may require a dispute resolution body to take account of other matters so long as they are not inconsistent with the matters listed in this clause.

### **The Access Regime**

Section 6 of the **Code** sets out, amongst other things, certain guidelines and restrictions that must be observed by the arbitrator in making a decision regarding a dispute over access to Services provided by a Covered Pipeline.

In summary, section 6 provides that if an arbitrator decides that the sole issue in a dispute is what tariff should apply to a Reference Service, the arbitrator may streamline the process and make an immediate decision requiring that the Service to be provided at the Reference Tariff. In other cases, the arbitrator must (among other things) take into account the matters listed in section 6.15 of the **Code**. Section 6.15 of the **Code** is

derived from the wording of clause 6(4)(i) except for some minor wording changes to reflect the terminology used throughout the **Access Regime**. As such, it is submitted that it is consistent with clause 6(4)(i).

**Clause 6(4)(j)**

*The owner may be required to extend, or to permit extension of, the facility that is used to provide a service if necessary but this would be subject to:*

- (i) such extension being technically and economically feasible and consistent with the safe and reliable operation of the facility;*
- (ii) the owner's legitimate business interests in the facility being protected; and*
- (ii) the terms of access for the third party taking into account the costs borne by the parties for the extension and the economic benefits to the parties resulting from the extension.*

It is understood that the NCC considers that this clause requires that the dispute resolution body should have the power to require a pipeline to be extended or expanded to satisfy the needs of an access seeker. It is also understood that the NCC is of the view that the term 'extension' in clause 6(4)(j) includes:

- expansion of capacity; and
- extension of geographical range of a facility **or** allowing the construction of mechanisms to interconnect with another pipeline.

## The Access Regime

### *Capacity Expansions*

Section 6 of the **Code** provides that the arbitrator may require the owner/operator of a Covered Pipeline to expand its Capacity to meet the requirements of an access seeker, provided that:

- the owner/operator is not required to extend the geographical range of a Covered Pipeline;
- the expansion is technically and economically feasible and consistent with the safe and reliable provision of the Service;
- the owner/operator's legitimate business interests are protected;
- the access seeker does not become the owner of a Covered Pipeline or part of a Covered Pipeline without the agreement of the owner/operator; and
- the owner/operator is not required to fund part or all of the expansion (except where the Extensions/Expansions Policy in the Access Arrangement for the Covered Pipeline states that the owner/operator will fund the New Facility and the conditions specified in the Extensions/Expansions Policy have been met).

'Capacity' is defined in section 10 of the **Code** to mean "*the measure of the potential of a Covered Pipeline as currently configured to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time*".

Section 10 of the **Code** also defines 'New Facility' to mean "*any extension to, or expansion of the Capacity of, a Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline and any expansion of the Capacity of a Covered Pipeline required to be installed under section 6.22*".

### *Interconnection*

As outlined earlier, the definition of 'Service' includes 'the right to interconnect' with a Covered Pipeline. A key consequence of this is that an access seeker (and/or the owner/operator of a Covered Pipeline) is able to invoke the dispute resolution process contained in section 6 of the **Code** and Part 4 of the Gas Pipelines Access Law in the event of a dispute arising in relation to the terms and conditions for interconnection to a Covered Pipeline.

As such both capacity expansion and interconnection permission may be required of the Covered pipeline owner/operator by the dispute resolution body. As such it is submitted that this is consistent with clause 6 (4) (j).

**Clause 6(4)(k)** *If there has been a material change in circumstances, the parties should be able to apply for a revocation or modification of the Access Arrangement which was made at the conclusion of the dispute resolution process.*

It is understood that the NCC is of the view that this clause should be interpreted in conjunction with clause 6(4)(a). Consequently, it is understood that the Council considers that an access regime could satisfy clause 6(4)(k) where:

- the parties can define for themselves, during the course of commercial negotiations, what the threshold is for a 'material change in circumstances' and can insert in their agreed arrangements those events that would trigger a re-opening of negotiations; or
- an access regime makes provision for parties to refer disputes concerning what constitutes a material change in circumstances to the dispute resolution body or some other independent body.

### **The Access Regime**

The **Access Regime** does not explicitly allow a party to seek revocation or modification of a contract or arrangement for access due to a material change in circumstances. However, the **Access Regime** does not preclude parties from determining what may constitute a material change in circumstances in their particular circumstances and incorporating provisions to this effect into their contracts/arrangements for access. In addition, where the parties cannot agree on terms in this regard, the dispute resolution process contained in section 6 of the **Code** and Part 4 of the Gas Pipelines Access Law could be used to resolve the issues.

Further, the **Access Regime** does not preclude the application of common law principles (for example, the doctrine of frustration) to matters of this nature once access contracts/arrangements have been entered into.

**Clause 6(4)(l)** *The dispute resolution body should only impede the existing right of a person to use a facility where the dispute resolution body has considered whether there is a case for compensation of that person and, if appropriate, determined such compensation.*

It is understood that the NCC is of the view that if an access regime allows the dispute resolution body to impede the existing rights of a person to use



a facility it must also be empowered to consider and, if appropriate, determine compensation.

## **The Access Regime**

One of the fundamental principles underpinning the **Access Regime** is sanctity of contracts. To this end, section 6 of the **Code** provides that the arbitrator must not make a decision that:

- would impede the existing rights of a user to obtain Services provided by a Covered Pipeline ; and
- would deprive any person of a contractual right that existed prior to the notification of the dispute, other than an Exclusivity Right which arose on or after 30 March 1995.

In addition, section 2 of the **Code** precludes a Regulator from approving an Access Arrangement (or any revision to an Access Arrangement). Any provision, if applied, would deprive any person of a contractual right in existence prior to the date the Access Arrangement was submitted, other than an Exclusivity Right, which arose on or after 30 March 1995.

An 'Exclusivity Right' is defined in section 10 of the **Code** to mean a contractual right that either:

- expressly prevents the owner/operator of a Covered Pipeline supplying Services to persons who are not parties to the contract; or
- places a limitation on the ability of the owner/operator of a Covered Pipeline to supply Services to persons who are not parties to the contract,

but does not include a user's contractual right to obtain a certain volume of Services.

As such, the protection of Exclusivity Rights that arose up until 30 March 1995 is consistent with the protection of contractual rights under Part IIIA of the **TPA**. The decision was taken not to protect Exclusivity Rights that arose on or after this time because such rights are viewed as being fundamentally at odds with the purpose behind the introduction of the **Access Regime**.

In any event, however, section 6 of the **Code** prevents the arbitrator from making a decision that would impede the existing right of a user to obtain Services provided by a Covered Pipeline. Consequently, the **Access Regime** does not explicitly provide that the arbitrator must consider (and, if appropriate, determine) the issue of compensation.

**Clause 6(4)(m)**      *The owner or user of a service shall not engage in conduct for the purpose of hindering access to that service by another person.*

It is understood that the NCC considers that an access regime may comply with this clause by explicitly incorporating the principle or if it contains general provisions which have the same effect.

## **The Access Regime**

### *Prohibition - Preventing or Hindering of Access*

Part 3 of the Gas Pipelines Access Law contains a number of provisions dealing with the issue of preventing or hindering access to a Covered Pipeline. In summary, it provides that:

- the owner/operator of a Covered Pipeline; or
- a person who is a party to an agreement with the owner/operator of a Covered Pipeline in relation to a Service provided by the Covered Pipeline; or
- a person who, as the result of an arbitration, is entitled to a Service provided by the Covered Pipeline; or
- an associate of the owner/operator of a Covered Pipeline or a person (as referred to above),

must not engage in conduct for the purpose of preventing or hindering the access of another person to a Service provided by means of a Covered Pipeline.

‘Associate’ is defined to have the meaning it would have under Division 2 of Part 1.2 of the Corporations Law if section 13, 14, 16(2) and 17 of that Law were repealed.

Part 3 of the Gas Pipelines Law also provides that:

- the purpose of preventing or hindering access need not be the only purpose, provided it is or was a substantial purpose; and
- purpose may be ascertained by inference from conduct or from other relevant circumstances.

### *Enforcement*

Under Part 5 of the Gas Pipelines Access Law, the Regulator may apply to the relevant Court seeking a pecuniary penalty in the event that a breach of the preventing/hindering access provisions is established.

### *Other Provisions in the Access Regime*

In addition to the matters discussed above, other provisions in the **Code** should assist the arbitrator and Regulator to deal with situations where issues surrounding the availability of Capacity on a Covered Pipeline arise. In particular, it is pointed out in this regard that:

- under the dispute resolution provisions in section 6 of the **Code**, where a dispute arises over whether the provision of a Service would be consistent with the safe operation of a Covered Pipeline and prudent pipeline practices accepted in the industry:
  - the owner/operator of the Covered Pipeline must have a 'reasonable' belief that the safe operation of the Pipeline and prudent pipeline practices accepted in the industry would be compromised and must disclose the assumptions it has used in reaching its decision on these matters; and
  - the arbitrator may require access be provided on an interruptible basis for the corresponding interruptible price, where that would be consistent with the safe operation of the Pipeline and prudent pipeline practices accepted in the industry;
- in relation to the Capacity Management policy that is to be included in the Access Arrangement for each Covered Pipeline, section 3 of the **Code** provides that the Pipeline may be a Market Carriage Pipeline (as defined in section 10 of the **Code**). One advantage of this type of capacity management is that the potential for hoarding of contracted capacity is removed because users cannot reserve capacity that they will not use.

**Clause 6(4)(n)** *Separate accounting arrangements should be required for the elements of a business, which are covered by the access regime.*

It is understood that the NCC takes the view that for an access regime to be consistent with this clause it must provide for financial information to be disaggregated:

- to the elements of a business that are subject to the access regime; and
- for each service that is potentially subject to access.

### **The Access Regime**

The **Access Regime** contains a number of provisions dealing with accounting arrangements.

### *Ring Fencing Requirements*

Section 4 of the **Code** requires the owners/operators of Covered Pipelines to put in place a number of arrangements to ring fence their business of providing Services using a Covered Pipeline. As a minimum, the owners/operators must:

- not carry on a Related Business (which is defined in section 10 of the **Code** and essentially means produce, purchase or sell natural gas) within 6 months of a Pipeline becoming Covered;
- establish and maintain a separate set of accounts in respect of each activity that is the subject of an Access Arrangement;
- establish and maintain a separate consolidated set of accounts in respect of all of the activities undertaken by the owner/operator; and
- allocate any costs that are shared between a ring fenced activity and any other activity according to a methodology that is well accepted, fair and reasonable.

The Regulator may require that additional ring fencing obligations be put in place. The Regulator may also dispense with some of the minimum obligations (including the requirement not to carry on a related business). In either case the Regulator must comply with the procedure contained in section 4 of the **Code** (including a public consultation process) and must be satisfied that the criteria specified in section 4 of the **Code** are met.

Section 4 of the **Code** also provides that the owners/operators of Covered Pipelines must:

- comply with general accounting guidelines that are published by the Regulator, approved by the Regulator or which the Regulator advises will apply; and
- establish and maintain procedures to ensure compliance with the ring fencing obligations and report to the Regulator on compliance.

## *Other Provisions*

In addition to the ring fencing obligations described above, Part 7 of the Gas Pipelines Access Law confers power on the Regulator to require any person to provide to it information or documents which the Regulator has reason to believe will assist it in:

- deciding whether to approve an Access Arrangement or changes to an Access Arrangement (see section 2 of the **Code**);
- deciding whether to approve a contract, arrangement or understanding between the owner/operator of a Covered Pipeline and an associate (see section 7 of the **Code**); and
- monitoring compliance with the **Code** (including the ring fencing requirements).

**Clause 6(4)(o)** *The dispute resolution body, or relevant authority where provided for under specific legislation, should have access to financial statements and other accounting information pertaining to a service.*

For an access regime to incorporate this principle it is understood that the NCC expects that it would provide the dispute resolution body and any other relevant body (for example, the Regulator) with the right to inspect all financial documents pertaining to the services concerned.

## **The Access Regime**

### *Regulator Powers*

As described above in relation to clause 6(4)(n), Part 7 of the Gas Pipelines Access Law confers power on the Regulator to require any person to provide to it information or documents which the Regulator has reason to believe will assist it in carrying out certain functions under the **Access Regime** (including the approval of Access Arrangements). In addition, Part 7 provides that the Regulator may specify in what format the information or documents are to be produced.

Part 7 also contains provisions dealing with the handling of confidential or commercially sensitive information or documents. In summary, the Regulator is generally obliged not to disclose such information/documents to the public unless it is of the opinion that no detriment would be caused to the person who supplied it (or the person from whom that person received it) or the public benefit in disclosing it outweighs the detriment. A right of administrative appeal is provided for (under Part 7) in situations where the Regulator decides to release confidential or commercially sensitive information.

Failure to comply (without a lawful excuse) with the requirements of the Regulator in this context can attract a fine or imprisonment.

### *Arbitrator Powers*

The procedural powers of the arbitrator under the **Access Regime** are contained in Part 4 of the Gas Pipelines Access Law. Under Part 4, the arbitrator is empowered to:

- gather information about any matter relevant to the access dispute in any way the arbitrator thinks appropriate;
- require evidence or argument to be presented in writing, and may decide the matters on which it will hear oral evidence or argument; and
- summons a person to appear before it to give evidence and to produce such documents as are referred to in the summons.

Part 4 also contains provisions dealing with the handling of confidential information. The arbitrator can only provide a copy of confidential information to another party if the party gives an undertaking not to disclose the information to another person except to the extent specified by the arbitrator and subject to any other conditions specified by the arbitrator.

Failure to comply (without a reasonable excuse) with the requirements of the arbitrator in this context can attract a penalty of imprisonment.

**Clause 6(4)(p)** *Where more than one State or Territory access regime applies to a service, those regimes should be consistent and, by means of vested jurisdiction or other co-operative legislative scheme, provide for a single process for persons to seek access to the service, a single body to resolve disputes about any aspect of access and a single forum for enforcement of Access Arrangements.*

**Clause 6(2)** *The regime to be established by Commonwealth legislation is not intended to cover a service provided by means of a facility where the State or Territory Party in whose jurisdiction the facility is situated has in place an access regime which covers the facility and conforms to the principles set out in this clause unless:*

- (a) *the Council determines that the regime is ineffective having regard to the influence of the facility beyond the jurisdictional boundary of the State or Territory; or*

*(b) substantial difficulties arise from the facility being situated in more than one jurisdiction.*

It is understood that clauses 6(4)(p) and 6(2) contain principles that are applicable in situations where an access regime applies to services of facilities extending beyond (or having an influence beyond) the jurisdictional boundary of the State or Territory seeking certification.

To incorporate the requirements of these clauses it is understood that the NCC's primary expectation is that where a service is subject to access regimes in more than one State or Territory, those regimes should be consistent and should provide for a single process, a single dispute resolution body and a single enforcement forum.

### **The Access Regime**

The *Gas Pipelines Access (Northern Territory) Act 1998* commenced on 2 September 1998. Accordingly the **Access Regime**, which is the subject of this application for certification applies only to "Services", provided by "Pipelines" that are located within the Northern Territory. The Pipelines that are Covered at the time of commencement of the relevant legislation in the Northern Territory are listed in the Northern Territory part of Schedule A to the **Code**. The **Access Regime** as it applies in the Northern Territory does not have any influence upon Pipelines beyond the borders of the Northern Territory (or Commonwealth waters off the coast of the Northern Territory).

However, the **Access Regime** does include a number of processes to streamline regulation of cross-border Pipelines (both transmission and distribution). At present the Northern Territory has no cross-border transmission or distribution pipelines.

These processes are:

- Part 3 of the Gas Pipelines Access Law sets out a process under which Ministers can determine whether a Pipeline (including a cross-border Pipeline) is to be classified as a transmission or distribution Pipeline (and hence who the Regulator for that Pipeline will be). If the Ministers fail to reach agreement, they may request that the NCC make a recommendation on the matter. The Pipeline can be classified in accordance with the NCC recommendation if Ministers are still unable to agree following a recommendation from the NCC;
- Part 3 of the Gas Pipelines Access Law also sets out a process for determining the jurisdictional Regulator of a cross-border distribution Pipeline. In summary, Ministers will seek to reach agreement on which jurisdiction has the 'greatest association' with the Pipeline. Where agreement cannot be reached, the NCC can be asked to make a recommendation as to which jurisdiction has greatest association with the Pipeline. The Regulator of the Pipeline would then be the body

specified in the legislation of the State or Territory with which the Pipeline concerned has the greatest association;

- the ACCC is the single national Regulator for all interstate transmission Pipelines;
- the administrative appeal body in relation to decisions made by the ACCC is the Australian Competition Tribunal;
- there is a single process for coverage of cross-border transmission Pipelines. The NCC will make a recommendation on coverage to the Commonwealth Minister. The Commonwealth Minister then makes a decision on coverage based on the recommendation.
- the Regulator of distribution Pipelines in each jurisdiction is the independent body to be specified in that State or Territory's legislation (eg. in the Northern Territory it is the ACCC);
- the administrative appeals body for decisions made by jurisdictional regulators and State/Territory Ministers, is the body specified in the legislation under which the Regulator or designated Minister was acting;
- there is a single process for coverage of cross-border distribution Pipelines. The NCC will make a recommendation on coverage to the relevant Minister of the jurisdiction deemed to have the greatest association with a Pipeline. The Minister then makes a decision on coverage based on the recommendation; and
- an access regime with identical effect will be put in place in all jurisdictions.

So for a Covered Pipeline which lies in more than one jurisdiction, processes are to be put in place whereby each component (eg dispute resolution) of the **Access Regime** is only subject to one jurisdiction's law.



## **SECTION 5 - DURATION OF CERTIFICATION**

This application seeks a recommendation from the National Competition Council that recognises the **Access Regime** that has been established in the Northern Territory as being effective, within the meaning of Part IIIA of the Commonwealth ***Trade Practices Act***, for a minimum duration of fifteen (15) years.

## **Annexure 1**

# ***GAS PIPELINES ACCESS (NORTHERN TERRITORY)***

*Agency: Department of Mines and Energy*

*Type : Act*

*Parent :*

*ii*

## ***NORTHERN TERRITORY OF AUSTRALIA***

### ***GAS PIPELINES ACCESS (NORTHERN TERRITORY) ACT 1998***

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#### ***TABLE OF PROVISIONS***

#### ***Section***

#### ***PART 1 - PRELIMINARY***

- 1. Purpose***
- 2. Short title and commencement***
- 3. Definitions***
- 4. Crown to be bound***
- 5. Application to coastal waters***
- 6. Extra-territorial operation***
  - PART 2 - GAS PIPELINES ACCESS (NORTHERN TERRITORY) LAW AND GAS PIPELINES ACCESS (NORTHERN TERRITORY) REGULATIONS***
- 7. Application in Territory of Gas Pipelines Access Law***
- 8. Application of Regulations under Gas Pipelines Access Law***
- 9. Interpretation of some expressions in Gas Pipelines Access (Northern Territory) Law and***

*Gas Pipelines Access (Northern Territory)  
Regulations*

*PART 3 - NATIONAL ADMINISTRATION AND ENFORCEMENT*

*Division 1 - Conferral of Functions and Powers*

*10. Conferral of functions on Commonwealth  
Minister and Commonwealth bodies*

*11. Conferral of power on Commonwealth Minister  
and Commonwealth bodies to do acts in Territory*

*12. Conferral of power on Ministers, regulators  
and appeals bodies of other scheme participants*

*13. Conferral of functions on Code Registrar*

*14. Functions and powers conferred on Territory  
Minister, regulator and appeals body*

*Division 2 - Federal Court*

*15. Jurisdiction of Federal Court*

*16. Conferral of jurisdiction on Federal Court  
not to affect cross-vesting*

*Division 3 - Administrative Decisions*

*17. Application of Commonwealth AD(JR) Act*

*18. Application of Commonwealth AD(JR) Act in  
relation to other scheme participants*

*PART 4 - GENERAL*

*19. Exemption from taxes*

*20. Actions in relation to cross-boundary  
pipelines*

*Gas Pipelines Access (Northern Territory)*

10

**NORTHERN TERRITORY OF  
AUSTRALIA**

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# AN ACT

*to make provision for the regulation of third party access to natural gas pipeline systems and for other purposes*

## *B*

*E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the Northern Territory (Self-Government) Act 1978 of the Commonwealth, as follows:*

### *PREAMBLE*

*The Council of Australian Governments agreed, in February 1994, to general principles of competition policy reform to enable third parties, in particular circumstances, to gain access to essential facilities.*

*The Council of Australian Governments, as part of that commitment to reform, agreed to more specific proposals for the development of free and fair trade in natural gas.*

*The Commonwealth, the states of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania, the Territory and the Australian Capital Territory agreed in November 1997 to the enactment of legislation in the Commonwealth and those States and Territories so that a uniform national framework applies for third party access to all gas pipelines that -*

- (a) facilitates the development and operation of a national market for natural gas;*
- (b) prevents abuse of monopoly power;*

- (c) promotes a competitive market for natural gas in which customers may choose suppliers, including producers, retailers and traders;*
- (d) provides rights of access to natural gas pipelines on conditions that are fair and reasonable for the owners and operators of gas transmission and distribution pipelines and persons wishing to use the services of those pipelines; and*
- (e) provides for resolution of disputes.*

#### **PART 1 - PRELIMINARY**

##### *1. Purpose*

*The purpose of this Act is to make provision for the regulation of third party access to natural gas pipeline systems.*

##### *2. SHORT TITLE AND Commencement*

*(1) This Act may be cited as the Gas Pipelines Access (Northern Territory) Act 1998.*

*(2) This Act comes into operation on the date fixed by the Administrator by notice in the Gazette.*

##### *3. Definitions*

*(1) In this Act -*

*"Gas Pipelines Access Law" means -*

*(a) Schedule 1 to the South Australian Act -*

*(i) as enacted; or*

*(ii) if amended, as amended and in force for the time being; and*

*(b) The National Third Party Access Code for Natural Gas Pipeline Systems (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in Schedule 2 to the South Australian Act) or, if that Code is amended in accordance with Schedule 1 to that Act, that Code as so amended and in force for the time being;*

"Gas Pipelines Access (Northern Territory) Law" means the provisions applying because of section 7;  
"Gas Pipelines Access (Northern Territory) Regulations" means the provisions applying because of section 8;  
"South Australian Act" means the Gas Pipelines Access (South Australia) Act 1997 of South Australia.

(2) Words and expressions used in Schedule 1 to the South Australian Act, as applying because of section 7, and in this Act have the same respective meanings in this Act as they have in that Schedule as so applying.

(3) Subsection (2) does not apply to the extent that the context or subject matter otherwise indicates or requires.

4. Crown to be bound

This Act, the Gas Pipelines Access (Northern Territory) Law and the Gas Pipelines Access (Northern Territory) Regulations bind the Crown, not only in the right of the Territory but also, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

5. Application to coastal waters

(1) This Act, the Gas Pipelines Access (Northern Territory) Law and the Gas Pipelines Access (Northern Territory) Regulations apply in the coastal waters of the Territory.

(2) In subsection (1), "coastal waters", in relation to the Territory, means any sea that is on the landward side of the adjacent area of the Territory but is not within the limits of the Territory.

6. Extra-territorial operation

(1) It is the intention of the Legislative Assembly that the operation of this Act, the Gas Pipelines Access (Northern Territory) Law and the Gas Pipelines Access (Northern Territory) Regulations should, as far as possible, include operation in relation to the following -

- (a) things situated in or outside the Territory;
- (b) acts, transactions and matters done, entered into or occurring in or outside the Territory;
- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of a State, the Commonwealth, another Territory of the Commonwealth or a foreign country.

(2) Nothing in subsection (1) has effect in relation to a pipeline to the extent that the pipeline is situated, or partly situated, beyond the jurisdictional areas of all the scheme participants.

**PART 2 - GAS PIPELINES ACCESS (NORTHERN TERRITORY) LAW AND GAS PIPELINES ACCESS (NORTHERN TERRITORY) REGULATIONS**

7. Application in Territory of gas Pipelines Access Law

**The Gas Pipelines Access Law -**

- (a) applies as a law of the Territory;
- and
- (b) as applying may be referred to as the Gas Pipelines Access (Northern Territory) Law.

8. Application of Regulations under Gas Pipelines Access Law

**The Regulations in force for the time being under Part 3 of the South Australian Act -**

- (a) apply as Regulations in force for the purposes of the Gas Pipelines Access (Northern Territory) Law; and
- (b) as applying may be referred to as the Gas Pipelines Access (Northern Territory) Regulations.

9. Interpretation of some expressions in Gas Pipelines Access (Northern Territory) law and Gas Pipelines Access (Northern Territory)



Regulations

(1) *In the Gas Pipelines Access (Northern Territory) Law and the Gas Pipelines Access (Northern Territory) Regulations -*

"Code" means the National Third Party Access Code for Natural Gas Pipeline Systems (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in Schedule 2 to the South Australian Act) or, if that Code is amended in accordance with Schedule 1 to that Act, that Code as amended and in force for the time being, as it applies because of section 7 as a law of the Territory;

"Court" means the Supreme Court or the Federal Court;

"designated appeals body" means the Australian Competition Tribunal;

"designated Minister" means the local Minister;

"Gas Pipelines Access Law" or "this Law" means the Gas Pipelines Access (Northern Territory) Law;

"Legislature" means the Legislative Assembly;

"local appeals body" means the Australian Competition Tribunal;

"local Minister" means the Minister responsible for the administration of this Act;

"local Regulator" means the ACCC;

"this scheme participant" means the Northern Territory;

"Supreme Court" means the Supreme Court of the Northern Territory.

(2) *The Acts Interpretation Act 1915, and other Acts, of South Australia do not apply to -*

(a) *the Gas Pipelines Access Law set out in Schedule 1 to the South Australian Act in its application as a law of the Territory; or*

*(b) the regulations in force for the time being under Part 3 of the South Australian Act in their application as Regulations in force for the purposes of the Gas Pipelines Access (Northern Territory) Law.*

**PART 3 - NATIONAL ADMINISTRATION AND  
ENFORCEMENT**

**Division 1 - Conferral of Functions and Powers**

*10. Conferral of functions on Commonwealth Minister and Commonwealth bodies*

*(1) The Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal have the functions and powers conferred or expressed to be conferred on them respectively under the Gas Pipelines Access (Northern Territory) Law.*

*(2) In addition to the powers mentioned in subsection (1), the Commonwealth Minister and the bodies referred to in that subsection have power to do all things necessary or convenient to be done in connection with the performance or exercise of the functions and powers referred to in that subsection.*

*11. Conferral of power on Commonwealth Minister and Commonwealth bodies to do acts in Territory  
The Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal have power to do acts in or in relation to the Territory in performing or exercising a function or power expressed to be conferred on them respectively by the gas pipelines access legislation of another scheme participant.*

*12. Conferral of power on Ministers, Regulators and appeals bodies of other scheme participants  
The local Minister, the local Regulator and the local appeals body within the meaning of the gas pipelines access legislation of another scheme participant have power to do acts in or in relation to the Territory in performing or exercising a function or power expressed to be conferred on them respectively by the gas*

*pipelines access legislation of that other scheme participant.*

*13. Conferral of functions on Code Registrar*

*(1) The Code Registrar -*

- (a) has the functions and powers conferred or expressed to be conferred on the Code Registrar under the Gas Pipelines Access (Northern Territory) Law or under the National Gas Agreement; and*
- (b) any other functions and powers conferred on the Code Registrar by unanimous resolution of the relevant Ministers of the scheme participants.*

*(2) In addition to the powers mentioned in subsection (1), the Code Registrar has power to do all things necessary or convenient to be done in connection with performing or exercising the functions and powers referred to in that subsection.*

*(3) The Code Registrar may delegate to any person any of the functions conferred on the Code Registrar by this section, other than this power of delegation*

*14. Functions and powers conferred on Territory Minister, Regulator and appeals body*

*If the gas pipelines access legislation of another scheme participant confers a function or power on -*

- (a) the Minister;*
- (b) the local Regulator; or*
- (c) the local appeal body,*

*the Minister, local Regulator or local appeal body -*

- (d) may perform that function or exercise that power; and*
- (e) may do all things necessary or convenient to be done in connection with the performance or exercise of that function or power.*

*Division 2 - Federal Court*

*15. Jurisdiction of Federal Court*

*Jurisdiction is conferred on the Federal Court with respect to -*

*(a) civil and criminal matters arising under the Gas Pipelines Access (Northern Territory) Law; and*

*(b) applications made to the Federal Court under the Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth as applying as a law of the Territory under section 17 or 18.*

*16. Conferral of jurisdiction on Federal Court not to affect cross-vesting*

*Section 15 does not affect the operation of any law relating to cross-vesting of jurisdiction.*

### **Division 3 - Administrative Decisions**

*17. Application of Commonwealth AD(JR) Act*

*(1) The Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth applies as a law of the Territory to any matter arising in relation to a decision of a Code body under the Gas Pipelines Access (Northern Territory) Law as if that Law were an enactment within the meaning of that Act and not a law of the Territory.*

*(2) For the purposes of the application of the Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth as a law of the Territory, a matter arising in relation to a decision of a Code body under the Gas Pipelines Access (Northern Territory) Law -*

*(a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if the Gas Pipelines Access (Northern Territory) Law were a law of the Commonwealth; and*

*(b) is taken not to be a matter arising in relation to laws of the Territory.*

*(3) In this section, "Code body" means -*

*(a) the NCC;*

*(b) the ACCC;*

*(c) the Australian Competition Tribunal;*

- (d) the local appeals body within the meaning of the Gas Pipelines Access (Northern Territory) Law;
- (e) the local Minister within the meaning of the Gas Pipelines Access (Northern Territory) Law;
- (f) the local Regulator within the meaning of the Gas Pipelines Access (Northern Territory) Law; or
- (g) an arbitrator appointed under Part 4 of the Gas Pipelines Access (Northern Territory) Law.

18. Application of Commonwealth AD(JR) Act in relation to other scheme participants

(1) The Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth applies as a law of the Territory to any matter arising in relation to a decision of a Code body under the gas pipelines access legislation of another scheme participant as if that legislation were an enactment within the meaning of that Act and not a law of that scheme participant.

(2) For the purposes of the application of the Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth as a law of the Territory, a matter arising in relation to a decision of a Code body under the gas pipelines access legislation of another scheme participant

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(a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if that legislation were a law of the Commonwealth; and

(b) is taken not to be a matter arising in relation to laws of that scheme participant.

(3) This section does not require, prohibit, empower, authorise or otherwise provide for, the doing of an act outside the Territory.

(4) In this section, "Code body" means -

(a) the NCC;

(b) the ACCC;

(c) the Australian Competition Tribunal;

- (d) the local appeals body within the meaning of the Gas Pipelines Access (Northern Territory) Law;
- (e) the local Minister within the meaning of the Gas Pipelines Access (Northern Territory) Law;
- (f) the local Regulator within the meaning of the Gas Pipelines Access (Northern Territory) Law; or
- (g) an arbitrator appointed under Part 4 of the Gas Pipelines Access (Northern Territory) Law.

#### PART 4 - GENERAL

#### 19. Exemption from taxes

(1) Any stamp duty or other tax imposed by or under a law of the Territory is not payable in relation to -

- (a) an exempt matter; or
- (b) anything done (including, for example, a transaction entered into or an instrument or document made, executed, lodged or given) because of, or arising out of, an exempt matter.

(2) In this section, "exempt matter" means a transfer of assets or liabilities that the Minister and the Treasurer are satisfied is made for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas in breach of the Code or for the purpose of separating certain activities from other activities of a person as required by the Code, and for no other purpose.

#### 20. Actions in relation to cross-boundary pipelines

(1) If a pipeline is a cross-boundary pipeline, any action taken under the gas pipelines access legislation of a scheme participant in whose jurisdictional area a part of the pipeline is situated -

- (a) by, or in relation to, a relevant Minister, or a relevant Regulator, within the meaning of that legislation;

(b) by, or in relation to, an arbitrator appointed by a relevant Regulator within the meaning of that legislation; or  
(c) by the Federal Court, or by the Supreme Court, or the relevant appeals body, within the meaning of that legislation, in relation to the action taken by, or in relation to, a person or body referred to in paragraph (a) or (b),  
is taken also to be action taken under the gas pipelines access legislation of each other scheme participant in whose jurisdictional area a part of the pipeline is situated ("that other legislation") -

(d) by, or in relation to, a relevant Minister, or relevant Regulator, within the meaning of that other legislation;  
(e) by, or in relation to, an arbitrator appointed by a relevant Regulator within the meaning of that other legislation; or  
(f) by the Federal Court, or by the Supreme Court, or relevant appeals body, within the meaning of that other legislation,

as the case requires.

(2) In this section, "cross-boundary pipeline" means a transmission pipeline, or a distribution pipeline, that is, or is to be, situated in the jurisdictional areas of 2 or more scheme participants.

(3) A reference in this section to an action that is taken includes a reference to a decision that is made.

## **Annexure 2 (i)**



# *ENERGY PIPELINES ACT*

*Agency: Department of Mines and Energy*

*Type : Act*

*Parent :*

***NORTHERN TERRITORY OF AUSTRALIA***

***ENERGY PIPELINES ACT***

***As in force at 8 November 2000***

***TABLE OF PROVISIONS***

***Section***

## ***PART I - PRELIMINARY***

- 1. Short title***
- 2. Commencement***
- 3. Interpretation***
- 4. Application etc.***

## ***PART II - PERMITS***

- 5. Application for permit***
- 6. Notice of application***
- 7. Variation of application***
- 8. Grant of permit***
- 9. Terms and conditions of permit***
- 10. Variation of permit***
- 11. Rights conferred by permit***

## ***PART III - LICENCES***

- 12. Construction, &c., of pipelines***
- 13. Application for licence***
- 14. Refusal of licence***
- 15. Grant of licence***
- 15A. Licensing of exempt pipelines***
- 16. Renewal of licence***
- 17. Conditions of licence***
- 18. Security***
- 19. Term of licence***

- 20. Variation of conditions of licence etc.*
- 21. Variation of licence because of legislative requirements*
- 21A. Variation of route or area on application*
- 21B. Application to vary route and licence*
- 21C. Application to vary licence area*
- 21D. Determination of application*
- 22. Easements over Crown lands*
- 23. Exemptions, &c.*
- 24. Surrender of licence*
- 25. Cancellation of licence for breach of condition*
- 26. Variation of licence in public interest*
- 27. Cancellation of licences not affected by other provisions*
- 28. Removal of property, &c., by licensee*
- 29. Powers of Minister to enforce direction*
- 30. Licence fees*
- 31. Penalty for late payment*
- 32. Fees and penalties debts due to Territory*

*PART IV - CONSTRUCTION, OPERATION AND MAINTENANCE OF  
PIPELINE*

- 33. [Repealed]*
- 34. Construction to comply with prescribed standards*
- 35. Restoration of agricultural land after construction*
- 36. Pipeline crossing water*
- 37. Ceasing to operate pipeline*
- 37A. Abandonment of pipeline*
- 38. Consent to commencement or resumption of operations or testing of pipeline*
- 38A. Statutory restrictions for purposes of Real Property Act*
- 39. Duties of licensee in relation to pipeline*
- 40. Directions*
- 41. Compliance with directions*
- 42. Directions as to conveyances of energy-producing hydro-carbons*
- 43. Power of Minister to ensure continued use of pipeline*

*PART V - REGISTRATION OF LICENCES AND RELATED  
INSTRUMENTS*

- 44. Register of licences*
- 45. Minister may require registration of information*
- 46. Approval and registration of transfer*
- 47. Entries in register on devolution of rights of registered holder*

- 48. Dealing with interests to be in writing*
- 49. Approval and registration of instrument creating, &c., interests*
- 50. True consideration to be shown*
- 51. Minister not concerned with certain matters*
- 52. Power of Minister to require information as to proposed dealings*
- 53. Production and inspection of books, records and documents*
- 54. Inspection of register and documents*
- 55. Evidentiary provisions*
- 56. Rectification of register*
- 57. Minister not liable to certain actions*
- 58. Offences*

*PART VA - ENVIRONMENTAL MANAGEMENT*  
**Division 1 - General environmental offences**

- 58A. Application*
- 58B. Interpretation*
- 58C. General environmental offences*
- 58D. Defences to general environmental offences*
- 58E. Alternative verdicts available*
- 58F. Actions etc. of employee or agent of body corporate are those of body corporate*
- 58G. Director may be liable for offence of body corporate*
- 58H. Liability for managers, employees and agents*

*PART VI - MISCELLANEOUS*

- 59. Pipelines to remain property of owner*
- 59A. Licensee not required to own pipeline*
- 60. Notices of grants, &c., of licences to be published*
- 61. Address for service*
- 62. Delegations by Minister*
- 63. Inspectors*
- 63A. No action against inspector or assistants*
- 64. Powers of inspectors*
- 64A. Inspector may cause certain work to stop*
- 65. Theft from pipeline*
- 66. Threat to pipeline*
- 67. Continuing offences*
- 67A. Service*
- 67B. Compensation*
- 67C. [Repealed]*
- 67D. [Repealed]*

## **68. Regulations**

### **Notes**

#### **Table of Amendments**

### **Energy Pipelines Act**

**69**

*northern territory of australia*

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***This reprint shows the Act as in force at 8 November 2000. Any amendments that may come into operation after that date are not included.***

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### **ENERGY PIPELINES ACT**

*An Act to make provision for the construction, operation, maintenance and cessation of use or abandonment of pipelines for the conveyance of energy-producing hydro-carbons, and for related purposes*

### **PART I - PRELIMINARY**

#### **1. Short title**

***This Act may be cited as the Energy Pipelines Act. (See back note 1)***

#### **2. Commencement**

***This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette. (See back note 1)***

#### **3. Interpretation**

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

***"affected land or waters" -***

***(a) means land or waters comprised in, or proposed to be comprised in, a permit or licence; and***

***(b) in relation to a licence, includes the corridor described in section 66;***

***"apparatus or works" means -***

***(a) structures for protecting or supporting a pipeline; or***

*(b) storage tanks, loading terminals and works and buildings used or to be used for purposes connected with or incidental to the operation of a pipeline,  
and fixed equipment or machinery used or to be used for purposes connected with or incidental to the operation or use thereof;*

*"council" means the council of a municipality or community government area constituted under the Local Government Act;*

*"Crown lands" means all lands of the Territory, including -*

*(a) the bed of the sea within the limits of the Territory;*

*(b) an estate in fee simple held by the Territory;  
and*

*(c) reserved or dedicated land,  
but does not include land the subject of an incomplete purchase;*

*"energy-producing hydro-carbon" means a naturally occurring or refined hydro-carbon or mixture of hydro-carbons, whether in a liquid, solid or gaseous state, or such a hydro-carbon or mixture of hydro-carbons mixed with such other substances as may be present;*

*"incomplete purchase", in relation to land, means a conditional purchase or a purchase by auction or otherwise of the fee simple from the Crown under the Crown Lands Act in respect of which any of the purchase money remains unpaid;*

*"inspector" means a person appointed as an inspector under section 63;*

*"land" means -*

*(a) land held for an estate in fee simple other than land referred to in paragraph (b) or (d);*

*(b) Crown land;*

*(c) land the subject of an incomplete purchase;*

*(d) a perpetual lease under the Crown Lands Act or a perpetual pastoral lease under the Pastoral Land Act;*

*(e) land, not being Crown land, owned by or vested in a person on behalf of the Crown or a public authority; and*

*(f) land or waters in respect of which there are native title rights and interests;*

*"licence" means a licence granted under Part III or section 43;*

*"licence area", in relation to a licence, means the land specified in the licence as being the licence area;*

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

*"native title" and "native title rights and interests" have the meaning given in section 223 of the Native Title Act;*

*"Native Title Act" means the Native Title Act 1993 of the Commonwealth;*

*"native title holder" has the meaning given in section 224 of the Native Title Act;*

*"owner" -*

*(a) in relation to land, other than Crown land or land owned by or vested in a person on behalf of the Crown or a public authority representing the Crown, includes every person who jointly or severally, whether at law or in equity -*

*(i) is entitled to the land for an estate in fee simple;*

*(ii) is the purchaser under an incomplete purchase, the holder of a perpetual lease under the Crown Lands Act or a perpetual pastoral lease under the Pastoral Land Act or a person (not being the purchaser under an incomplete purchase) to whom a person on behalf of the Crown, or a public authority, has lawfully contracted to convey or transfer the fee simple; or*

*(iii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;*

*(b) in relation to Crown land and land (not being land specified in a contract referred to*

*in paragraph (a)(ii)) owned by or vested in a person on behalf of the Crown, means the Crown or that person; and*

*(c) in relation to land (not being land specified in a contract referred to in paragraph (a)(ii)) owned by or vested in a public authority, means that public authority;*

*"partly cancelled", in relation to a licence, means cancelled as to part of the pipeline or some of the apparatus or works the subject of the licence;*

*"permit" means a permit granted under Part II;*

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

*"pipeline" means a pipe or system of pipes that has or have a maximum allowable operating pressure greater than 1050 kilopascals or a hoop stress (being a circumferential stress arising from internal pressure) that is less than 20 % of the specified minimum yield stress specified in the manufacturing standard with which the pipe complies and that are used or intended to be used for the conveyance of an energy-producing hydro-carbon, and includes -*

*(a) all structures for protecting or supporting a pipeline; and*

*(b) all loading terminals, works and buildings and all fittings, pumps, tanks, appurtenances and appliances,*

*used in connection with a pipeline, but does not include -*

*(c) a pipeline as defined in the Petroleum (Submerged Lands) Act;*

*(d) [Omitted]*

*(e) a pipeline constructed or to be constructed on land used for residential, business, agricultural, commercial or industrial purposes, designed for use solely for the residential, business, agricultural, commercial or industrial purposes carried on that land and situated wholly within the boundaries of that land; or*

*(f) a pipeline or a pipeline of a class declared under section 4(2) to be a pipeline in respect of which a licence is not required;*

*"public authority" means -*

- (a) a minister acting in his official capacity under an Act;*
- (b) a statutory corporation; or*
- (c) a council within the meaning of the Local Government Act;*

*"register" means the register kept under section 44;*

*"registered holder", in relation to a licence, means the person whose name is, for the time being, shown in the register as being the holder of the licence;*

*"registered native title body corporate" has the meaning given in section 253 of the Native Title Act;*

*"registered native title claimant" has the meaning given in section 253 of the Native Title Act or, if the claimant is replaced under section 66B of that Act, means the person who replaced the claimant;*

*"registered native title rights and interests" means -*

- (a) in relation to a registered native title claimant - the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims established and maintained in accordance with Part 7 of the Native Title Act; and*
- (b) in relation to a registered native title body corporate - the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under Part 8 of the Native Title Act;*

*"Registrar" means the person for the time being appointed as Registrar for the purposes of the Petroleum Act;*

*"relinquished area", in relation to a licence -*

- (a) that has expired or been wholly cancelled - means the licence area; and*
- (b) that has been partly cancelled - means that part of the licence area on which is situated the part of the pipeline in respect of which the licence was partly cancelled;*

*"representative Aboriginal/Torres Strait Islander body" has the meaning given in section 253 of the Native Title Act;*



***"Tribunal" means the Lands and Mining Tribunal established by the Lands and Mining Tribunal Act; "wholly cancelled", in relation to a licence, means cancelled as to the whole of the pipeline the subject of the licence.***

***(2) In this Act, a reference to -***

- (a) a pipeline on land, includes a reference to a pipeline in, under, through, across or above the surface of the land;***
- (b) a pipeline, includes a reference to part of a pipeline; or***
- (c) a licence, includes a reference to a licence as varied under this Act.***

***4. Application etc.***

***(1) Nothing in this Act requires a person to hold a licence in respect of -***

- (a) a pipeline constructed or to be constructed under an Act, other than this Act;***
- (b) subject to section 15A(5), a pipeline constructed and in operation before 11 August 1982;***
- (c) a pipeline constructed or to be constructed on land used for residential, business, agricultural, commercial or industrial purposes, designed for use solely for the residential, business, agricultural, commercial or industrial purposes carried on on that land and situated wholly within the boundaries of that land;***
- (d) a pipeline of a class specified for the purpose of this paragraph by the Minister by notice in the Gazette, constructed or to be constructed for the conveyance of dangerous goods within the meaning of the Dangerous Goods Act; or***
- (e) a pipeline constructed or to be constructed -***
  - (i) for the conveyance of an energy-producing hydro-carbon from a well-head to a tank or a separator or for the collection of an energy-producing hydro-carbon within the area in which it is produced or recovered;***
  - (ii) for returning an energy-producing hydro-carbon to a natural reservoir;***
  - (iii) for conveying an energy-producing hydro-carbon for use for the purposes of exploration operations or operations for the recovery of an energy-producing hydro-carbon; or***

*(iv) for conveying an energy-producing hydrocarbon that is to be flared or vented,*

*but nothing in this section prevents a person from making an application under this Act in respect of such a pipeline or from being granted and holding a permit or licence in respect of the construction or operation of such a pipeline.*

*(1A) Subject to subsection (1B), the Dangerous Goods Act does not apply to or in relation to a pipeline in respect of which a licence under this Act is in force or to a substance conveyed by such a pipeline while it is being so conveyed.*

*(1B) Nothing in subsection (1A) exempts a person from the need to comply with the Dangerous Goods Act in relation to the storage, conveyance or use of dangerous goods, within the meaning of that Act, in or in connection with the construction, maintenance or repair of a pipeline referred to in that subsection.*

*(2) The Minister may, by notice in the Gazette, declare a pipeline, or a pipeline of a class, specified in the notice, to be a pipeline or pipelines in respect of which a licence is not required.*

*(3) This Act applies to and in relation to Aboriginal land, within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, to the extent that it is capable of so applying.*

## *PART II - PERMITS*

### *5. Application for permit*

*(1) Where a person desires to construct a pipeline, he may apply to the Minister for a permit to enter land for the purpose of determining the route of the proposed pipeline, the situation of proposed apparatus or works and the land, if any, to be used for the purpose of gaining access to the proposed pipeline and proposed apparatus or works.*

*(2) An application under subsection (1) -*

*(a) shall be made in a form and manner approved by the Minister;*

*(b) shall identify the points of commencement and termination of the pipeline and specify, by reference to its title number, the land which the applicant wishes to enter upon;*

*(c) shall be accompanied by the prescribed maps, showing the location on the land specified under paragraph (b) of -*

- (i) the approximate proposed route of the pipeline;*
- (ii) the approximate proposed situation of apparatus or works, if known; and*
- (iii) land which the applicant desires to enter to determine the land which might be used for the purpose of gaining access to the pipeline and apparatus or works;*

*(d) shall be accompanied by details of any agreement entered into, or proposed to be entered into, by the applicant relating to his entry onto the land specified under paragraph (b);*

*(e) may set out other matters, including details of his financial resources and technical competence, that the applicant wishes the Minister to consider; and*

*(f) shall be accompanied by the prescribed fee.*

*(3) An applicant for a permit shall, if required to do so by an instrument in writing served on him at any time by the Minister, furnish to the Minister within the time specified in the instrument, such further information in writing in connection with his application as is specified in the instrument.*

#### *6. Notice of application*

*(1) An applicant for a permit shall, within 90 days after making the application or within such further period, not exceeding 90 days, as the Minister, on application in writing served on him before the expiration of the first- mentioned 90 days allows, cause to be served -*

*(a) on each council within whose municipality or community government area any land referred to in the application is situated;*

*(b) on each owner and occupier of land specified in the application;*

*(ba) on the registered native title claimants and registered native title bodies corporate (if any) in relation to any affected land or waters;*

*(baa) on the representative Aboriginal/Torres Strait Islander bodies in relation to any of the affected land or waters unless the grant of the permit is not a future act;*

*(bb) on any person who holds a right of way or other easement over any of the land specified in the application; and*

*(c) on each permittee or licensee who holds a current licence or permit in respect of any part of the land referred to in the application,*

*a notice of application.*

*(2) A notice under subsection (1) is to be in or to the effect of the prescribed form and is to -*

*(a) set out the particulars relating to the application as are provided for in the prescribed form; and*

*(b) contain a statement to the effect that -*

*(i) the council, person or body may, within 28 days after the date of service of the notice, lodge in writing with the Minister representations about the grant of the permit; and*

*(ii) if there are no registered native title claimants or registered native title bodies corporate in relation to any of the affected land or waters, the representative Aboriginal/Torres Strait Islander body in relation to any of the affected land or waters may, within 28 days after being served with the notice, lodge in writing with the Minister comments on the grant of the permit.*

*7. Variation of application*

*(1) An applicant for a permit may, before the permit is granted, apply to the Minister to -*

*(a) include additional land in;*

*(b) exclude land from; or*

*(c) include additional land in, and to exclude other land from,*

*the land in respect of which the original application was made.*

*(2) Such of the provisions of sections 5(2) and (3) and 6 as are prescribed apply to and in relation to an application under subsection (1) as if the application were an application made under section 5(1).*

*8. Grant of permit*

*(1) Where the Minister is satisfied -*

*(a) that the applicant for a permit has complied with the requirements of section 5; and*

*(b) that 28 days have elapsed since the date on which the last of the notices required to be served by section 6 was served,*

*he may, after taking into consideration any representations and comments lodged in accordance with the statement referred to in section 6(2)(b), grant to the applicant a permit in respect of the land specified in the application under section 5(1) or, where an application is made under section 7, in respect of -*

- (c) such of the land specified in the application under section 5(1) as is not excluded land referred to in section 7(1); and*
- (d) any additional land referred to in the application under section 7(1),*

*as he thinks fit.*

*(2) In considering an application for a permit, the Minister must have regard to -*

- (a) whether the carrying on of survey works on the land specified in the application would interfere or be likely to interfere unnecessarily with -*
  - (i) improvements on the land;*
  - (ii) flora, fauna, fish, fisheries and scenic attractions on or in the vicinity of the land; or*
  - (iii) features of architectural, archaeological, historical or geological interest on or in the vicinity of the land; and*
- (b) the effect that the grant of the permit would have or be likely to have on registered native title rights and interests or, if there are no registered native title rights or interests in relation to any of the affected land or waters, any comments lodged by representative Aboriginal/Torres Strait Islander bodies in accordance with the statement referred to in section 6(2)(b).*

*9. Terms and conditions of permit*

*(1) A permit -*

- (a) comes into force on the day specified in the permit;*
- (b) subject to subsection (3), remains in force for a period of 12 months commencing on the day referred to in paragraph (a) and for any period for which the permit is extended under subsection (2); and*
- (c) may be granted subject to such conditions as the Minister thinks fit and specifies in the permit, which may include a condition for the purpose of minimising the impact of the grant of the permit on native title rights and interests in relation to any affected land or waters.*

*(2) The Minister may, on application in writing made by the permittee and served on the Minister before the date of expiration of the permit, extend the permit for such period as he thinks fit and specifies in an instrument in writing served on the permittee.*

*(3) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, cancel a permit as to the land in respect of which it is in force.*

***(4) A permit shall not be cancelled under subsection (3) unless the Minister has -***

***(a) by instrument in writing served on the permittee, given not less than 28 days notice of his intention to cancel the permit and the grounds for his so doing;***

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

***(c) in the instrument, 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 matter that he wishes the Minister to consider in connection with the cancellation of the permit;***

***(d) caused to be published in such newspapers as he thinks fit, notice of his intention to cancel the permit and the ground for his so doing and has, in that notice, specified a date on or before which a person having an interest in land in the area may submit any matter that he wishes the Minister to consider in connection with the cancellation of the permit; and***

***(e) taken into account -***

***(i) any action taken by the permittee to remove the grounds for cancellation of his permit or to prevent the recurrence of similar grounds; and***

***(ii) particulars of matters submitted under paragraph (c) or (d) on or before the date specified under the relevant paragraph.***

***10. Variation of permit***

***(1) A permittee may apply to the Minister for a variation of the permit held by him so that it applies to additional land.***

***(2) Sections 5(2) and (3) and 6 apply to and in relation to an application under subsection (1), in respect of the additional land referred to in that subsection, in the same way as those sections apply to and in relation to an application made under section 5(1).***

***(3) Where, in respect of an application under subsection (1), the Minister is satisfied as to the matters referred to in section 8(1) and has taken into consideration the matters referred to in section 8(2), he may, by instrument in writing, vary the permit in respect of which the application was made so that it applies to -***

***(a) the additional land specified in that application; or***

***(b) such, if any, of that additional land as the Minister thinks fit.***

*(4) In varying a permit under this section, the Minister may, as he thinks fit and specifies in the instrument referred to in subsection (3), add to or vary the conditions subject to which the permit was granted.*

*(5) Land specified in an instrument referred to in subsection (3) shall, for the purposes of this Act, be deemed to be land specified in the permit to which that instrument relates as land in respect of which the holder of the permit may exercise the rights conferred thereby.*

*(6) Where, under subsection (4), conditions are added to the conditions subject to which a permit was granted or conditions subject to which a permit was granted are varied, the additional conditions or the conditions as so varied shall be conditions subject to which the permit was granted.*

*11. Rights conferred by permit*

*(1) A permit, while it remains in force, authorizes the permittee, in accordance with the conditions subject to which it was granted, to enter with such vehicles, equipment and personnel as are necessary for the purpose, the land specified in the permit and to carry out on that land such surveys as the permittee considers necessary for the purpose of determining -*

*(a) the proposed route of the pipeline, and the proposed situation of apparatus or works, referred to in the application for the permit; and*

*(b) the land, if any, to be used for the purpose of gaining access to the pipeline and the apparatus or works.*

*(2) A permittee may, subject to the conditions on which the permit was granted, take from the land specified in the permit samples for examination and testing.*

### *PART III - LICENCES*

*12. Construction, &c., of pipelines*

*(1) A person shall not -*

*(a) commence, or continue, the construction of a pipeline; or*

*(b) alter or reconstruct a pipeline,*

*except under and in pursuance of a licence.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*(2) A person shall not operate a pipeline -*

*(a) except under and in pursuance of a licence; and*

*(b) unless he has obtained the consent under section 38 of the Minister to the commencement or resumption, as the case may be, of the operations and commences or resumes the operations, and thereafter operates the pipeline, in accordance with the conditions, if any, to which the instrument of consent is for the time being subject.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*(3) It is not an offence against this section -*

*(a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline in good order and repair and -*

*(i) as soon as practicable thereafter notifies the Minister of the act done; and*

*(ii) complies with any directions given to him by the Minister; or*

*(b) if a person does an act in compliance with a direction under this Act.*

*13. Application for licence*

*(1) An application for a licence may be made by a person who -*

*(a) at the time of making the application holds, or within 6 months before making the application has held, a permit; or*

*(b) is able to satisfy the Minister that, notwithstanding that he has never, or has not within the period of 6 months before making the application, held a permit, has obtained sufficient data relating to the route of the proposed pipeline to submit an application which complies with subsection (2).*

*(2) An application for a licence -*

*(a) shall be made in a form and manner approved by the Minister;*

*(b) shall be accompanied by particulars of -*

*(i) the design and construction of the proposed pipeline;*

*(ii) the provisions for cathodic protection of the proposed pipeline;*

*(iii) the size and capacity of the proposed pipeline;*

*(iv) the substance intended to be conveyed through the proposed pipeline;*



*(v) the proposals of the applicant for work and expenditure in respect of the construction of the proposed pipeline;*

*(vi) the machinery and equipment that the applicant intends to use in the construction of the proposed pipeline;*

*(vii) the technical qualifications of the applicant and of his employees;*

*(viii) the technical advice available to the applicant; and*

*(ix) the financial resources available to the applicant;*

*(c) shall be accompanied by a plan, drawn in the prescribed manner -*

*(i) showing -*

*(A) the route of the proposed pipeline;*

*(BA) the land that is proposed by the applicant to be the licence area;*

*(BB) the corridor of land, 25 m wide, extending for 12.5 m on either side of the route of the proposed pipeline specified under subparagraph (A);*

*(B) the situation of proposed apparatus or works; and*

*(C) the land, if any, proposed to be used for the purpose of gaining access to the proposed pipeline and proposed apparatus or works; and*

*(ii) on which shall be identified the land, or easements over land, referred to in paragraph (e);*

*(d) shall be accompanied by particulars of agreements entered into, or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the land shown in the plan referred to in paragraph (c);*

*(da) shall specify -*

*(i) the name and address of each person whose operations on or interest in the land shown in the plan under paragraph (c) in accordance with paragraph (c)(i)(BB) may be affected by*

*the operation of section 66 if the pipeline to which the application relates were to be constructed; and*

*(ii) the agreement or arrangement, if any, made between the applicant and a person referred to in subparagraph (i) in relation to the person's operations and interests;*

*(e) shall specify, in relation to each part of the proposed pipeline, the proposed route of which is on or across Aboriginal land, within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, or on or across land held by the Commonwealth, particulars of the land, or the easements over land acquired or agreed to be acquired for the purpose of constructing and operating the proposed pipeline or gaining access to the proposed pipeline;*

*(f) shall be accompanied by copies of the notices which the applicant has served under subsection (4);*

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

*(h) shall be accompanied by the prescribed fee.*

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

*(4) At the time of making an application for a licence, the applicant shall serve a notice in the prescribed form on -*

*(a) each council within whose municipality or community government area any part of the proposed pipeline is intended to be situated;*

*(b) each owner and occupier of land specified in the application and each person whose operations on or interest in the land shown in the plan under subsection (2)(c)(i)(BB) may be affected by the operation of section 66 if the pipeline to which the application relates were to be constructed;*

*(ba) the registered native title claimants and registered native title bodies corporate (if any) in relation to any affected land or waters;*

*(baa) the representative Aboriginal/Torres Strait Islander bodies in relation to any of the affected land or waters unless the grant of the licence is not a future act,*

*that an application has been made.*

***(4A) A notice under subsection (4) is to contain -***

***(a) a description of the affected land or waters of the land;***  
***(b) a statement to the effect that a map showing the proposed route of the proposed pipeline may be examined at the place or places, and at the times, specified in the notice;***  
***and***

***(c) a statement to the effect that -***

***(i) the council, person or body may, within 28 days after the date of service of the notice, lodge in writing with the Minister representations about the grant of the licence; and***

***(ii) if there are no registered native title claimants or registered native title bodies corporate in relation to any of the affected land or waters, the representative Aboriginal/Torres Strait Islander body in relation to any of the affected land or waters may, within 28 days after being served with the notice, lodge in writing with the Minister comments on the grant of the licence.***

***(5) The Minister shall, as soon as practicable after receiving an application for a licence, and at the expense of the applicant, publish***

***-***

***(a) in the Gazette;***

***(b) in a daily newspaper circulating generally in the Territory; and***

***(c) in such other newspapers as the Minister thinks fit, a notice that he has received the application and that a map showing the proposed route of the proposed pipeline may be examined at the place or places, and at the times, specified in the notice.***

***(6) The Minister may direct an applicant for a licence to inform such other persons as the Minister thinks fit that the application has been made.***

***14. Refusal of licence***

***(1) The Minister shall not refuse an application made under section 13 unless he has -***

***(a) by instrument in writing served on the applicant, given not less than 90 days notice of his intention to refuse the application;***

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

***(c) in the instrument -***

- (i) given the reason for his intention to refuse the application; and*
- (ii) specified a date on or before which the applicant or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit matters that he wishes the Minister to consider; and*
- (d) taken into account the matters submitted to him under paragraph (c)(ii) on or before the specified date.*

*(2) [Omitted]*

*15. Grant of licence*

*(1) Where 28 days have elapsed since the date on which the last of the notices required by section 13(5) to be published was published, the Minister may, after taking into consideration any representations and comments lodged in accordance with the statement referred to in section 13(4a)(c) and the matters referred to in subsection (2), grant to the applicant a licence in respect of the proposed pipeline and shall cause to be published in the Gazette a notice that the licence has been granted.*

*(2) In considering an application for a licence the Minister shall have regard to -*

- (a) the public interest;*
- (b) the financial and technical ability of the applicant to construct, operate and maintain the proposed pipeline;*
- (c) whether the construction of the proposed pipeline or any apparatus or works on the land specified in the application would contravene the development provisions, or an interim development control order, under the Planning Act;*
- (d) whether the construction of the proposed pipeline or apparatus or works would be likely to interfere unnecessarily with -*
  - (i) improvements on;*
  - (ii) flora, fauna, fish, fisheries and scenic attractions on or in the vicinity of; or*
  - (iii) any features of architectural, archaeological, historical or geological interest on or in the vicinity of,*  
*the land specified in the application; and*
- (e) the effect that the grant of the licence would have or be likely to have on registered native title rights and interests or, if there are no registered native title rights or interests in relation to any of the affected land or waters, any comments lodged by representative Aboriginal/*

*Torres Strait Islander bodies in accordance with the statement referred to in section 13(4A)(c).*

*15A. Licensing of exempt pipelines*

*(1) The Minister may, by notice in writing served on the owner or operator of a pipeline -*

*(a) referred to in section 4(1)(b); or*

*(b) specified in a notice under section 4(2),*

*direct the owner or operator to apply for the grant of a licence under this section in respect of the pipeline.*

*(2) An application for the grant of a licence under this section shall be -*

*(a) made in a form and manner approved by the Minister; and*

*(b) accompanied by such particulars as the Minister may require.*

*(3) The Minister shall, on receiving an application for the grant of a licence under this section -*

*(a) grant the licence; or*

*(b) require the applicant to provide such further particulars as the Minister may require and, on receiving such particulars, grant the licence.*

*(4) Where the Minister grants a licence under subsection (3), the Minister shall cause to be published in the Gazette a notice that the licence has been granted.*

*(5) Where under subsection (1) a notice is served on the owner or operator of a pipeline, section 4(1)(b) or the notice under section 4(2), as the case may be, shall cease to apply to and in relation to the pipeline at the expiration of 6 months, or such longer period as the Minister may approve, after the date of the service of the notice.*

*(6) A pipeline referred to in subsection (5) shall not be operated after the expiration of the period referred to in that subsection unless -*

*(a) a licence has been granted under this section in respect of that pipeline; and*

*(b) the operation of the pipeline is in accordance with this Act.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*(7) Notwithstanding section 30, a licence fee is not payable under that section in respect of the first year of the term of a licence granted under this section.*

*16. Renewal of licence*

*(1) A licensee may, from time to time, make an application for the renewal of his licence.*

*(2) An application under subsection (1) -*

*(a) shall, subject to subsection (3), be made not less than 6 months before the day the licence will otherwise cease to be in force;*

*(b) shall be made in a form and manner approved by the Minister;*

*(c) shall be accompanied by the prescribed fee; and*

*(d) may, if the period for which the renewal is sought is less than 21 years, indicate that lesser period and give reasons for so doing.*

*(3) The Minister may, for reasons he thinks fit, receive an application for the renewal of a licence less than 6 months before it will otherwise cease to be in force, but not in any case after the day on which the licence ceases to be in force.*

*(3A) The Minister may, on receiving an application under this section, renew the licence to which the application relates.*

*(3B) The Minister may renew a licence under subsection (3A) subject to the conditions to which the licence was subject immediately before the renewal, or those conditions varied, omitted or added to as the Minister thinks fit and specifies on the renewed licence.*

*(3C) Before renewing a licence on additional or varied conditions, the Minister must consult with the licensee and have regard to representations made by the licensee in relation to the proposed additional or varied conditions.*

*(4) The Minister shall not refuse an application for the renewal of a licence unless he has -*

*(a) by instrument in writing served on the licensee, given not less than 90 days notice of his intention to refuse the application;*

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

*(c) in the instrument -*

*(i) given the reason for his intention to refuse the application; 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 matters that he wishes the Minister to consider; and*

*(d) taken into account the matters submitted to him under paragraph (c)(ii) on or before the specified date.*

**(5) [Omitted]**

**(6) Where -**

**(a) an application for the renewal of a licence is made under this section; and**

**(b) the licence otherwise ceases to be in force before the application is granted or refused,**

**the licence shall be deemed to continue in force in all respects until the application is granted or refused.**

**17. 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 the generality of subsection (1), the conditions referred to in that subsection may include conditions that the licensee shall -**

**(a) within such time as is specified in an instrument in writing served on him by the Minister and before commencing the construction of the pipeline specified in the licence, lodge with the Minister security in such amount, not exceeding \$50,000 or such other amount as is prescribed, and in such manner and form, and from such persons, as approved by the Minister and specified in the notice;**

**(b) complete the construction of, and commence to operate, the pipeline within the period specified in the licence;**

**(c) take such measures as the Minister, by instrument in writing served on the licensee, requires to be taken within the time specified in the notice, with respect to the conservation and protection of the flora, fauna, fish, fisheries and scenic attractions, and features of architectural, archaeological, historical or geological interest and the reinstatement, levelling, regrassing, reforesting and contouring of any land which may be damaged or deleteriously affected by the licensee; and**

**(d) take the measures specified in the licence for the purpose of minimising the impact of the grant of the licence on native title rights and interests.**

**18. Security**

**(1) [Omitted]**

**(2) A security given in accordance with a form approved under section 17(2)(a) by the Minister, although it is not sealed, binds the person subscribing to it as if it were sealed.**

**(3) Whenever a security referred to in section 17(2)(a) is put in suit, the production of the security entitles the Minister, without further**

*proof, to judgment for the amount claimed, against the person appearing to have executed the security, unless that person proves -*

- (a) compliance with conditions of the security;*
- (b) that the security was not executed by him; or*
- (c) release or satisfaction.*

*(4) If it appears to the court, in a suit referred to in subsection (3), that non-compliance with a condition of a security given under this Act has occurred, the security shall not be discharged or invalidated, and the subscriber shall not be released or discharged from liability, by reason of -*

- (a) an extension of time or other concession;*
- (b) consent to, or acquiescence in, a previous non-compliance with a condition; or*
- (c) failure to bring suit against the subscriber upon the occurrence of a previous non-compliance with the condition.*

*(5) If there are several subscribers to a security referred to in section 17(2)(a), they are bound, unless the security otherwise provides, jointly and severally and for the full amount of the security.*

*(6) A security referred to in section 17(2)(a) may be sued on for non-compliance with the conditions of the licence to which the security relates.*

*19. Term of licence*

*(1) A licence -*

- (a) not being a renewal of a licence, comes into force on the day specified for the purpose in the licence; and*
- (b) being a renewal of a licence, comes into force on the day after the day on which the last previous licence in respect of the same pipeline ceases to be in force,*

*and, subject to this Act, remains in force for such period commencing on that day and not exceeding 21 years as is specified in the licence.*

*(2) [Omitted]*

*20. Variation of conditions of licence etc.*

*(1) A licensee may apply to the Minister for the Minister to vary, suspend or waive a condition of the licensee's licence, other than a condition to which section 21A applies.*

*(2) Subject to subsection (2A), an application under subsection (1) shall be accompanied by a fee of \$500 or, where another amount is prescribed as the fee for the purposes of this section, that other amount.*

*(2A) The Minister may waive the fee payable under subsection (2).*

*(3) The Minister may, by notice in writing, require the applicant to -*



*(a) give notice of the application to such persons, if any, as the Minister thinks fit; and*

*(b) furnish to the Minister within the time specified in the notice, such further information in connection with the application as the Minister requires to enable the Minister to determine the application.*

*(4) The Minister may, by notice served on the licensee, determine an application under this section by varying, suspending or waiving a condition of the licence to such extent and subject to such conditions, if any, as the Minister thinks fit, or may refuse to vary, suspend or waive a condition.*

*21. Variation of licence because of legislative requirements*

*(1) Where a licensee is required to vary the route of a proposed pipeline as the result of an Act or instrument of a legislative or administrative character, including an Act or instrument of the Commonwealth, the licensee may apply to the Minister for a variation of the licence to enable the licensee to comply with the requirement.*

*(2) On receipt of an application under subsection (1) and after giving the notice and taking the steps that the Minister thinks fit, the Minister may vary the licence to the extent required to enable the licensee to comply with the requirement.*

*(3) The Minister must not vary a licence under subsection (2) unless satisfied that the applicant has made suitable arrangements for the acquisition of land, or easements or other interests over land, sufficient to accommodate the variation of the route.*

*21A. Variation of route or area on application*

*(1) A licensee may apply to the Minister for the Minister to vary the route of the pipeline or the licence area specified in the licence.*

*(2) An application under subsection (1) may be made before the construction of the pipeline has commenced, during its construction or after construction has been completed and, where the construction has been completed, whether or not the Minister's consent under section 38 to the commencement or resumption of operations or the testing of the pipeline has been given.*

*21B. Application to vary route and licence*

*(1) An application under section 21A before the completion of the pipeline or for a relocation of or alteration to an existing pipeline, shall be accompanied by -*

*(a) details of the proposed variation;*

*(b) the reasons for the proposed variation; and*

*(c) a fee of \$1,000 or, where another amount is prescribed as the fee for the purposes of this paragraph, that other amount.*

*(2) As soon as practicable after the making of an application referred to in subsection (1), the applicant shall serve notice on -*

*(a) each council within whose municipality or community government area any land that would be affected by the granting of the variation is situated;*

*(b) each owner and occupier of land specified in the application;*

*(ba) the registered native title claimants and registered native title bodies corporate (if any) in relation to any affected land or waters;*

*(baa) the representative Aboriginal/Torres Strait Islander bodies in relation to any of the affected land or waters unless the grant of the licence is not a future act;*

*(c) each person, if any, who holds a right of way or other easement over a relevant part of such land; and*

*(d) each permittee or licensee, if any, who holds a permit or licence in respect of any part of such land,*

*that the application has been made.*

*(2A) A notice under subsection (2) is to contain -*

*(a) details of the proposed variation; and*

*(b) a statement to the effect that -*

*(i) the council, person or body may, within 7 days after the date of service of the notice or the further time allowed in writing by the Minister, lodge in writing with the Minister representations about the grant of the licence; and*

*(ii) if there are no registered native title claimants or registered native title bodies corporate in relation to any of the affected land or waters, the representative Aboriginal/Torres Strait Islander body in relation to any of the affected land or waters may, within 7 days after being served with the notice or the further time allowed in writing by the Minister, lodge in writing with the Minister comments on the grant of the licence.*

*(3) In determining whether or not to vary a licence in accordance with an application under subsection (1), the Minister must have*

*regard to any representations and comments lodged in accordance with the statement referred to in subsection (2A)(b).*

*(4) [Omitted]*

*(5) The Minister shall not vary a licence as the result of an application referred to in subsection (1) unless satisfied that the variation is justified in the circumstances and reflects good pipeline construction and operating practice.*

*21C. Application to vary licence area*

*(1) An application under section 21A for the Minister to vary the licence area made after construction of the pipeline had been completed shall be accompanied by -*

*(a) details of the proposed variation describing the area it is proposed should remain subject to the licence; and*

*(b) the prescribed fee, if any.*

*(2) The Minister shall not vary a licence as a result of an application referred to in subsection (1) except to accurately reflect the route of the pipeline on completion of construction and to reduce the licence area but so that, except where the Minister is satisfied that the exigencies of the case so require, the licence area is not in any place narrower than 25 m having as its centreline an imaginary line connecting markers erected in accordance with section 39(a) or directions given under section 40.*

*21D. Determination of application*

*Subject to sections 21B and 21C, the Minister may, by notice served on the licensee, determine an application under section 21A by varying the route of the pipeline or the licence area to such extent and subject to such conditions, if any, as the Minister thinks fit, or may refuse to vary the licence.*

*22. Easements over Crown lands*

*Subject to the Native Title Act but despite anything in this Act or another Act or anything in a licence or an instrument of a legislative or administrative character relating to unalienated Crown lands, the Administrator, on the recommendation of the Minister for the time being responsible for the Crown Lands Act may, upon such terms and conditions, and subject to the payment of such fee, as the Administrator thinks fit, grant to a licensee a lease, easement, licence or other authority necessary or expedient to enable the licensee -*

*(a) to construct the pipeline specified in the licensee's licence over Crown lands; and*

*(b) to operate, inspect, maintain and repair that pipeline.*

*23. Exemptions, &c.*

*(1) Subject to subsection (2), where -*

- (a) a licence is, under this Act, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the licence;*
- (b) a licence is varied under section 20;*
- (c) a licence is cancelled as to part of the pipeline in respect of which it is in force;*
- (d) a licensee applies, by instrument in writing served on the Minister, for a variation or suspension of, or exemption from compliance with, a condition to which the licence is subject; or*
- (e) the Minister, under this Act, gives a direction or consent to a licensee,*

*the Minister may, on application by the licensee, by instrument in writing served on the licensee, vary or suspend, or exempt the licensee from complying with, a condition to which the licence is subject, upon such conditions, if any, as the Minister thinks fit and specifies in the instrument.*

*(2) Nothing in subsection (1) empowers the Minister to alter the term of a licence.*

#### *24. Surrender of licence*

*(1) A licensee may, at any time, by instrument in writing served on the Minister, apply for consent to surrender his licence as to the whole or a part of the pipeline in respect of which it is in force.*

*(2) Subject to subsection (3), the Minister shall not give his consent to the surrender of a licence unless the licensee -*

- (a) has paid all amounts payable by him under this Act or has made arrangements which are satisfactory to the Minister for the payment of those amounts;*
- (b) has complied with the conditions to which the licence is subject and with the provisions of this Act and the Regulations;*
- (c) has, where the Minister, by instrument in writing served on the licensee, required him to do so, caused to be published in such newspapers as are specified in the instrument, notice of the licensee's intention to apply for consent to surrender the licence as to the whole or a part of the pipeline in respect of which it is in force and has, in that notice, specified a date, not being earlier than 28 days after publication of the notice, on or before which any person having an interest in land in the licence area may, by instrument in writing served on the Minister, submit any matter that he wishes the Minister to consider in connection with the application for the consent; and*

*(d) has, to the extent that he is required to do so by, and to the satisfaction of, the Minister, removed or caused to be removed from the area to which the proposed surrender relates, property brought into that area by any person engaged or concerned in the operations authorized by the licence, or has made arrangements that are satisfactory to the Minister for the removal or disposal of that property.*

*(3) Where a licensee has not complied with the conditions to which this licence is subject and with the provisions of this Act and the Regulations, the Minister may consent to an application under subsection (1) if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify his consent to the application.*

*(4) Where the Minister consents to an application under subsection (1), the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.*

*25. Cancellation of licence for breach of condition*

*(1) Subject to subsection (2), where a licensee -*

*(a) has not complied with a condition to which the licence is subject;*

*(b) has not complied with a provision of this Act or the Regulations; or*

*(c) has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable,*

*the Minister may, on that ground, by instrument in writing served on the licensee, cancel the licence as to the whole or a part of the pipeline in respect of which it is in force.*

*(2) A licence shall not be cancelled under subsection (1) unless the Minister has -*

*(a) by instrument in writing served on the licensee, given not less than 28 days notice of his intention to cancel the licence and the grounds for his so doing;*

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

*(c) in the instrument, 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 matter that he wishes the Minister to consider in connection with the cancellation of the licence;*

*(d) caused to be published in such newspapers as he thinks fit, notice of his intention to cancel the licence and the ground for his so doing and has, in that notice, specified a*

*date on or before which a person having an interest in land in the licence area may submit any matter that he wishes the Minister to consider in connection with the cancellation of the licence; and*

*(e) taken into account -*

- (i) any action taken by the licensee to remove the grounds for cancellation of his licence or to prevent the recurrence of similar grounds; and*
- (ii) particulars of matters submitted under paragraph (c) or (d) on or before the date specified under the relevant paragraph.*

*26. Variation of licence in public interest*

*(1) The Minister may -*

*(a) at the request of -*

- (i) a minister, Commonwealth Minister or State Minister; or*
- (ii) a body established by a law of the Territory or of the Commonwealth; and*

*(b) if, in his opinion, it is in the public interest so to do and the minister or body making the request has given security, to the satisfaction of the Minister, for the payment of any amount payable under subsection (5) to a licensee,*

*by instrument in writing served on the licensee, direct the licensee to make such changes in the route or position of the licensee's pipeline, and within such times, as are specified in the instrument.*

*(1A) The Minister must not make a direction under subsection (1) unless satisfied that the applicant has made suitable arrangements for the acquisition of land, or easements or other interests over land, sufficient to accommodate the changes in the route or position of the pipeline.*

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

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*(3) Where the Minister gives a direction under subsection (1) and the licensee to whom the direction is given complies with the direction, the licensee may bring an action in the Supreme Court against the minister or body making the request for compensation of the expenses incurred by him in complying with the direction.*

*(4) The Supreme Court shall hear the action referred to in subsection (3) and shall determine whether it is just that the whole or a portion*

*of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.*

*(5) If the Supreme Court determines that compensation referred to in subsection (4) ought to be made, it shall determine the amount of the compensation and give judgment accordingly.*

*27. Cancellation of licences not affected by other provisions*

*(1) A licence may be wholly or partly cancelled on the grounds that the licensee has not complied with a provision of this Act or the Regulations, notwithstanding that he has been convicted of an offence by reason of his failure so to comply.*

*(2) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the grounds that he has not complied with a provision of this Act or of the Regulations, may be found guilty of an offence by reason of his failure to comply with the provision, notwithstanding that the licence has been so cancelled.*

*(3) A licence may be wholly or partly cancelled on the grounds that the licensee has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable, notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.*

*(4) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the grounds that he has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable, continues to be liable to pay that amount together with any additional amounts payable by reason of late payment of that amount, notwithstanding that the licence has been so cancelled.*

*28. Removal of property, &c., by licensee*

*(1) Where a licence has been wholly or partly cancelled, or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the licensee, direct that person to -*

*(a) remove or cause to be removed from the relinquished area the property specified in the instrument, being property that was brought into that area by a person engaged or concerned in the operations authorized by the licence, or to make arrangements that are satisfactory to the Minister for the removal or disposal of that property; and*

*(b) make good, to the satisfaction of the Minister, any damage to the relinquished area caused by a person*

*engaged or concerned in the operations authorized by the licence or caused by the removal of property under a direction referred to in paragraph (a), whether or not it was removed in a manner specified in the direction.*

*(2) The Minister may, by instrument in writing served on a licensee, direct him to -*

*(a) remove or cause to be removed from the licence area the property specified in the instrument, being property that was brought into that area by a person engaged or concerned in the operations authorized by the licence, or to make arrangements that are satisfactory to the Minister for the removal or disposal of that property; and*

*(b) make good, to the satisfaction of the Minister, any damage to the licence area caused by a person engaged or concerned in the operations authorized by the licence or caused by the removal of property under a direction referred to in paragraph (a), whether or not it was removed in a manner specified in the direction.*

*(3) A direction under subsection (1)(a) or (2)(a) may specify the manner in which the property specified in the direction shall be removed.*

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

*(a) in the case of a direction given under subsection (1) - within the period specified in the instrument by which the direction was given; and*

*(b) in the case of a direction given under subsection (2) - on or before the expiration of the licence.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*29. Powers of Minister to enforce direction*

*(1) Where a licence has been wholly or partly cancelled, or has expired, and -*

*(a) a direction referred to in section 28(1)(a) or (2)(a) for the removal of property from the relinquished or licence area has not been complied with, the Minister may, by notice in the Gazette, direct that the owner or owners of the property shall remove it from that area within the period specified in the instrument and the Minister shall cause a copy of the instrument to be served on each person whom he believes to be an owner of that property or part of that property;*



*(b) a direction referred to in section 28(1)(a) or (2)(a) for the removal of property from the relinquished or licence area has been complied with, but damage to the area caused by the removal of the property has not been made good to the satisfaction of the Minister, the Minister may make good the damage in such manner as he thinks fit; or*

*(c) a direction referred to in section 28(1)(b) or (2)(b) has not been complied with, the Minister may do any of the things required by the direction to be done.*

*(2) Where property has not been removed from the relinquished or licence area in accordance with a direction under subsection (1)(a), the Minister may -*

*(a) remove, in such manner as he thinks fit, that property from the area;*

*(b) dispose of, in such a manner as he thinks fit, any of that property; and*

*(c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be the owner of the property or part of the property, sell, by public auction or otherwise, as he thinks fit, any part of that property that belongs, or that he believes to belong, to that person.*

*(3) The Minister may deduct from the proceeds of a sale under subsection (2) of property that belongs, or that he believes to belong, to a person, any part of -*

*(a) the costs and expenses incurred by the Minister under that subsection in relation to that property;*

*(b) the costs and expenses incurred by the Minister in relation to the doing of any thing required by a direction under section 28(1) or (2) to be done by that person; and*

*(c) the fees or amounts due and payable under this Act by that person.*

*(4) Costs and expenses incurred by the Minister under subsection (2), if incurred in relation to -*

*(a) the removal, disposal or sale of property or the making good of damage caused by the removal of property; or*

*(b) the doing of a thing required by a direction under section 28(1)(b) or (2)(b),*

*are a debt due and payable by the person to whom the direction was given to the Territory and, to the extent to which they are not recovered under subsection (3), are recoverable in a court of competent jurisdiction.*

***(5) Subject to subsection (4), no action lies in respect of the removal, disposal or sale under this section of property.***

***30. Licence fees***

***(1) There is payable to the Minister by a licensee, at the times specified in subsection (2), a licence fee of \$100 or, if the fee calculated in accordance with the following formula would be higher, the licence fee calculated in accordance with the formula -***

***A = B x C x D,***

***where -***

***A is the fee payable;***

***B is the unit amount prescribed by the Regulations for the purposes of this section or, where no amount is prescribed, \$3;***

***C is the average internal diameter of the pipeline expressed in metres; and***

***D is the length of the pipeline expressed in metres.***

***(2) The fee referred to in subsection (1) is payable on the expiration of 28 days after -***

***(a) in the case of the first year of the term of the licence - the day on which that term commences; and***

***(b) in the case of each year of the term of a licence other than the first - the anniversary of the day on which that term commenced.***

***31. Penalty for late payment***

***Where the liability of a licensee to pay a fee referred to in section 30 is not discharged at or before the time when the fee is payable, there is payable to the Minister by the licensee an additional amount calculated at the rate of 0.33% per day upon the amount of the whole fee from the time when the fee became payable until it is paid.***

***32. Fees and penalties debts due to Territory***

***A fee under section 30, or an amount payable under section 31, is a debt due and payable by the licensee to the Territory.***

#### ***PART IV - CONSTRUCTION, OPERATION AND MAINTENANCE OF PIPELINE***

***33. [Repealed]***

***34. Construction to comply with prescribed standards***

***(1) Subject to subsections (2) and (3) but notwithstanding any other requirement of this Part, a pipeline shall be constructed in accordance with the prescribed standards, specifications and***

*conditions and such other standards, specifications and conditions as are specified in the licence in respect of the pipeline.*

*(2) Where there is a conflict between a prescribed standard or specification and a standard or specification specified in the licence in respect of a pipeline, the latter shall prevail.*

*(3) Where there is a conflict between a prescribed standard or specification, or a standard or specification specified in the licence in respect of the pipeline, and a direction given under section 40(1) to the licensee, the direction shall prevail.*

*35. Restoration of agricultural land after construction*

*(1) Where a pipeline enters or crosses agricultural land, the licensee shall, at his expense, immediately after the completion of the construction of the part of the pipeline that enters or crosses that land, restore the land to enable it to be used as far as practicable for the purposes for which it was used immediately before that construction.*

*(2) Where a licensee fails to restore land, as required by subsection (1), a person entitled to an interest in the land may restore the land and recover from the licensee, in a court of competent jurisdiction, the expenses reasonably incurred by him in carrying out that restoration.*

*(3) The recovery of expenses under subsection (2) does not affect any right to compensation in respect of the land that the person who restores land in accordance with that subsection, or any other person, may have under this Act.*

*(4) The Minister may, at any time, on the request of a person entitled to an interest in land, include among the conditions of the licence affecting that land such conditions as he thinks fit to ensure that the land is maintained in a suitable condition and that noxious weeds and vermin are controlled.*

*36. Pipeline crossing water*

*Where the route of a pipeline is such that the pipeline passes over or under water, the pipeline shall be constructed over or under that water in such a manner that the construction and the pipeline as constructed will not unreasonably affect or impede anything or anyone lawfully using that water.*

*Penalty: 50 penalty units.*

*37. Ceasing to operate pipeline*

*(1) Subject to subsection (2), except with the consent in writing of the Minister and subject to compliance with such conditions, if any, as are specified in the instrument of consent, a licensee shall operate continuously the pipeline specified in his licence.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*(2) It is not an offence against subsection (1) if the failure of the licensee to operate the pipeline continuously -*

*(a) was in the ordinary course of operating the pipeline;*

*(b) was for the purpose of repairing or maintaining the pipeline; or*

*(c) was in an emergency in which there was a likelihood of loss or injury.*

*37A. Abandonment of pipeline*

*(1) The owner of a pipeline who intends to abandon the pipeline must,*

*not later than 3 months after there ceases to be a licence in force in relation to the pipeline, apply to the Minister in writing for approval to abandon the pipeline.*

*Penalty: In the case of a natural person - 20 penalty units.*

*In the case of a body corporate - 100 penalty units.*

*(2) The Minister may, after receiving an application under subsection (1), by notice to the owner, approve, or refuse to approve, the abandonment of the pipeline specified in the notice on the conditions, if any, specified in the notice.*

*(3) An owner of a pipeline may only abandon the pipeline in accordance with -*

*(a) the prescribed standards; and*

*(b) the conditions, if any, specified in the notice under subsection (2).*

*Penalty: In the case of a natural person - 10 penalty units and 2 penalty units for each day during which the offence continues.*

*In the case of a body corporate - 50 penalty units and 10 penalty units for each day during which the offence continues.*

*38. Consent to commencement or resumption of operations or testing of pipeline*

*(1) The Minister may, on application in writing served on the Minister by a licensee whose pipeline has not previously been in operation, if of the opinion that the pipeline is constructed to the required standards and may with safety be tested, by instrument in writing served on the licensee, consent to the testing of the pipeline.*

*(1A) The Minister may, on application in writing, served on the Minister by a licensee who has ceased, otherwise than for a reason referred to in section 37(2) to operate a pipeline specified in the*

*licence or whose pipeline has not previously been in operation but has been tested in pursuance of subsection (1), if of the opinion that the pipeline has been maintained or repaired or tested, as the case may be, to the required standard and may safely be operated, by instrument in writing served on the licensee, consent to the commencement or resumption of operations, as the case may be.*

*(2) A consent under subsection (1) or (1A) may be subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument of consent.*

*(2A) Without limiting the generality of subsection (2), the Minister may require the licensee to take out and maintain a policy of insurance of a kind approved by the Minister against claims resulting from any injury to a person or to land (including the licence area) or personal property as the result of anything done in pursuance or purported pursuance of the licence or a condition of the licence or a direction or other authority under this Act, and to insure and indemnify the Minister and the Territory against any such claims.*

*(3) A person must not -*

*(a) test a pipeline;*

*(b) allow the introduction of an energy-producing hydrocarbon into a pipeline referred to in subsection (1A); or*

*(c) operate a pipeline referred to in subsection (1A),*

*except in accordance with a consent granted under this section.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate -  
1000 penalty units.*

*(4) In this section "operate" means deliver energy-producing hydrocarbons at the point of outlet for commercial use or further delivery or processing.*

*38A. Statutory restrictions for purposes of Real Property Act*

*(1) The Minister cannot consent under section 38(1A) to the commencement of operations in relation to a pipeline unless the licensee has provided to the Minister -*

*(a) detailed drawings of the pipeline as constructed, indicating where the pipeline is located and the 25 m wide corridor referred to in section 66 in relation to the pipeline, that are suitable for incorporation into a memorandum to be given by the Minister under subsection (2); and*

*(b) evidence that the licensee has given notice to each person whose operations on or interest in the land shown in the detailed drawings may be affected by the operation of section 66 of the nature of the restrictions that are placed on the use or occupation or any dealing with the land.*

***(2) The Minister must, within 60 days after receiving information supplied under subsection (1), lodge with the Registrar-General a memorandum under section 191B of the Real Property Act in relation to the land referred to in subsection (1)(a).***

***39. Duties of licensee in relation to pipeline***

***A licensee shall -***

- (a) mark and keep marked, in the prescribed manner, the route of the pipeline specified in his licence;***
- (b) maintain the pipeline in good condition and repair;***
- (c) not permit or suffer the waste or escape of any substance from the pipeline; and***
- (d) remove from the licence area all structures, equipment and other property that are neither being used nor proposed to be used in connection with the operation of the pipeline.***

***Penalty: In the case of a natural person - 200 penalty units.***

***In the case of a body corporate - 1000 penalty units.***

***40. Directions***

***(1) The Minister may, by instrument in writing served on a licensee, give to the licensee directions as to any matter in respect of which regulations may be made under this Act.***

***(2) A direction under subsection (1) has effect and shall be complied with notwithstanding anything in the Regulations and, to the extent to which the Regulations are inconsistent with the direction, the licensee to whom the direction is given is not obliged to comply with the Regulations.***

***(3) A licensee to whom a direction under subsection (1) is given shall comply with and not contravene the direction.***

***Penalty: In the case of a natural person - 200 penalty units.***

***In the case of a body corporate - 1000 penalty units.***

***41. Compliance with directions***

***(1) Where a person does not comply with a direction given to him under this Act, 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 and payable to the Territory by the person to whom the direction was given.***

***(3) It is a defence to a prosecution for an offence of failing to comply with a direction given to him under this Act or for the recovery of a debt under subsection (2) if the person charged or against whom the recovery action is taken, as the case may be, proves that he took all reasonable steps to comply with the direction.***

42. *Directions as to conveyances of energy-producing hydro-carbons*

**(1) Where -**

**(a) a person, by instrument in writing served on a licensee, requests the licensee to enter into an agreement for the conveyance of energy-producing hydro-carbons through the pipeline specified in the licensee's licence; and**

**(b) that person and the licensee do not, within 3 months after the instrument is served on the licensee, enter into such an agreement,**

**that person may apply to the Minister for a direction under this section.**

**(1A) Subsection (1) does not apply in relation to a pipeline, or a part of a pipeline, that is a Covered Pipeline within the meaning of the Gas Pipelines Access (Northern Territory) Law as defined in the Gas Pipelines Access (Northern Territory) Act.**

**(2) An application under this section -**

**(a) shall be made in a form and manner approved by the Minister; and**

**(b) shall set out the matters that the applicant wishes the Minister to consider in relation to the application.**

**(3) The Minister -**

**(a) shall serve notice of an application under subsection (2) on the licensee concerned;**

**(b) may serve notice of the application on such other persons as he thinks fit; and**

**(c) shall specify in a notice served under this subsection a date on or before which the licensee or other person, if any, on whom the notice is served may submit to the Minister in writing matters that he wishes the Minister to consider in connection with the application.**

**(4) After considering matters submitted to him under subsection (3) on or before the specified date and such other matters as he thinks fit, the Minister, by instrument in writing served on the licensee and the applicant -**

**(a) may give to the licensee and to the applicant, and may give to any other person lawfully entitled to use the pipeline, such directions as he thinks fit for or in relation to the use of the pipeline by the licensee, the applicant and such other person; or**

**(b) may refuse the application.**

**(5) Without limiting the generality of subsection (4), directions under subsection (4)(a) may include a direction as to the amount to be paid**

*to the licensee by the applicant and any other person lawfully entitled to use the pipeline.*

*(6) A person to whom a direction under subsection (4) is given shall comply with and not contravene the direction.*

*Penalty: In the case of a natural person - 40 penalty units and 2 penalty units for each day during which the offence continues.*

*In the case of a body corporate - 200 penalty units and 10 penalty units for each day during which the offence continues.*

*43. Power of Minister to ensure continued use of pipeline*

*(1) Where a licence has, after completion of the construction of the pipeline to which it relates -*

- (a) expired and not been renewed;*
- (b) been surrendered; or*
- (c) been cancelled,*

*a person who wishes to operate the pipeline in the place of the former licensee may apply to the Minister for a licence so to do.*

*(2) An application for a licence under this section shall -*

- (a) be made in a form and manner approved by the Minister; and*
- (b) be accompanied by particulars of -*

*(i) the pipeline which the applicant proposes to operate;*

*(ii) the financial resources of the applicant;*

*(iii) if the applicant is a corporation, each of the persons holding more than 5% of the issued shares in the corporation and of a corporation deemed by section 50 of the Corporations Law to be a related corporation; and*

*(iv) any agreement made or proposed to be made with the former licensee for the acquisition or use of the pipeline.*

*(3) Where an applicant under subsection (1) has entered into negotiations with the former licensee for the acquisition or use of the pipeline the subject of the application but has been unable to reach agreement on the terms upon which he shall acquire or use the pipeline, he shall inform the Minister of that fact when making the application and may, if there are to his knowledge no other persons engaged in negotiations with the former licensee for the operation of the pipeline, request the Minister to issue directions under this section and submit to the Minister in writing any matters which he wishes the Minister to consider in connection with the request.*



- (4) On receipt of a request under subsection (3), the Minister -*
- (a) shall serve notice of the request on the former licensee;*
  - (b) may serve notice of the request on such other persons as he thinks fit; and*
  - (c) shall specify in the notice served under this subsection a date on or before which the former licensee or other person, if any, on whom a notice is served may submit to the Minister, in writing, matters which he wishes the Minister to consider in connection with the request.*
- (5) Subject to subsections (5A) and (6), the Minister may, where an application under subsection (2) does not include a request under subsection (3), either -*
- (a) grant a licence; or*
  - (b) refuse to grant a licence.*
- (5A) The Minister must not grant a licence under subsection (5) unless satisfied that the applicant has made suitable arrangements for the acquisition of land, or easements or other interests over land, sufficient to accommodate the pipeline.*
- (6) A licence granted under this section may be subject to such conditions applicable to a licence granted under Part III as the Minister thinks fit and specifies in the licence.*
- (7) Where an application under subsection (2) includes a request under subsection (3), the Minister, if satisfied that there are no other persons engaged in negotiations with the former licensee for the operation of the pipeline and, after considering matters submitted to him under subsection (4)(c) on or before the specified date and such other matters as he thinks fit, may, by instrument in writing served on the applicant and the former licensee -*
- (a) give notice to the applicant and the former licensee requiring them to continue their negotiations for such further period, not exceeding 3 months, as he specifies in the instrument; or*
  - (b) give to the applicant and to the former licensee such directions as he thinks fit for and in relation to the operation of the pipeline by the applicant,*
- and at the same time, or at the expiration of the period specified in paragraph (a), he may -*
- (c) refuse to grant a licence; or*
  - (d) grant a licence.*
- (8) Where, at the expiration of 3 months after the expiry, surrender or cancellation of a licence, 2 or more persons have entered into negotiations with the former licensee for the acquisition or use of the pipeline but no agreement has been reached as to the terms upon*

*which the pipeline may be used or acquired by any of them, the Minister may, by instrument in writing served on the former licensee, require the former licensee to submit to him such particulars of the negotiations as he specifies in the instrument and the Minister may, on receipt of the required particulars and after obtaining the comments of the other parties to those negotiations, issue to the former licensee and to all or any of the other parties to the negotiations, such directions in respect of the terms on which the pipeline may be acquired or used as the Minister thinks fit.*

*(9) Without limiting the generality of subsection (7) or (8), directions under subsection (7)(b) may include a direction as to the amount to be paid to the former licensee for the use of the pipeline.*

*(10) A person to whom a direction under subsection (7) or (8) is given shall comply with and not contravene the direction.*

*Penalty: In the case of a natural person - 40 penalty units and 2 penalty units for each day during which the offence continues.*

*In the case of a body corporate - 200 penalty units and 10 penalty units for each day during which the offence continues.*

*(11) If, in the circumstances referred to in subsection (1) -*

- (a) there is no applicant for a licence to operate the pipeline;*
- (b) the Minister refuses to issue a licence to an applicant to operate the pipeline, and there are no other applicants; or*
- (c) an applicant, having made a request to the Minister under subsection (3) for directions, is unable to comply with the directions of the Minister, and there are no other applicants,*

*the Minister may make such arrangements as he thinks fit for the operation of the pipeline by or on behalf of the Territory.*

#### **PART V - REGISTRATION OF LICENCES AND RELATED INSTRUMENTS**

##### *44. Register of licences*

*(1) For the purposes of this Part, but subject to subsection (7), the Registrar shall keep a register of permits and licences.*

*(1A) The register may be kept -*

- (a) in the form or combination of forms;*
  - (b) on the medium or combination of mediums, including but not limited to a computer, micro film or paper; and*
  - (c) in the manner,*
- that the Minister thinks fit.*

***(2) Subject to subsection (4), the Registrar shall enter or cause to be entered in the register a memorial in respect of each permit or licence***

-

***(a) specifying the name of the holder of the permit or licence;***

***(b) in the case of a permit, setting out particulars of the land in respect of which the permit is granted;***

***(c) setting out an accurate description (including a map) of the licence area, the route of the pipeline authorized by the licence and the situation of all fittings, pumps, tanks, appurtenances and appliances used or to be used in connection with each pipeline;***

***(d) specifying the term of the permit or licence; and***

***(e) setting out such other matters as are required by this Part to be entered in the register.***

***(3) Subject to subsection (4), the Registrar shall cause to be entered in the register a memorial of -***

***(a) all instruments varying, cancelling, surrendering or otherwise affecting a permit or licence;***

***(b) all instruments varying or revoking an instrument referred to in paragraph (a); and***

***(c) the expiration of a permit or licence.***

***(4) It is a sufficient compliance with the requirements of subsection (2) or (3) if the Registrar causes a copy of the permit, licence or instrument to be entered in the register.***

***(5) Subject to section 46(1), the registration of a permit, licence or instrument is effective as soon as a memorial complying with subsection (2) or (3), as the case may be, or a copy of the permit, licence or instrument, has been entered in the register.***

***(6) The Registrar shall endorse on each memorial or copy of a registered permit, licence or instrument a memorandum of the date upon which the memorial or copy referred to in subsection (5) was entered in the register.***

***(7) This section does not apply to or in relation to the transfer of a permit or licence.***

***45. Minister may require registration of information***

***Where the Minister is of the opinion that it is in the public interest so to do, he may direct the Registrar to enter in the register such information as the Minister thinks fit in relation to a permittee or licensee as to the terms and conditions of the permit or licence, and the Registrar shall register that information accordingly.***

***46. Approval and registration of transfer***

***(1) A transfer of a licence is of no effect until it has been approved by the Minister and is registered under this section.***

***(2) A registered holder who desires to transfer a licence to another person, or to himself and another person jointly, may make an application for the Minister's approval of the transfer of the licence.***

***(3) An application under this section shall be served on the Registrar and shall be accompanied by an instrument of transfer of the licence in the prescribed form duly executed by the transferor and transferee, together with a copy of that instrument.***

***(4) On receipt of an application under this section, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was served on him and shall make such other notations in the register as the Minister directs.***

***(5) As soon as practicable after the Registrar receives an application under this section he shall forward it to the Minister for the Minister's approval.***

***(6) The Minister shall not approve the transfer of a licence unless it is an absolute transfer of the whole of the transferor's interest in the licence.***

***(7) Subject to subsection (6), the Minister may -***

***(a) approve an application under this section;***

***(b) by instrument in writing served on the transferor, inform the transferor that he is prepared to approve the application if the transferee, within such time as is specified in the instrument, lodges with the Minister security in such amount, and in such form, as is specified in the instrument or takes out and maintains a policy of insurance of a kind approved by the Minister for the purposes referred to in section 38(2A), or both; or***

***(c) refuse the application.***

***(8) Where -***

***(a) the Minister has, under subsection (7)(b), informed the transferor that the transferee will be required to lodge a security; and***

***(b) the transferee has lodged that security with the Minister within the specified time,***

***the Minister shall approve the application.***

***(9) If the Minister approves an application under this section, the Registrar shall forthwith endorse on the instrument of transfer and on the copy a memorandum of approval and, on payment of the prescribed fee, shall enter in the register a memorandum of the transfer and the name of the transferee.***

***(10) Upon the entry in the register of a memorandum of approval referred to in subsection (9), the transferee becomes the registered holder of the licence to which the instrument of transfer relates.***

***(11) The copy of an instrument of transfer endorsed with the memorandum of approval referred to in subsection (9) shall be retained by the Registrar and is subject to inspection in accordance with this Part.***

***(12) An instrument of transfer endorsed as required by subsection (10) shall be returned to the person who lodged the application under subsection (2).***

***47. Entries in register on devolution of rights of registered holder***

***(1) A person upon whom the rights of a registered holder of a permit or licence have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the permit or licence.***

***(2) Where the Minister is satisfied that the interests of the holder of a permit or licence have devolved by operation of law upon a person who has made an application under subsection (1), the Registrar may, on payment of a fee of \$25, cause the name of the applicant to be entered in the register as the holder of the permit or licence.***

***48. Dealing with interests to be in writing***

***A legal or equitable interest in or affecting an existing or future licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument in writing.***

***49. Approval and registration of instrument creating, &c., interests***

***(1) This section applies to an instrument by which a legal or equitable interest affecting a licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section 46 applies.***

***(2) An instrument to which this section applies is of no force or effect until -***

***(a) the instrument has been approved by the Minister; and***

***(b) an entry of the approval of the instrument has been made in the register in accordance with subsection (8).***

***(3) A party to an instrument to which this section applies, or a person having an interest in or in relation to a licence by reason of such an instrument, may make an application for the Minister's approval of the instrument.***

***(4) An application under this section shall be served on the Registrar and shall be accompanied by the instrument and a copy of the instrument.***

*(5) On receipt of an application under this section, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was served on him and shall make such other notations in the register as the Minister directs.*

*(6) As soon as practicable after the Registrar receives an application under this section he shall forward it to the Minister for the Minister's approval.*

*(7) The Minister may approve or refuse an application under this section.*

*(8) If the Minister approves an application under this section, the Registrar shall forthwith cause to be endorsed on the original instrument and on the copy a memorandum of approval and, on payment of the prescribed fee, cause an entry of the approval of the instrument to be made in the register on the memorial relating to, or a copy of, the licence to which the instrument relates.*

*(9) The copy of the instrument to which this section applies, endorsed with the memorandum of approval referred to in subsection (8), shall be retained by the Registrar and is subject to inspection in accordance with this Part.*

*(10) The original of an instrument to which this section applies, endorsed as required by subsection (8), shall be returned to the person who lodged the application under this section.*

*(11) If the Minister refuses an application under this section, the Registrar shall cause a notation of the refusal to be made in the register.*

*50. True consideration to be shown*

*A party to a transfer referred to in section 46 or to an instrument to which section 49 applies, shall not execute the transfer or instrument unless the transfer or instrument fully and truly sets out the true consideration for the transfer or instrument and all other facts and circumstances, if any, affecting the amount of stamp duty payable under the Stamp Duty Act in respect of the transfer or instrument. Penalty: 100 penalty units.*

*51. Minister not concerned with certain matters*

*Neither the Minister nor the Registrar, nor a person acting under the direction or authority of either the Minister or the Registrar, is concerned with the effect in law of an instrument lodged under this Part with the Registrar nor does the approval of an instrument give to it any force, effect or validity that it would not have had if this Part had not been in force.*

*52. Power of Minister to require information as to proposed dealings*

*(1) The Minister may require a person lodging an instrument requiring approval under this Part to furnish to him in writing such*

*information concerning the instrument, or the transaction to which the instrument relates, as the Minister thinks fit.*

*(2) A person who is required under subsection (1) to furnish information shall not furnish information that is false or misleading in a material particular.*

*Penalty: In the case of a natural person - 200 penalty units.*

*In the case of a body corporate - 1000 penalty units.*

*53. Production and inspection of books, records and documents*

*(1) The Minister may require a person to produce to him or make available for inspection by him or a person authorized by him any books, records, documents, maps or plans in the possession or under the control of the first-mentioned person and relating to an instrument requiring approval under this Part or to the transaction to which such an instrument relates.*

*(2) A person shall not fail or refuse to comply with a requirement made of him under subsection (1).*

*Penalty: In the case of a natural person - 10 penalty units.*

*In the case of a body corporate - 100 penalty units.*

*54. Inspection of register and documents*

*(1) Subject to subsection (2), the register and all instruments registered under this Part shall, at all convenient times, be open for inspection by any person upon payment of the prescribed fee.*

*(2) [Omitted]*

*55. Evidentiary provisions*

*(1) The register shall be received by all courts and tribunals as evidence of all matters required or authorized by this Part to be entered in the register.*

*(2) The Minister may, on payment of the prescribed fee, supply copies of, or extracts from, the register, or of or from an instrument lodged under this Part, certified by writing under his hand, and a copy or extract so certified is admissible as evidence in all courts and proceedings without further proof or production of the original.*

*(3) The Minister may, on payment of the prescribed fee, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Part to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.*

*56. Rectification of register*

*(1) A person aggrieved by -*

*(a) the omission of an entry from the register;*

(b) *an entry made in the register without sufficient cause;*  
(c) *an entry wrongly existing in the register; or*  
(d) *an error or defect in an entry in the register,*  
*may apply to the Supreme Court for an order directing the rectification of the register and the Supreme Court may make such order as it thinks fit.*

*(2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.*

*(3) Notice of an application under subsection (1) shall be given to the Minister, who may appear and be heard, and who shall appear if so directed by the Supreme Court.*

*(4) An office copy of an order made under this section by the Supreme Court may be served on the Minister and the Minister shall, upon receipt of the order, cause the register to be rectified accordingly.*

*57. Minister not liable to certain actions*

*Subject to section 58, neither the Minister nor the Registrar, nor a person acting under the direction or authority of either the Minister or the Registrar, is liable to an action, suit or proceeding for or in respect of an act done or omission made in good faith in the exercise or purported exercise of a power or authority conferred by this Part.*

*58. Offences*

*A person who wilfully -*

*(a) makes, causes to be made or concurs in making a false entry in the register; or*

*(b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the register or of or from an instrument lodged with the Minister under this Part,*

*is guilty of an offence.*

*Penalty: In the case of a natural person - 500 penalty units or 2 years imprisonment.*

*In the case of a body corporate - 2500 penalty units.*

*PART VA - ENVIRONMENTAL MANAGEMENT*

*Division 1 - General environmental offences*

*58A. Application*

*This Part does not apply in relation to a substance that is prescribed under the Waste Management and Pollution Control Act to be an ozone-depleting substance.*



58B. Interpretation

**(1) In this Part, unless the contrary intention appears -**

**"contaminant" means a solid, liquid or gas or any combination of those substances and includes -**

- (a) noise, odour and heat;**
- (b) a prescribed substance or prescribed class of substances; and**
- (c) a substance having a prescribed property or prescribed class of properties;**

**"environment" means land, air, water, organisms and ecosystems and includes -**

- (a) the well-being of humans;**
- (b) structures made or modified by humans;**
- (c) the amenity values of an area; and**
- (d) economic, cultural and social conditions;**

**"environmental harm" means -**

- (a) any harm to or adverse effect on the environment; or**
- (b) any potential harm (including the risk of harm and future harm) to or potential adverse effect on the environment,**

**of any degree or duration and includes environmental nuisance;**

**"environmental nuisance", in relation to land, means -**

- (a) an adverse effect on the amenity of the land caused by noise, smoke, dust, fumes or odour;**
- or**
- (b) an unsightly or offensive condition on the land;**

**"land" includes water and air on, above or under land;**

**"material environmental harm" means environmental harm that -**

- (a) is not trivial or negligible in nature;**
- (b) consists of an environmental nuisance of a high impact or on a wide scale;**
- (c) results, or is likely to result, in not more than \$50,000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or**

*(d) results in actual or potential loss or damage to the value of not more than \$50,000 or the prescribed amount (whichever is greater);*

*"serious environmental harm" means environmental harm that is more serious than material environmental harm and includes environmental harm that -*

*(a) is irreversible or otherwise of a high impact or on a wide scale;*

*(b) damages an aspect of the environment that is of a high conservation value, high cultural value or high community value or is of special significance;*

*(c) results or is likely to result in more than \$50,000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or*

*(d) results in actual or potential loss or damage to the value of more than \$50,000 or the prescribed amount (whichever is greater);*

*"waste material" means -*

*(a) a solid, liquid or gas; or*

*(b) a mixture of those substances,*

*that is left over, surplus or is an unwanted by-product and includes a prescribed substance or class of substances.*

*(2) For the purposes of this Part, loss, in relation to an act or failure to act, includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures -*

*(a) to prevent or mitigate environmental harm caused by or resulting from the act or failure to act; and*

*(b) to make good environmental harm resulting from the act or failure to act.*

*(3) For the purposes of this Part, environmental harm may be caused by an act or failure to act whether the harm -*

*(a) is caused directly or indirectly or is a direct or indirect result of the act or failure to act; or*

*(b) results from, or is caused by, the act or failure to act alone or from the combined effects of the act or failure to act and other factors.*

*58C. General environmental offences*

***(1) A person must not, during the conduct of an operation authorised under this Act, intentionally do an act, or fail to do an act, that causes the release of a contaminant or waste from a pipeline if -***

- (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste; and***
- (b) the contaminant or waste causes serious environmental harm to land all of which is within one kilometre of the pipeline.***

***Penalty: environmental offence level 1.***

***(2) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste from a pipeline if -***

- (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste; and***
- (b) the contaminant or waste causes serious environmental harm to land all of which is within one kilometre of the pipeline.***

***Penalty: environmental offence level 2.***

***(3) A person must not, during the conduct of an operation authorised under this Act, intentionally do an act, or fail to do an act, that causes the release of a contaminant or waste from a pipeline if -***

- (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste; and***
- (b) the contaminant or waste causes material environmental harm to land all of which is within one kilometre of a pipeline.***

***Penalty: environmental offence level 2.***

***(4) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste from a pipeline if -***

- (a) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the release of the contaminant or waste; and***
- (b) the contaminant or waste causes material environmental harm to land all of which is within one kilometre of the pipeline.***

***Penalty: environmental offence level 3.***

***. (5) A person must not, during the conduct of an operation authorised under this Act, do an act, or fail to do an act, that causes the release of a contaminant or waste from a pipeline, if the contaminant or waste causes an environmental nuisance to land all of which is within one kilometre of the pipeline.***

***Penalty: environmental offence level 4.***

***58D. Defences to general environmental offences***

***(1) It is a defence to a prosecution for an offence against section 58C if it is proved that the act or failure to act was authorised under an Act.***

***(2) It is a defence to a prosecution for an offence against section 58C if it is proved that the alleged offence did not result from a failure on the defendant's part to exercise reasonable diligence.***

***(3) It is a defence to a prosecution for an offence against section 58C in relation to a particular contaminant or waste material if it is proved the defendant complied with -***

***(a) a provision of an environment protection objective within the meaning of the Waste Management and Pollution Control Act; or***

***(b) a condition of an approval, permit, lease, licence or authorisation under an Act,***

***that fixed maximum allowable levels for the particular contaminant or waste material.***

***58E. Alternative verdicts available***

***In a proceeding for an offence against -***

***(a) section 58C(1) - the person charged with the offence may be found guilty alternatively of an offence against section 58C (2), (3), (4) or (5);***

***(b) section 58C(2) - the person charged with the offence may be found guilty alternatively of an offence against section 58C(3), (4) or (5);***

***(c) section 58C(3) - the person charged with the offence may be found guilty alternatively of an offence against section 58C(4) or (5); or***

***(d) section 58C(4) - the person charged with the offence may be found guilty alternatively of an offence against section 58C(5).***

***Division 2 - Liabilities of employers, employees etc.***

***58F. Actions etc. of employee or agent of body corporate are those of body corporate***

***(1) If in proceedings for an offence against this Part it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show -***

***(a) that the conduct was engaged in by a director, manager, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and***

***(b) that the director, manager, employee or agent had the relevant state of mind.***

***(2) For the purposes of a prosecution for an offence against this Part, conduct engaged in on behalf of a body corporate by a director, manager, employee or agent of the body corporate within the scope of his or her actual or apparent authority is taken to have been engaged in also by the body corporate.***

***(3) For the purposes of this section, a reference to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.***

***58G. Director may be liable for offence of body corporate***

***(1) If a body corporate commits an offence against this Part, every person who is a director of or who is concerned in the management of the body corporate is to be taken to have committed the same offence.***

***(2) It is a defence to a prosecution for an offence committed by virtue of subsection (1) if the defendant establishes that -***

***(a) the body corporate had under this Part a defence to the offence that the defendant is, apart from this section, to be taken to have committed;***

***(b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;***

***(c) the defendant did not know, and ought not reasonably be expected to have known, that the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence; or***

***(d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.***

***(3) A person may be proceeded against and found guilty under a provision in pursuance of subsection (1) whether or not the body corporate has been proceeded against or found guilty under the provision.***

***(4) Despite anything in this Part or the Environmental Offences and Penalties Act, a person is not liable to be punished by imprisonment***

*for an offence if the person would not have been found guilty of the offence except for subsection (1).*

*58H. Liability for managers, employees and agents*

*(1) For the purposes of a prosecution for an offence against this Part, conduct engaged in on behalf of a person other than a body corporate (in this section called the 'employer') by a manager, employee or agent of the person within the scope of his or her actual or apparent authority is taken to have been engaged in also by the employer.*

*(2) An employer may be proceeded against and found guilty under a provision in pursuance of subsection (1), whether or not the manager, employee or agent has been proceeded against or found guilty of an offence against that provision.*

*(3) It is a defence to a prosecution for an offence committed by virtue of subsection (1) if the defendant establishes that -*

*(a) the person who committed the offence that the defendant is to be taken to have committed under subsection (1) had, under this Act, a defence to the offence that the defendant is, apart from this subsection, to be taken to have committed;*

*(b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;*

*(c) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence; or*

*(d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.*

*(4) Despite anything in this Act or the Environmental Offences and Penalties Act, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1).*

*(5) For the purposes of this section, a reference to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.*

## *PART VI - MISCELLANEOUS*

*59. Pipelines to remain property of owner*

*Despite any Act or rule of law to the contrary, a pipeline constructed under the authority of this Act shall remain the property of the*

*licensee or former licensee, as the case may be, or his assigns whether or not the pipeline is affixed to land and whether or not the licence granted in respect of the pipeline has been wholly or partly cancelled.*

*59A. Licensee not required to own pipeline*

*Nothing in this Act is to be taken to imply that the holder of a licence in relation to a pipeline must be the owner of the pipeline.*

*60. Notices of grants, &c., of licences to be published*

*The Minister shall cause to be published in the Gazette such particulars as he thinks fit of the grant, renewal, variation, surrender or expiration of a licence.*

*61. Address for service*

*Every licensee shall forward to the Minister an address for service of notices, orders and directions under this Act.*

*62. Delegations by Minister*

*(1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.*

*(2) A power or function delegated under this section, when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.*

*(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.*

*63. Inspectors*

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

*(2) The Minister may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act.*

*(3) Where the appointment of a person under subsection (1) expires or is revoked, that person shall forthwith surrender to the Minister the certificate furnished to him under subsection (2).*

*Penalty: 20 penalty units.*

*(4) An offence of contravening or failing to comply with subsection (3) is a regulatory offence.*

*63A. No action against inspector or assistants*

*No action or proceedings, civil or criminal, shall lie against an inspector, or a person assisting an inspector, for or in relation to an act or thing done in good faith and in his or her capacity as an inspector or a person assisting an inspector, as the case may be.*

*64. Powers of inspectors*

*(1A) An inspector has such powers as are given to him by or under this Act.*

***(1) For the purposes of this Act and the Regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 63(2) -***

***(a) may enter land in respect of which a permit is in force or a licence area;***

***(b) may inspect and test a pipeline or apparatus or works;***

***(c) may take samples of a substance being conveyed by a pipeline; and***

***(d) may require a permittee, licensee or any other person who has the custody of any books, records, documents, maps or plans relating to a pipeline or proposed pipeline, to produce to him those books, records, documents, maps or plans and may inspect, take extracts from and make copies of any of those books, records, documents, maps or plans.***

***(2) A person who is the occupier or person in charge of a building, structure or place shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers.***

***Penalty: In the case of a natural person - 50 penalty units.***

***In the case of a body corporate - 250 penalty units.***

***(3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers.***

***Penalty: In the case of a natural person - 500 penalty units.***

***In the case of a body corporate - 2500 penalty units.***

***64A. Inspector may cause certain work to stop***

***(1) Where, in the opinion of an inspector, work of any kind being carried out on land within a corridor 25 m in width having as its centre line an imaginary line connecting markers erected in accordance with directions given under section 40, or as prescribed, marking the position of a pipeline in respect of which a licence is in force, other than work being carried out -***

***(a) by or on behalf, and under the supervision, of the licensee; or***

***(b) under, and in accordance with the conditions of, a consent referred to in section 66A,***

***may cause damage to the pipeline, he may direct the person carrying out the work to cease carrying out that work.***

***(2) A person directed under subsection (1) shall comply with and not contravene the direction.***

***Penalty: In the case of a natural person - 200 penalty units or 5 years imprisonment.***



*In the case of a body corporate -  
1000 penalty units.*

*65. Theft from pipeline*

*A person who maliciously or fraudulently -*

- (a) abstracts;*
- (b) causes to be wasted or diverted; or*
- (c) consumes or uses,*

*any energy-producing hydro-carbon being conveyed by means of a pipeline, is guilty of an offence.*

*Penalty: Imprisonment for 10 years.*

*66. Threat to pipeline*

*(1) A person who, on land within a corridor 25 m in width having as its centre line an imaginary line connecting markers erected in accordance with directions given under section 40, or as prescribed, marking the position of a pipeline in respect of which a licence is in force -*

- (a) excavates, bores or otherwise opens up or disturbs, or compacts by mechanical means, the land; or*
- (b) except when using a public road, or a public or private right of way on which such a thing is permitted, brings onto or across the land, or causes or allows to be brought onto or across the land, a vehicle, trailer, engine, carriage, compacting machine or mobile structure or a thing of a similar kind,*

*without the consent of the licensee of the pipeline, an inspector, the Minister or the delegate of the Minister is guilty of an offence.*

*Penalty: In the case of an offence against paragraph (a) committed by a natural person - 200 penalty units or 5 years imprisonment.*

*In the case of an offence against paragraph (a) committed by a body corporate - 1000 penalty units.*

*In the case of an offence against paragraph (b) committed by a natural person - 100 penalty units or 6 months imprisonment.*

*In the case of an offence against paragraph (b) committed by a body corporate - 500 penalty units.*

*(2) A person who unlawfully damages, or interferes with the operation of, a pipeline is guilty of an offence.*

*Penalty: In the case of a natural person - 200 penalty units or 5 years imprisonment.*

*In the case of a body corporate -  
1000 penalty units.*

*(3) A person must not lay or detonate explosives on land within a licence corridor except with the consent of the Minister or the licensee of the pipeline that is within the licence corridor.*

*Penalty: In the case of a natural person - 50 penalty units or 2 years imprisonment.*

*In the case of a body corporate -  
200 penalty units.*

*(4) For the purposes of subsection (3), "licence corridor" means a corridor 64 m in width having as its centre line an imaginary line connecting markers erected in accordance with directions given under section 40, or as prescribed, marking the position of a pipeline in respect of which a licence is in force.*

*(5) A person must not within 200 m of a pipeline in relation to which a licence is in force -*

*(a) drop or drag an anchor; or*

*(b) perform an action that could damage the pipeline,*

*except with the consent of the licensee of the pipeline, an inspector, the Minister or a delegate of the Minister.*

*Penalty: In the case of a natural person - 100 penalty units.*

*In the case of a body corporate -  
500 penalty units.*

*67. Continuing offences*

*(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the Regulations, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains not done, notwithstanding that the period has elapsed.*

*(2) Where an offence is committed by a person by reason of his failure to comply with a provision of this Act or the Regulations, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that a period within which the act was required to be done has elapsed.*

*(3) Where, under subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act and the Regulations on each day during which the offence is deemed to continue and, subject to a contrary intention in the provision against which the offence was committed, is liable, upon being found guilty for such an additional*

*offence, to a fine not exceeding 10 per cent of the maximum penalty for the offence for each day during which the offence continues.*

*67A. Service*

*A document required or permitted by this Act to be served on a person shall be served upon the person by -*

- (a) delivering it to him personally;*
- (b) posting it to him at his last-known or most usual place of residence or business;*
- (c) leaving it for him at his last-known or most usual place of residence or business with some other person, apparently resident or employed there and who has apparently attained the age of 16 years; or*
- (d) where service cannot be effected in the manner specified in paragraph (a), (b) or (c), attaching the document to the place of residence of, or to some other conspicuous object on the land of which the person to be served is, the owner or occupier. (See back note 2)*

*67B. Compensation*

*(1) Compensation is payable by the holder of a permit to -*

- (a) the native title holder in respect of any affected land or waters for the effect of the grant, extension or variation of the permit on the holder's native title rights and interests; and*
- (b) the owners and occupiers of any affected land or waters for the loss or damage in respect of that person's interest in the affected land or waters because of the grant, extension or variation of the permit.*

*(2) Compensation is payable by the holder of a licence to -*

- (a) the native title holder in respect of any affected land or waters for the effect of the grant, renewal or variation of the licence on the holder's registered native title rights and interests for which the holder was not otherwise compensated when land, or easements or other interests over land, were acquired for the purposes of the pipeline; and*
- (b) the owners and occupiers of any affected land or waters for the loss or damage in respect of that person's interest in the affected land or waters because of the grant, extension or variation of the licence, being loss or damage for which the person was not otherwise compensated when land, or easements or other interests over land, were acquired for the purposes of the pipeline.*

***(3) A person who intends to claim compensation under this section must lodge the claim in writing with the holder of the permit or licence within 3 years after the grant, extension, renewal or variation of the permit or licence or within the further time the Tribunal allows.***

***(4) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (3) as if the claim were an action to which section 44 of the Limitation Act applies and the Tribunal were a court for the purposes of that section.***

***(5) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land or waters.***

***(6) In the event of a dispute about compensation payable under this section, the holder of the permit or licence or the owner or occupier or registered native title body corporate to whom compensation may be payable may refer the dispute to the Tribunal.***

***(7) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.***

***(8) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.***

67C. [Repealed]

67D. [Repealed]

68. Regulations

***(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.***

***(2) Without limiting the generality of subsection (1), the Regulations may make provision for or in relation to -***

***(a) the construction, maintenance and operation of pipelines and the safety measures to be taken in respect thereof;***

***(b) the inspection of pipelines and the cost of such inspections;***

***(c) the keeping of registers under this Act;***

***(d) the escape of substances from a pipeline;***

***(e) the unit amount for the purposes of calculating the licence fee under section 30;***

- (f) *the marking of the location of pipelines; and*  
 (g) *the prevention of damage to land used in connection with the construction or operation of pipelines.*

**(3) The Regulations may provide, in respect of an offence against the Regulations, for the imposition of -**

*(a) a fine not exceeding, in the case of a natural person, 200 penalty units or, in the case of a body corporate, 1000 penalty units; or*

*(b) a fine not exceeding, in the case of a natural person, 200 penalty units or, in the case of a body corporate, 1000 penalty units for each day during which an offence against the Regulations continues.*

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### Notes

**1. The Energy Pipelines Act comprises the Energy Pipelines Act 1981 as amended by the other Acts specified in the following table:**

<i>Act</i>	<i>Date of assent by Administrator</i>	<i>Date of commencement</i>	
<b>Energy Pipelines Act 1981</b>	<i>No. 2, 1982</i>	<i>12 Feb 1982</i>	<i>11 Aug 1982</i>
<b>Statute Law Revision Act 1983</b>	<i>No. 58, 1983</i>	<i>28 Nov 1983</i>	<i>28 Nov 1983</i>
<b>Criminal Law (Regulatory Offences) Act 1983</b>	<i>No. 68, 1983</i>	<i>28 Nov 1983</i>	<i>1 Jan 1984</i>
<b>Energy Pipelines Amendment Act 1984</b>	<i>No. 46, 1984</i>	<i>25 Sept 1984</i>	<i>28 Nov 1984</i>
<b>Energy Pipelines Amendment Act 1985</b>	<i>No. 37, 1985</i>	<i>18 Sept 1985</i>	<i>18 Sept 1985</i>
<b>Companies and</b>	<i>No. 18, 1986</i>	<i>30 June 1986</i>	<i>1 July 1986</i>

<b>Securities (Consequential Amendments) Act 1986</b>			
<b>Statute Law Revision Act 1986</b>	<i>No. 64, 1986</i>	<i>19 Dec 1986</i>	<i>19 Dec 1986</i>
<b>Energy Pipelines Amendment Act 1989</b>	<i>No. 32, 1989</i>	<i>28 June 1989</i>	<i>2 Aug 1989</i>
<b>Energy Pipelines Amendment Act 1990</b>	<i>No. 23, 1990</i>	<i>7 June 1990</i>	<i>25 July 1990</i>
<b>Corporations (Consequential Amendments) Act 1990</b>	<i>No. 59, 1990</i>	<i>14 Dec 1990</i>	<i>1 Jan 1991</i>

<b>Pastoral Land (Consequential Amendments) Act 1992</b>		
<i>No. 39, 1992</i>	<i>25 June 1992</i>	<i>26 June 1992</i>
<b>Local Government (Consequential Amendments) Act 1993</b>	<i>No. 84, 1993</i>	<i>31 Dec 1993</i>
<b>Planning (Consequential Amendments) Act 1993</b>	<i>No. 86, 1993</i>	<i>31 Dec 1993</i>
<b>Sentencing (Consequential Amendments) Act</b>	<i>No. 17, 1996</i>	<i>19 Apr 1996</i>

<b>1996</b>		
<b>Energy Pipelines Amendment Act 1998</b>	<i>No. 56, 1998</i>	<i>28 Aug 1998</i>
<i>Energy Pipelines Amendment Regulations</i>	<i>1998, No. 45</i>	-
<b>Statute Law Revision Act (No. 2) 1998</b>	<i>No. 92, 1998</i>	<i>11 Dec 1998</i>
<b>Lands and Mining (Miscellaneous Amendments) Act 1998</b>	<i>No. 93, 1998</i>	<i>23 Dec 1998</i>
<b>Planning (Consequential Amendments) Act 1999</b>	<i>No. 56, 1999</i>	<i>14 Dec 1999</i>
<b>Energy Pipelines Amendment Act 2000</b>	<i>No. 43, 2000</i>	<i>31 Aug 2000</i>

**"4. VALIDATION OF CERTAIN PERMITS AND LICENCES**

*"For the avoidance of doubt, a permit or licence granted under the Principal Act before the commencement of this Act is declared to have been validly granted notwithstanding that a requirement under the Principal Act in respect of the service of a notice on the owner or occupier of land, or the elapsing of time before the granting of a permit or licence, may not have been complied with."*

*(a) Section 2 of the Energy Pipelines Amendment Act 1998 provides as follows:*

**"2. COMMENCEMENT**

*"(1) Sections 3 to 7 (inclusive) and section 9 come into operation on the date fixed by the Administrator by notice in the Gazette.*

*"(2) Sections 8, 10 and 11, to the extent that those sections apply in relation to acts which Subdivision M of Division 3 of Part 2 of*

*the Native Title Act 1993 of the Commonwealth applies (which includes acts to which section 26(3) of that Act applies), come into operation on the date fixed by the Administrator by notice in the Gazette.*

*"(3) Sections 8, 10 and 11, to the extent that those sections apply in relation to acts which section 43A of the Native Title Act 1993 of the Commonwealth applies, come into operation on the date fixed by the Administrator by notice in the Gazette."*

*(b) Section 10 of the Energy Pipelines Amendment Act 1998 (as substituted by section 16 of the Lands and Mining (Miscellaneous Amendments) Act 1998 provides as follows:*

***"10. TRANSITIONAL PROVISION: PENDING APPLICATIONS***

*"(1) In this section -*

*'amended Act' means the Principal Act as amended by this Act and the Energy Pipelines Amendment Regulations (being Regulations 1998, No. 45);*

*'pending application' means an application under section 5, 13 or 21A of the Principal Act that was pending immediately before the commencement of this section.*

*"(2) An applicant is to be taken to have complied with a requirement under section 6, 13 or 21B of the amended Act to notify -*

*(a) the registered native title claimants (if any) in relation to any affected land or waters;*

*(b) the registered native title bodies corporate (if any) in relation to any affected land or waters; and*

*(c) the representative Aboriginal/Torres Strait Islander bodies (if any) in relation to any affected land or waters,*

*of a pending application if the applicant serves notice of the application in the form required by section 6, 13 or 21B (as the case may be) on those persons within 28 days after the applicant is advised in writing by the Minister that those persons are to be served or within the further time allowed in writing by the Minister.*

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**Table of Amendments**



**Section**

***Long Title Amended by No. 43, 2000, s. 4***

***3. Amended by No. 46, 1984, s. 4; No. 64, 1986, s. 4; No. 32, 1989, s. 4; No. 23, 1990, s. 4; No. 39, 1992, s. 3; No. 84, 1993, s. 6; No. 56, 1998, s. 4; Regs. 1998, No. 45; No. 93, 1998, s. 4; No. 43, 2000, s. 5***

***4. Amended by No. 46, 1984, s. 5; No. 23, 1990, s. 5; No. 43, 2000, s. 6***

***6. Amended by No. 32, 1989, s. 5; No. 84, 1993, s. 6; Regs. 1998, No. 45; No. 93, 1998, s. 5***

***8. Amended by No. 32, 1989, s. 6; Regs. 1998, No. 45; No. 93, 1998, s. 6***

***9. Amended by Regs. 1998, No. 45; No. 93, 1998, s. 7***

***12. Amended by No. 64, 1986, s. 4; No. 43, 2000, s. 21***

***13. Amended by No. 58, 1983, s. 3; No. 46, 1984, s. 6; No. 64, 1986, s. 4; No. 84, 1993, s. 6; Regs. 1998, No. 45; No. 93, 1998, s. 8; No. 43, 2000, s. 7***

***14. Amended by No. 32, 1989, s. 7***

***15. Amended by No. 58, 1983, s. 3; No. 23, 1990, s. 6; No. 86, 1993, s. 3; Regs. 1998, No. 45; No. 93, 1998, s. 9; No. 56, 1999, s. 3***

***15A. Inserted by No. 23, 1990, s. 7; amended by No. 43, 2000, s. 21***

***16. Amended by No. 32, 1989, s. 8; No. 43, 2000, s. 8***

***17. Amended by No. 32, 1989, s. 9; Regs. 1998, No. 45; No. 93, 1998, s. 10***

***17A. Inserted by No. 32, 1989, s. 10; repealed by No. 56, 1998, s. 5***

***18. Amended by No. 46, 1984, s. 7; No. 32, 1989, s. 11***

***19. Amended by No. 32, 1989, s. 12***

***20. Substituted by No. 32, 1989, s. 13; amended by No. 43, 2000, s. 9***

***21. Substituted by No. 56, 1998, s. 6; Amended by No. 93, 1998, s. 10***

***21A. Inserted by No. 32, 1989, s. 14***

***21B. Inserted by No. 32, 1989, s. 14; amended by No. 84, 1993, s. 6; Regs. 1998, No. 45; No. 93, 1998, s. 12; No. 93, 1998, s. 12***

***21C. Inserted by No. 32, 1989, s. 14***

***22. Amended by No. 56, 1998, s. 7; Regs. 1998, No. 45***

***26. Amended by No. 93, 1998, s. 13; No. 43, 2000, s. 21***

***27. Amended by No. 17, 1996, s. 6***

- 28. Amended by No. 43, 2000, s. 21*
- 30. Amended by No. 46, 1984, s. 8; No. 32, 1989, s. 24; No. 43, 2000, s. 10*
- 31. Amended by No. 32, 1989, s. 15*
- Heading*
- Part IV Amended by No. 43, 2000, s. 11*
- 33. Repealed by No. 32, 1989, s. 15*
- 34. Amended by No. 32, 1989, s. 16*
- 36. Amended by No. 43, 2000, s. 12*
- 37. Amended by No. 43, 2000, s. 21*
- 37A. Inserted by No. 43, 2000, s. 13*
- 38. Substituted by No. 32, 1989, s. 17; amended by No. 43, 2000, s. 14*
- 38A. Inserted by No. 43, 2000, s. 15*
- 39. Amended by No. 43, 2000, s. 21*
- 40. Amended by No. 43, 2000, s. 21*
- 42. Amended by No. 92, 1998, s. 10; No. 43, 2000, s. 21*
- 43. Amended by No. 46, 1984, s. 9; No. 18, 1986, s. 3; No. 59, 1990, s. 4; No. 43, 2000, s. 21*
- Heading*
- Part IVA Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43A. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43B. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43C. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43D. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43E. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43F. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43G. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43J. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43K. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43L. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*
- 43M. Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*

45  
43N. *Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*  
43P. *Inserted by No 56, 1998, s. 8; repealed by Regs. 1998, No. 45*  
44. *Amended by No. 46, 1984, s. 10; No. 43, 2000, s. 16*  
45. *Amended by No. 32, 1989, s. 24*  
46. *Amended by No. 32, 1989, ss. 18 & 24*  
48. *Amended by No. 32, 1989, s. 19*  
49. *Amended by No. 32, 1989, s. 20 & 24*  
50. *Amended by No. 43, 2000, s. 21*  
52. *Amended by No. 43, 2000, s. 21*  
53. *Amended by No. 43, 2000, s. 21*  
54. *Amended by No. 32, 1989, s. 21*  
58. *Amended by No. 43, 2000, s. 21*  
*Part VA Inserted by No. 43, 2000, s. 17*  
58A. *Inserted by No. 43, 2000, s. 17*  
58B. *Inserted by No. 43, 2000, s. 17*  
58C. *Inserted by No. 43, 2000, s. 17*  
58D. *Inserted by No. 43, 2000, s. 17*  
58E. *Inserted by No. 43, 2000, s. 17*  
58F. *Inserted by No. 43, 2000, s. 17*  
58G. *Inserted by No. 43, 2000, s. 17*  
58H. *Inserted by No. 43, 2000, s. 17*  
59. *Amended by No. 32, 1989, s. 22; Regs. 1998, No. 45*  
59A. *Inserted by No. 43, 2000, s. 18*  
63. *Amended by No. 68, 1983, s. 4; No. 32, 1989, s. 24; No. 43, 2000, s. 21*  
63A. *Inserted by No. 23, 1990, s. 8*  
64. *Amended by No. 46, 1984, s. 11; No. 43, 2000, s. 19*  
64A. *Inserted by No. 46, 1984, s. 12; amended by No. 43, 2000, s. 21*  
66. *Substituted by No. 46, 1984, s. 13; amended by No. 32, 1989, s. 23; No. 43, 2000, s. 20*  
67. *Amended by No. 17, 1996, s. 6; No. 43, 2000, s. 21*  
67A. *Inserted by No. 37, 1985, s. 3*  
67B. *Inserted by No. 56, 1998, s. 9; substituted by Regs. 1998, No. 45*  
67C. *[Repealed]*  
67D. *[Repealed]*  
68. *Amended by No. 43, 2000, s. 21*

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## **Annexure 2 (ii)**

# **PETROLEUM (SUBMERGED LANDS) ACT**

*Agency: Department of Mines and Energy*

*Type : Act*

*Parent :*

**NORTHERN TERRITORY OF AUSTRALIA**

**PETROLEUM (SUBMERGED LANDS) ACT**

**As in force at 1 December 2000**

**TABLE OF PROVISIONS**

## **Section**

### **PART I - PRELIMINARY**

#### **Division 1 - Interpretation, Application and Construction of Act**

- 1. Short title**
- 2. Scheme for transitional arrangements**
- 3. Schedules 1 and 2**
- 4. Interpretation**
- 5. Construction of Act**
- 6. Application of Act**
- 7. Petroleum pool extending into 2 licence areas**
- 8. Points, &c., to be ascertained by reference to Australian geodetic datum**
- 9. Position of Johnston Geodetic Station**

#### **Division 2 - Administration of Commonwealth Adjacent Area**

- 10. Definition**
- 11. Minister as member of Joint Authority**
- 12. Minister to perform function as member of Joint Authority**
- 13. Minister as Designated Authority**
- 14. Delegations under Commonwealth Act**
- 15. Public servants performing functions under Commonwealth Act**

#### **Division 3 - Acts Affecting Native Title**

- 15A. Application**
- 15B. Procedural rights**
- 15C. Compensation**

**PART II - MINING FOR PETROLEUM**

**Division 1 - Preliminary**

*16. Delegation*

*17. Graticulation of Earth's surface*

*18. Reservation of blocks*

*18A. Environmental consideration relating to certain parks and reserves*

**Division 2 - Exploration Permits for Petroleum**

*19. Exploration for petroleum*

*20. Advertisement of blocks*

*21. Application for permits*

*22. Grant or refusal of permit*

*23. Application for permit in respect of surrendered blocks, &c.*

*24. Application fee, &c.*

*25. Consideration of applications*

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

*27. Grant of permit on request*

*28. Rights conferred by permit*

*29. Term of permit*

*30. Application for renewal of permit*

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

*32. Grant or refusal of renewal of permit*

*33. Conditions of permit*

*34. Discovery of petroleum to be notified*

*35. Directions by designated authority on discovery of petroleum*

*36. Nomination of blocks as location*

*37. Declaration of location*

*38. Immediately adjoining blocks*

**Division 2A - Retention Leases for Petroleum**

*38A. Application by permittee for lease*

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

*38BA. Application of sections 38A and 38B where permit transferred*

*38C. Rights conferred by lease*

*38D. Term of lease*

*38E. Notice of intention to cancel lease*

*38F. Application for renewal of lease*

*38G. Grant or refusal of renewal of lease*

*38H. Conditions of lease*

- 38J. Discovery of petroleum to be notified*  
*38K. Directions by designated authority on discovery of petroleum*

### **Division 3 - Production Licences for Petroleum**

- 39. Recovery of petroleum in adjacent area*  
*40. Application by permittee for licence*  
*40A. Application for licence by holder of lease*  
*41. Application for licence*  
*42. Determination of rate of royalty*  
*43. Notification as to grant of licence*  
*44. Grant of licence*  
*44A. Application of sections 41 to 44 where permit, &c., transferred*  
*45. Variation of licence area*  
*46. Determination of permit or lease as to block not taken up*  
*47. Application for licence in respect of surrendered blocks, &c.*  
*48. Application fee, &c.*  
*49. Request by applicant for grant of licence*  
*50. Grant of licence on request*  
*51. Grant of licences in respect of individual blocks*  
*52. Rights conferred by licence*  
*53. Term of licence*  
*54. Application for renewal of licence*  
*55. Grant or refusal of licence*  
*56. Conditions of licence*  
*57. [Repealed]*  
*58. Directions as to recovery of petroleum*  
*59. Unit development*

### **Division 4 - Pipeline Licences**

- 60. Construction, &c., of pipelines, &c.*  
*61. Acts done in emergency, &c.*  
*62. Removal of pipeline, &c., constructed in contravention of Act*  
*63. Terminal station*  
*64. Application for pipeline licence*  
*65. Grant or refusal of pipeline licence*  
*66. Rights conferred by pipeline licence*  
*67. Term of pipeline licence*  
*68. Application for renewal of pipeline licence*  
*69. Grant or refusal of renewal of pipeline licence*  
*70. Conditions of pipeline licence*  
*71. Variation of pipeline licence on application by pipeline licensee*  
*72. Variation of pipeline licence by designated authority*  
*73. Common carrier*

*74. Ceasing to operate pipeline*

*75A. Application of Law of Property Act*

**Division 5 - Registration of Instruments**

*74A. Interpretation*

*75. Register of certain instruments to be kept*

*76. Particulars to be entered in register*

*77. Memorials to be entered of permits, &c., determined, &c.*

*78. Approval and registration of transfers*

*79. Entries in register on devolution of title, &c.*

*80. [Repealed]*

*81. Approval of dealings relating to existing titles*

*81A. Approval of dealings in future interests, &c.*

*82. True consideration to be shown*

*83. Minister not concerned with certain matters*

*84. Power of Minister to acquire information as to dealings*

*85. Production and inspection of documents*

*86. Inspection of register and documents*

*87. Evidentiary provisions*

*87A. Minister may make corrections to register*

*88. Appeals*

*89. Minister not liable to certain actions*

*90. Offences*

*91. Assessment of fee*

*92. Imposition of registration fees*

*93. Exemption from stamp duty*

**Division 6 - General**

*94. Notice of grants of permits, &c., to be published*

*95. Date of effect of permits, &c.*

*96. Commencement of works*

*97. Work practices*

*97A. Conditions relating to insurance*

*98. Maintenance, &c., of property*

*99. Sections 97 and 98 to have effect subject to this Act, &c.*

*100. Drilling near boundaries*

*101. Directions*

*102. Compliance with directions*

*103. Exemption*

*104. Surrender of permits, &c.*

*105. Cancellation of permits, &c.*

*106. Cancellation of permit, &c., not affected by other provisions*

*107. Removal of property, &c., by permittee, &c.*



- 108. Removal of property, &c., by Minister*
- 109. Payment by instalments*
- 110. Penalty for late payments of instalments, &c.*
- 111. Special prospecting authorities*
- 112. Access authorities*
- 113. Sale of property*
- 114. [Repealed]*
- 115. Minister, &c., may require information to be furnished, &c.*
- 116. Power to examine on oath*
- 117. Failing to furnish information, &c.*
- 118. Release of information*
- 119. [Repealed]*
- 120. Discovery of water*
- 121. Survey of wells, &c.*
- 122. Records, &c., to be kept*
- 123. Scientific investigations*
- 124. Interference with other rights*
- 125. Inspectors*
- 126. Powers of inspectors*
- 127. Property in petroleum*
- 128. Suspension of rights conferred by permit*
- 129. Certain payments to be made by Territory to Commonwealth*
- 130. Determination to be disregarded in certain cases*
- 131. Continuing offences*
- 132. [Repealed]*
- 133. Orders for forfeiture in respect of certain offences*
- 134. Disposal of forfeited goods*
- 135. Time for bringing proceedings for offences*
- 136. Judicial notice*
- 137. Service*
- 137AA. Service of documents on 2 or more permittees, &c.*
- 137AB. Liability for approval given under this Act, &c.*

**Division 6A - Safety Zones**

- 137A. Interpretation*
- 137B. Safety zones*
- 137C. Powers of authorized persons*
- 137D. Search warrants*
- 137E. Exercise of powers in serious circumstances*

**Division 7 - Fees and Royalties**

- 138. Fees*
- 139. - 140. [Repealed]*

- 140. [Repealed]*
- 141. Time of payment of fees*
- 142. Royalty*
- 143. Reduction of royalty in certain cases*
- 144. Royalty not payable in certain cases*
- 145. Ascertainment of well-head*
- 146. Ascertainment of value*
- 147. Ascertainment of quantity of petroleum recovered*
- 148. Payment of royalty*
- 149. Penalty for late payment*
- 149A. Provisional payment of royalty*
- 149B. Adjustment of payment*
- 150. Fees and penalties debts due to the Territory*

*PART III - REGULATIONS*

*151. Regulations*

*SCHEDULE 1*  
*SCHEDULE 2*  
*SCHEDULE 3*

*Notes*

*Table of Amendments*

**Petroleum (Submerged Lands) Act**

**155**

*northern territory of australia*

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***This reprint shows the Act as in force at 1 December 2000. Any amendments that may come into operation after that date are not included.***

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*Petroleum (Submerged Lands)act*

*An Act to make provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coasts of the Northern Territory and for other purposes*

**PREAMBLE**

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

*\* \* \* \**

*AND WHEREAS by the Seas and Submerged Lands Act 1973 of the Commonwealth it is declared and enacted that the sovereignty in respect of the territorial sea of Australia and in respect of the airspace over it and in respect of its sea-bed and subsoil, and the sovereignty in respect of certain internal waters of Australia and in respect of the airspace over those waters and in respect of the sea-bed and subsoil beneath those waters, it is vested in and exercisable by the Crown in right of the Commonwealth:*

*AND WHEREAS the Parliaments of the States and the Legislative Assembly of the Northern Territory have certain legislative powers in respect of the sea-bed and subsoil referred to in the last preceding recital and the Parliament of the Commonwealth has vested in the Crown in right of each of the States and the Crown in right of the Northern Territory certain proprietary rights in respect of that sea-bed and subsoil:*

*AND WHEREAS it has been agreed between the Commonwealth, the States and the Northern Territory that, in place of the scheme provided for by an Agreement between the Commonwealth and the States dated 16 October 1967 -*

*(a) legislation of the Parliament of the Commonwealth in respect of the exploration for and the exploitation of the petroleum resources of submerged lands should be limited to the resources of lands beneath waters that are beyond the outer limits of the territorial sea adjacent to the States and the Northern Territory (being outer limits based, unless and until otherwise agreed, on the breadth of that sea being 3 nautical miles), and that the States and the Northern Territory should share in the administration of that legislation;*

*(b) legislation of the Parliament of each State should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the State as is on the landward side of the waters referred to in paragraph (a);*

*(c) legislation of the Legislative Assembly of the Northern Territory should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the Northern*

*Territory as is on the landward side of the waters referred to in paragraph (a); and*

*(d) the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands referred to above that are on the seaward side of the inner limits of the territorial sea of Australia.*

*PART I - PRELIMINARY*

Division 1 - Interpretation, Application and Construction of Act

*1. Short title*

*(1) This Act may be cited as the Petroleum (Submerged Lands) Act. (See back note 1)*

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

*2. Scheme for transitional arrangements*

*The scheme agreed on between the Governments of the Commonwealth, the States and the Northern Territory, being the scheme set out in Schedule 1, so far as that scheme relates to the operation of this Act, has the force of law by virtue of this section.*

*3. Schedules 1 and 2*

*(1) A reference to the Designated Authority in a new permit (within the meaning of the scheme set out in Schedule 1) or a new pipeline licence (within the meaning of that scheme) shall, for the purposes of that permit or pipeline licence and this Act, be read as a reference to the Minister.*

*(2) The provisions set out in Schedule 2 have the force of law by virtue of this section.*

*4. Interpretation*

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

*"access authority" means an access authority under Part II;*

*"adjacent area" means, subject to subsection (2), so much of the area the boundary of which is described in Schedule 3 as is part of the territorial sea of Australia, including the territorial sea adjacent to any island forming part of the*

*Territory, and includes, subject to subsection (3), an area which -*

*(a) is within the area the boundary of which is described in Schedule 3;*

*(b) is seaward of the coastline of the Territory at mean low water and landward of the inner limit of the territorial sea of Australia; and*

*(c) was, immediately before the commencement of this Act, the subject of an exploration permit for petroleum subsisting under the Commonwealth Act;*

*"application for a primary licence" means an application under section 40(1) or (2) or 40A(2) or (3);*

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

*"approved" means approved by the Minister;*

*"block" means a block constituted as provided by section 17;*

*"Commonwealth Act" means the Petroleum (Submerged Lands) Act 1967 of the Commonwealth as amended from time to time and any Act of the Commonwealth with which that Act is incorporated;*

*"construct" includes "place" and "construction" has a corresponding meaning;*

*"continental shelf" means the continental shelf, within the meaning of the Seas and Submerged Lands Act 1973 of the Commonwealth, adjacent to the coast of Australia (including the coast of any island forming part of a State or Territory) or of a Territory to which the Commonwealth Act applies or extends;*

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

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

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

*"graticular section" means a section referred to in section 17;*

*"inspector" means a person appointed as an inspector under section 125;*

*"Joint Authority" means the Commonwealth Offshore Petroleum Joint Authority established by the Commonwealth Act;*

*"lease" means a retention lease under Division 2A of Part II;*

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

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

*"licence" means a production licence for petroleum granted under Part II;*

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

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

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

*"native title" and "native title rights and interests" have the meaning given in section 223 of the Native Title Act;*

*"Native Title Act" means the Native Title Act 1993 of the Commonwealth;*

*"native title holder" has the meaning given in section 224 of the Native Title Act;*

*"natural resources" has the same meaning as in paragraph 4 of Article 77 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;*

*offshore place" has the meaning given in section 253 of the Native Title Act;*

*"partly cancelled" means -*

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

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

*"permit" means an exploration permit for petroleum granted under Part II;*

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

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

***"petroleum" means -***

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;***
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or***
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following: namely, hydrogen sulphide, nitrogen, helium and carbon dioxide, and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir in an adjacent area;***

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

***"pipeline" means a pipe or system of pipes in an adjacent area for conveying petroleum but does not include a pipe or system of pipes -***

- (a) for returning petroleum to a natural reservoir;***
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;***
- (c) for conveying petroleum that is to be flared or vented; or***
- (d) for conveying petroleum from a well to a terminal station without passing through another terminal station, whether the terminal station to which the petroleum is conveyed is in the adjacent area or not;***

***"pipeline licence" means a licence granted under Part II to construct and operate a pipeline;***

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

***"primary entitlement" means -***

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

*(b) in relation to a lessee - the number of blocks in the lease area in respect of which that lessee may make an application under section 40A(2);*

*"primary licence" means a licence granted on an application made under section 40(1) or (2);*

*"pumping station" means equipment for pumping petroleum or water and includes any structure associated with that equipment;*

*"register" means the register kept in pursuance of Division 5 of Part II;*

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

*"registered native title claimant" has the meaning given in section 253 of the Native Title Act or, if the claimant is replaced under section 66B of that Act, means the person who replaced the claimant;*

*"registered native title rights and interests" means -*

- (a) in relation to a registered native title claimant - the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims established and maintained in accordance with Part 7 of the Native Title Act; and*
- (b) in relation to a registered native title body corporate - the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under Part 8 of the Native Title Act;*

*"relinquished area" means -*

- (a) in relation to a permit, lease or licence that has expired - the area constituted by the blocks in respect of which the permit, lease or licence was in force but has not been renewed;*
- (b) in relation to a permit or lease that has been wholly determined or partly determined - the area constituted by the blocks as to which the permit or lease was so determined;*



*(c) in relation to a permit or licence that has been wholly cancelled or partly cancelled - the area constituted by the blocks as to which the permit or licence was so cancelled;*  
*(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;*  
*(d) in relation to a pipeline licence that is no longer in force - the part of the adjacent area in which the pipeline was constructed;*  
*(e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled - the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and*  
*(f) in relation to a special prospecting authority or access authority that has been surrendered, 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, lease or licence, means -*

*(a) the period from and including the date from which the permit, lease or licence comes into force to the end of the month of the year during which that date occurs; and*

*(b) each month thereafter;*

*"secondary licence" means a licence granted on an application made under section 40(3);*

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

*"special prospecting authority" means a special prospecting authority granted under Part II;*

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

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

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

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

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

*"well" means a hole in the sea-bed or subsoil made by drilling, boring or any other means in connection with exploration for petroleum or operations for the recovery of petroleum but does not include a seismic shot hole;*

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

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

*(2) If, at any time, the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, the definition of adjacent area in subsection (1) continues to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.*

*(3) Where an exploration permit for petroleum subsisting under the Commonwealth Act immediately before the commencement of this Act, or a permit granted by way of the first or any subsequent renewal of such a permit, is cancelled or determined, or expires and is not renewed, as to an area described in paragraphs (a), (b) and (c) of the definition of adjacent area, that area ceases to be part of an adjacent area.*

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

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

*(6) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first-mentioned permit to commence on the day after the date of expiration of the first-mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first-mentioned permit.*

*(6A) In this Act, a reference to the renewal, or 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.*

*(7) In this Act, a reference to the renewal, or the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first-mentioned licence or on the day after the date of expiration of the licence granted upon a previous renewal of the first-mentioned licence.*

*(8) In this Act, a reference to the renewal, or to the grant of a renewal, of a pipeline licence in respect of a pipeline is a reference to the grant of a pipeline licence in respect of that pipeline to commence on the day after the date of expiration of the first-mentioned pipeline licence or on the day after the date of expiration of the pipeline licence granted upon a previous renewal of the first-mentioned pipeline licence.*

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

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

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

- (12) For the purposes of this Act and the Regulations -**  
**(a) the space above or below the adjacent area shall be deemed to be in that area; and**  
**(b) the space above or below an area that is part of the adjacent area shall be deemed to be in that part.**

**5. Construction of Act**

**(1) This Act shall be read and construed as intended to operate, and as operating, to the full extent of the legislative powers of the Territory (any presumption to the contrary notwithstanding) but subject to, and so as not to exceed, the limits of those powers to the intent that where any provision of this Act would, but for this subsection, 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.**

**(2) No other provision of this Act shall be read or construed so as to limit, or as limiting, the operation of subsection (1).**

**6. Application of Act**

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

**7. Petroleum pool extending into 2 licence areas**

**(1) The provisions of this section have effect for the purposes of this Act and of licences (whether granted before or after the commencement of this Act).**

**(2) Where a well-head is situated in a licence 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, at a place within an adjoining licence area of the same licensee, any petroleum recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.**

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

**(4) The proportions to be determined for the purposes of subsection (3) may be determined by agreement between the licensee and the**

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

*(5) Where a petroleum pool is partly in a licence area and partly in an area (in this subsection referred to as "the Commonwealth licence area") in which the licensee has authority under the Commonwealth Act to explore for, or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the Commonwealth licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (6).*

*(6) The proportion to be determined for the purposes of subsection (5) may be determined by agreement between the licensee, the Joint Authority and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee, the Joint Authority or the Minister.*

*(7) Where a petroleum pool is partly in a licence area and partly in an area (in this section called "the other State licence area") in which the licensee has authority, under a corresponding law, to explore for or recover, petroleum, and petroleum is recovered from that pool through a well or wells in the licence area, the other State licence area or both, there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (8).*

*(8) The proportion to be determined for the purposes of subsection (7) may be determined by agreement between the licensee, the Minister and the Minister of the other State administering the corresponding law or, in the absence of agreement, may be determined by the Supreme Court on the application of any of those persons.*

*(9) Where -*

*(a) a petroleum pool is partly in a licence area and partly in another area, being an area which is outside the adjacent area and in which the licensee has, under the Commonwealth Act or a corresponding law, authority to explore for, or recover, petroleum;*

*(b) petroleum is recovered from that pool; and*

*(c) the Supreme Court of another State has made a determination, under the Commonwealth Act or a*

*corresponding law, of the proportion of the petroleum recovered from that pool that is, for the purposes of the Commonwealth Act or the corresponding law, to be deemed to have been recovered from the other area, the Supreme Court shall not make a determination under this section that is inconsistent with the determination of the Supreme Court of the other State.*

*(10) Where -*

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

*(b) a unit development agreement in accordance with section 59 is in force between the licensee and that other person; and*

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

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

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

*8. Points, &c., to be ascertained by reference to Australian geodetic datum*

*Where, for the purposes of this Act or the Regulations, or for the purposes of an instrument under this Act or the Regulations, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (Equatorial) radius of 6,378,160 metres and a flattening of 100 and 29825*

*by reference to the position of the Johnston Geodetic Station in the Territory.*

*9. Position of Johnston Geodetic Station*

*The station referred to in section 8 shall be taken to be situated at 133° 12' 30.0771" of east longitude and at 25° 56' 54.5515" of south latitude and to have a ground level of 571.2 metres above the spheroid referred to in that section.*

Division 2 - Administration of Commonwealth Adjacent Area

*10. Definition*

***In this Division, "Commonwealth adjacent area" means the adjacent area in respect of the Territory determined in accordance with section 5A of the Commonwealth Act.***

*11. Minister as member of Joint Authority*

***The Minister may exercise any power which the Commonwealth Act is expressed to authorize him to exercise as a member of the Joint Authority.***

*12. Minister to perform function as member of Joint Authority*

***The Minister shall perform any function which the Commonwealth Act is expressed to require him to perform as a member of the Joint Authority.***

*13. Minister as Designated Authority*

***The Minister is authorized to perform the functions and exercise the powers which the Commonwealth Act is expressed to require or empower the Designated Authority in respect of the Commonwealth adjacent area to perform or exercise.***

*14. Delegations under Commonwealth Act*

***Where, in the exercise of a power which the Commonwealth Act is expressed to confer upon the Designated Authority in respect of the Commonwealth adjacent area, the Minister delegates a power to a person who is an employee of the Public Service or who holds any office in the service of the Territory, the person may exercise the power so delegated in an instrument of delegation.***

*15. Public servants performing functions under Commonwealth Act*

***An employee of the Public Service shall perform any function which the Minister, as the Designated Authority in respect of the Commonwealth adjacent area, or as a member of the Joint Authority, requires him to perform in relation to the Commonwealth Act.***

Division 3 - Acts Affecting Native Title

*15A. Application*

***This Division applies in relation to acts done under this Act that are future acts to which Subdivision N of Division 3 of Part 2 of the Native Title Act applies.***

*15B. Procedural rights*

***Where an act to which this Division applies affects native title rights and interests -***

***(a) the native title holders; and***

*(b) the registered native title claimants (if any) in relation to land or waters in the area concerned, have the same procedural rights as they would have in relation to the act on the assumption that they instead held any corresponding rights and interests in relation to the offshore place that are not native title rights and interests.*

*15C. Compensation*

*Compensation for the effect on native title of an act to which this Division applies -*

- (a) is payable by the holder of the permit, lease, licence, pipeline licence, consent under section 60 or 123, special prospecting authority or access authority to which the act relates (in this section called "the petroleum interest");*
- (b) includes compensation for the effect on native title of activities done under the petroleum interest as a result of the act; and*
- (c) is to be determined in accordance with Division 5 of Part 2 of the Native Title Act.*

*PART II - MINING FOR PETROLEUM*

*Division 1 - Preliminary*

*16. Delegation*

*(1) The Minister may, either generally or as otherwise provided by an instrument of delegation, by writing signed by him, delegate to a person any of his powers or functions under this Act or the Regulations other than this power of delegation.*

*(2) A power or function delegated under subsection (1), when exercised by the delegate shall, for the purposes of this Act or the Regulations, be deemed to have been exercised by the Minister.*

*(3) A delegation under this section may be expressed as a delegation to the person for the time being holding, or performing the duties of, a specified office under the Commonwealth, a State or a Territory.*

*(4) A delegation under this section made at any time by a person who is, at that time, the Minister continues in force notwithstanding that at some subsequent time a different person is the Minister or there is no person who is the Minister, but such a delegation may be revoked or varied by any person who is, for the time being, the Minister.*

*(5) A delegation of a power or function under this section does not prevent the exercise of the power or function by the Minister.*

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

*17. Graticulation of Earth's surface*



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

***(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 an adjacent area constitutes a block; and***

***(b) if a part only of a graticular section is, or parts only of a graticular section are, within an adjacent area, the area of that part, or of those parts, constitutes a block.***

***(3) In this Act -***

***(a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section; and***

***(b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes, or parts only of which constitute, the block.***

***18. Reservation of blocks***

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

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

***18A. Environmental consideration relating to certain parks and reserves***

**(1) In this section -**

**"land", "sea-bed" and "subsoil" have the same meaning as in the Territory Parks and Wildlife Conservation Act; "park or reserve" means a park or reserve within the meaning of the Territory Parks and Wildlife Conservation Act or land declared under section 9(4) of that Act to be a park or reserve for the purposes of this section;**

**(2) In respect of land comprising the whole or a part of a park or reserve, the Minister shall not grant -**

**(a) subject to subsection (3), an access authority, special prospecting authority, permit or lease, unless the Minister has considered the opinions of the minister administering the Territory Parks and Wildlife Conservation Act in relation to the proposed grant; or**

**(b) a licence, except in accordance with the conditions, if any, specified by the minister administering the Territory Parks and Wildlife Conservation Act.**

**(3) The holder of an access authority or special prospecting authority or a permittee or lessee shall not carry out exploration, or any other activity, which may cause substantial disturbance to the land, sea-bed or subsoil comprising the whole or a part of a park or reserve unless he has advised the Minister, in writing, of his intention to carry out the exploration or activity and he carries it out in accordance with such directions, if any, as the Minister thinks fit, or which are required under subsection (4) to be given, to protect the environment in or in the vicinity of the park or reserve.**

**(4) The minister administering the Territory Parks and Wildlife Conservation Act may require the Minister to give as directions under subsection (3) such directions in relation to the protection of the environment in the park or reserve as the minister thinks fit, and the Minister shall give those directions accordingly.**

## Division 2 - Exploration Permits for Petroleum

### 19. Exploration for petroleum

**(1) A person shall not explore for petroleum in an adjacent area except -**

**(a) under and in accordance with a permit; or**

**(b) as otherwise permitted by this Part.**

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

*(2) For the purposes of subsection (1), a person who does anything preparatory to, or knowingly connected with, exploration for petroleum is taken to explore for petroleum.*

*20. Advertisement of blocks*

*(1) The Minister may, by notice 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, in a notice published under subsection (1), direct that section 21(2) or (3) does not apply, or that both of those subsections do not apply, to or in relation to the applications.*

*21. Application for permits*

*(1) An application made under section 20 -*

*(a) shall be in accordance with the approved form;*

*(b) shall be made in the approved manner;*

*(c) shall be in respect of not more than 400 blocks;*

*(d) shall be accompanied by particulars of -*

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

*(ii) the technical qualifications of the applicant and of his employees;*

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

*(iv) the financial resources available to the applicant;*

*(e) may set out 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 an application -*

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

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

*(3) The blocks specified in an 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 notice in writing served on an applicant, require him to furnish, within the time specified in the*

*notice, further information in writing in connection with his application.*

*22. Grant or refusal of permit*

*(1) Where an application has been made under section 20, the Minister may -*

*(a) by notice in writing served on the applicant, inform the applicant that he is prepared to grant to the applicant a permit in respect of the block or blocks specified in the notice; or*

*(b) refuse to grant a permit.*

*(2) A notice 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 who has been served with a notice under subsection (1) may, within a period of one month after the date of service of the notice on him, or within such further period, not exceeding one month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of one month, allows, by notice in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned notice.*

*(4) Where an applicant who has been served with a notice under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to him a permit in respect of the block or blocks specified in the notice.*

*(5) Where an applicant who has been served with a notice 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.*

*23. Application for permit in respect of surrendered blocks, &c.*

*(1) Where -*

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

*(aa) a licence is surrendered or cancelled as to a block or blocks; or*

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

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

*(2) and (3) [Omitted]*

*(4) An application under this section -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by the particulars referred to in section 21(1)(d);*

*(d) shall specify an amount that the applicant is prepared to pay to the Minister, in addition to the fee referred to in section 24(1)(a), in respect of the grant of a permit to him on the application; and*

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

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

*24. Application fee, &c.*

*(1) An application made under section 23 shall be accompanied by -*

*(a) the prescribed fee; and*

*(b) a deposit of 10% of the amount specified in the application under section 23(4)(d).*

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

*(3) Where an applicant who has been served with a notice under section 25 does not request the Minister in accordance with section 26 to grant to him the permit referred to in the notice, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.*

*25. Consideration of applications*

*(1) Where, at the expiration of the period specified in a notice under section 23(1), only one application has been made under that subsection in respect of the block or blocks specified in the notice, the Minister may reject or grant the application.*

*(2) Where, at the expiration of the period specified in a notice under section 23(1), 2 or more applications have been made under that subsection in respect of the block or blocks specified in the notice, 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 notice in writing served on the applicant; or*
- (b) if 2 or more applications remain unrejected - by notice 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) Where an application is made under section 23(2), the Minister may reject or grant the application.*

*(4) [Omitted]*

*(5) A notice under this section shall contain -*

- (a) a summary of the conditions subject to which the permit is to be granted; and*
- (b) a statement to the effect that the application will lapse if the applicant does not -
  - (i) make a request under section 26(1); and*
  - (ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an agreement under section 109 in respect of that balance.**

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

*(1) An applicant who has been served with a notice under section 25 may, within a period of 3 months after the date of service of the notice on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows -*

- (a) by notice in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned notice; and*
- (b) pay the balance of the amount to be paid in respect of the grant of the permit to him or enter into an agreement under section 109 in respect of that balance.*

*(2) Where an applicant who has been served with a notice under section 25 -*

- (a) has not made a request under subsection (1); and*
- (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to him or entered into an agreement under section 109 in respect of that balance,*

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

*(3) Where the application lapses, as provided by subsection (1), of an applicant who has been served with a notice under section 25(2), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.*

*27. Grant of permit on request*

*Where a person who has been served with a notice under section 25 -*

*(a) has made a request under section 26(1); and*

*(b) has paid the balance of the amount to be paid in respect of the grant of a permit to him or has entered into an agreement under section 109 in respect of that balance,*

*within the period applicable under section 25(1), the Minister shall grant to that person a permit in respect of the block or blocks specified in the notice.*

*28. Rights conferred by permit*

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

*29. Term of permit*

*Subject to this Part, a permit remains in force -*

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

*30. Application for renewal of permit*

*(1) Subject to section 31, a permittee may, from time to time, make an application to the Minister for the renewal of the permit in respect of such of the blocks the subject of the permit as are specified in the application.*

*(2) An application for the renewal of a permit -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by the prescribed fee.*

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

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

*(1) Subject to subsection (3), the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows:*

*(a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder - one-half of that number; or*

*(b) where the number of blocks in respect of which the permit is in force is a number that is one less or one more than a number that is divisible by 4 without remainder - one-half of that last-mentioned number.*

*(2) A block that is, or is included in, a location and in respect of which 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) The blocks specified in an application for the renewal of a permit shall be blocks that are constituted by or are within graticular sections that -*

*(a) constitute a single area or a number of discrete areas; and*

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

*(5) Where the number of blocks in respect of which an application for the renewal of a permit may be made is 16 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 16 blocks.*

*(6) Where the maximum number of blocks in respect of which an application for the renewal of a permit may be made in accordance with the preceding provisions of this section is less than 16, the Minister may, by notice in writing served on the permittee -*



*(a) inform the permittee that the number of blocks in respect of which the application may be made is such number, not exceeding 16, as is specified in the notice; and*  
*(b) give such directions as he thinks fit concerning the blocks in respect of which the application may be made.*

*(7) The Minister may -*

*(a) direct that subsections (4) and (5) do not apply to or in relation to a proposed application for the renewal of a permit; and*

*(b) give such directions concerning the blocks in respect of which that application may be made.*

*32. Grant or refusal of renewal of permit*

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

*(a) shall, if the conditions to which the permit is, or has from time to time been, subject and the provisions of this Part and 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 have 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 notice in writing served on the person who is then the permittee, inform the person that he is prepared to grant to the person the renewal of the permit.*

*(2) If any of the conditions to which the permit is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have 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 notice in writing served on the person who is then the permittee, refuse to grant the renewal of the permit.*

*(3) The Minister shall not refuse to grant the renewal of a permit unless -*

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

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

*(c) he has, in the notice -*

- (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 notice is served may, by notice 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 notice has been served.*

*(4) A notice 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 who has been served with a notice under subsection (1) may, within a period of one month after the date of service of the notice on him, by notice in writing served on the Minister, request the Minister to grant to the permittee the renewal of the permit.*

*(6) Where a permittee who has been served with a notice 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 who has been served with a notice 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 date.*

*(8) Where -*

- (a) an application for the renewal of a permit has been made; and*
- (b) the permit expires -*
  - (i) before the Minister grants, or refuses to grant, the renewal of the permit; or*
  - (ii) before the application lapses as provided by subsection (7),*

*the permit shall be deemed to continue in force in all respects -*

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

*whichever first occurs.*

*33. Conditions of permit*

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

*(2) The conditions referred to in subsection (1) may include conditions with respect to -*

- (a) work to be carried out by the permittee in or in relation to the permit area during the term of the permit; and*
- (b) amounts to be expended by the permittee in carrying out such work,*

*and the conditions may require the permittee to comply with directions given in accordance with the permit concerning the matters referred to in paragraphs (a) and (b).*

*(3) A permit shall be deemed to contain a condition that the permittee will comply with the provisions of this Act relating to the payment of royalty as in force from time to time.*

*34. Discovery of petroleum to be notified*

*(1) Where petroleum is discovered in a permit area, the permittee -*

- (a) shall forthwith inform the Minister of the discovery; and*
- (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.*

*(2) Where petroleum is discovered in a permit area, the Minister may, from time to time, by notice in writing served on the permittee, direct the permittee to furnish to him, within the period specified in the notice, particulars in writing of any one or more of the following:*

- (a) the chemical composition and physical properties of the petroleum;*
- (b) the nature of the subsoil in which the petroleum occurs; and*
- (c) any other matters relating to the discovery that are specified by the Minister in the notice.*

*(3) A person on whom a notice is served under subsection (2) shall comply with the notice.*

*Penalty: \$10,000.*

*35. Directions by designated authority on discovery of petroleum*

*(1) Where petroleum is discovered in a permit area, the Minister may, by notice in writing served on the permittee, direct the permittee to do, within the period specified in the notice, such things as the Minister thinks necessary and specifies in the notice to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the permit area, in such part of that petroleum pool as is within the permit area.*

***(2) A person on whom a notice is served under subsection (1) shall comply with the notice.***

***Penalty: \$10,000.***

***36. Nomination of blocks as location***

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

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

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

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

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

***(6) Where -***

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

***(b) the permittee has not done so,***

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

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

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

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

***37. Declaration of location***

***(1) Where -***

- (a) a permittee has made a nomination under section 36;*
- and*
- (b) the Minister is of the opinion that the permittee is entitled under that section to nominate the block or blocks specified in the nomination,*

*the Minister shall, by notice 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 subsection 36(9), the Minister shall, by notice in the Gazette, declare the block or blocks to which the nomination relates to be a location.*

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

*(4) The Minister may vary a declaration -*

- (a) by adding to the location a block in the permit area to which, in the opinion of the Minister, a petroleum pool within the location extends; or*
- (b) deleting from the location a block to which, in the opinion of the Minister, no petroleum pool within the location extends.*

*(5) The Minister may not vary a declaration unless -*

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

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

*38. Immediately adjoining blocks*

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

*-*

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

*Division 2A - Retention Leases for Petroleum*

*38A. Application by permittee for lease*

*(1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant*

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

*(2) An application under subsection (1) -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by particulars of -*

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

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

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

*(e) shall be accompanied by the prescribed fee.*

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

*(4) The application period in respect of an application under this section by a permittee 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, being not less than 2 years or more than 4 years after that date, as the Minister, on application in writing by the permittee, served on the Minister before the end of the first-mentioned period of 2 years, allows.*

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

*(1) Where -*

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

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

*(c) the Minister is satisfied that recovery of petroleum from the area comprised in the blocks specified in the application*

*-*

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

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

*the Minister shall, by instrument in writing served on the applicant, inform him -*

*(d) that he is prepared to grant to him a lease in respect of the block or blocks specified in the application.*

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

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

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

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

*(3) An instrument under subsection (1) shall contain -*

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

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

*(4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on him 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 the lease to the applicant.*

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

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

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

*38BA. Application of sections 38A and 38B where permit transferred  
Where -*

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

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

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

*38C. Rights conferred by lease*

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

*38D. Term of lease*

*Subject to this Part, a lease (whether granted by way of renewal of a lease or otherwise) remains in force for a period of 5 years commencing on the day on which it 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.*

*38E. Notice of intention to cancel lease*

*(1) Where -*

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

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

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

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

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

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



*matters that the lessee or the other person, as the case may be, wishes to be considered.*

**(2) Where -**

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

*(b) he does not, within the period referred to in subsection (1)(e), serve on the Minister an instrument setting out matters that he wishes to be considered, or the Minister after consideration of matters set out in such 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, which-ever first occurs.*

**(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).**

*38F. Application for renewal of lease*

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

**(2) An application for the renewal of a lease -**

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by particulars of -*

*(i) the proposals of the applicant for work and expenditure in respect of the lease area; and*  
*(ii) particulars of the commercial viability of recovery of petroleum from the lease at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area; and*

*(d) shall be accompanied by the prescribed fee.*

***(3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of a 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.***

***38G. Grant or refusal of renewal of lease***

***(1) Where -***

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

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

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

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

***(ii) is likely to become commercially viable within 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 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 the Regulations have not been complied with; and***

***(ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of the renewal of the lease, by instrument in writing served on the person who is then the lessee, inform the person that he is prepared to grant to the person the renewal of the lease.***

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

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

*(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 lease is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have 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 a lease unless -*

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

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

*(c) he has, in the instrument -*

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

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

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

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

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

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

*(5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that he 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 the 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 the renewal of the lease to the lessee.*

*(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 occurs.*

*(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 it grants, or refuses to grant, the licence or until the application lapses, whichever first occurs.*

*38H. Conditions of lease*

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

*(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 him in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring him 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 -*
- (a) will comply with the provisions of this Act relating to the payment of royalty as in force from time to time; and*
  - (b) will, within the period of 3 months after the receipt of a written notice from the Minister requesting him to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first-mentioned period, allows, re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells) and inform the Minister in writing of the results of the re-evaluation.*
- (4) Where a lessee has complied with 2 notices of the kind referred to in subsection (3)(b) during the term of the lease, the Minister shall not give to the lessee a further notice of that kind until such time, if ever, as that term is extended.*

*38J. Discovery of petroleum to be notified*

- (1) Where petroleum is discovered in a lease area, the lessee -*
- (a) shall inform the Minister of the discovery forthwith; and*
  - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.*
- (2) Where petroleum is discovered in a lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following:*
- (a) the chemical composition and physical properties of the petroleum;*
  - (b) the nature of the subsoil in which the petroleum occurs; and*
  - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.*
- (3) A person to whom a direction is given under subsection (2) shall comply with the direction.*

*Penalty: \$10,000.*

*38K. Directions by designated authority on discovery of petroleum*

- (1) Where petroleum is discovered in a lease area, the Minister may, by instrument in writing served on the lessee, direct the lessee to do, within the period specified in the instrument, such things as the*

*Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the lease area, in such part of that petroleum pool as is within the lease area.*

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

*Penalty: \$10,000.*

Division 3 - Production Licences for Petroleum

*39. Recovery of petroleum in adjacent area*

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

*(a) under and in accordance with a licence; or*

*(b) as otherwise permitted by this Part.*

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

*40. Application by permittee for licence*

*(1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a licence -*

*(a) where 9 or more blocks constitute the location concerned - in respect of 5 of those blocks;*

*(b) where 8 or 7 blocks constitute the location concerned - in respect of 4 of those blocks;*

*(c) where 6 or 5 blocks constitute the location concerned - in respect of 3 of those blocks;*

*(d) where 4 or 3 blocks constitute the location concerned - in respect of 2 of those blocks;*

*(e) where 2 blocks constitute the location concerned - in respect of one of those blocks; or*

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

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

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

*(b) being the holder of a licence referred to in paragraph (a), may, from time to time within that period, make an*

*application to the Minister for a 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 variation of that licence.*

**(3) Where -**

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

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

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

**(4) Subject to subsection (5), the application period in respect of an application under this section by a permittee is -**

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

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

**(5) Where -**

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

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

*the application period shall be -*

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

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

*whichever period last expires.*

*40A. Application for licence by holder of lease*

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

- (a) in respect of 9 blocks - in respect of 5 of those blocks;*
- (b) in respect of 8 or 7 blocks - in respect of 4 of those blocks;*
- (c) in respect of 6 or 5 blocks - in respect of 3 of those blocks;*
- (d) in respect of 4 or 3 blocks - in respect of 2 of those blocks;*
- (e) in respect of 2 blocks - in respect of one of those blocks;*  
*or*
- (f) in respect of one block - in respect of that block.*

*(2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (1) in respect of his 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 his primary entitlement.*

*(3) Where an application has been made under subsection (1) in respect of his primary entitlement, the person who is then 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.*

*41. Application for licence*

*(1) An application made under section 40 or 40A -*

- (a) shall be in accordance with an approved form;*
- (b) shall be made in an approved manner;*
- (c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application;*
- (d) may set out any other matters that the applicant wishes the Minister to consider; and*
- (e) shall, in the case of an application for the grant of a licence, be accompanied by the prescribed fee.*

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

*42. Determination of rate of royalty*

*(1) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum*



*recovered, whether under the primary licence or under the secondary licence, being a rate that is not less than 11% or more than 12½% of the value of that petroleum at the well-head.*

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

*43. Notification as to grant of licence*

*(1) Where an application for the grant of a licence has been made under section 40 or 40A and the applicant has furnished further information as and when required by the Minister under section 41(2), the Minister, by notice in writing served on the applicant, shall inform the applicant that he is prepared to grant to the applicant a licence in respect of the blocks specified in the application.*

*(2) A notice served under subsection (1) shall -*

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

*(b) if the notice relates to an application for a secondary licence - specify the rate of royalty determined by the Minister in pursuance of section 42(1); and*

*(c) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 44(1) in respect of the grant of the licence.*

*44. Grant of licence*

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

*(2) Where an applicant who has been served with a notice under section 43(1) has made a request under subsection (1) within the period applicable under that subsection, the Minister shall grant to the applicant a licence in respect of the blocks specified in the application.*

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

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

*(b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks*

*included in that licence by reason of variations of the licence under section 45, is the permittee's or lessee's primary entitlement.*

*(4) Where an applicant who has been served with a notice under section 43(1) has not made a request under subsection (1) within the period applicable under that subsection, the application lapses upon the expiration of that period.*

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

*44A. Application of sections 41 to 44 where permit, &c., transferred  
Where -*

*(a) after an application has been made -*

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

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

*(b) before a decision has been made by the Minister under section 43(1) in relation to the application,*

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

*45. Variation of licence area*

*(1) Where an application is made under section 40(2) for a variation of a licence, the Minister shall, by notice in writing served on the licensee, vary the licence to include in the licence area the blocks specified in the application.*

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

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

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

*46. Determination of permit or lease as to block not taken up*

*(1) Subject to subsection (2), where -*

- (a) a permittee who may make an application under section 40 in respect of a block does not, within the application period, make the application; or*
- (b) all applications made by a permittee under that section in respect of a block have lapsed,*
- the permit is determined as to that block and the determination has effect -*
- (c) in a case referred to in paragraph (a) - upon the expiration of the application period; and*
- (d) in a case referred to in paragraph (b) -*
- (i) upon the expiration of the application period; or*
- (ii) upon the lapsing of the last of the applications referred to in that paragraph, whichever is the later.*
- (1A) Subject to subsection (2), where all applications made by a lessee under section 40A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect on the lapsing of the last of those applications.*
- (2) Where a permittee or lessee makes an application for a secondary licence -*
- (a) the permit or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and*
- (b) the determination has effect upon the making of the application.*
- (3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Minister shall, by instrument in the Gazette -*
- (a) in a case where that block or those blocks constitutes or constitute that location - revoke the declaration made under section 37 in respect of that location; or*
- (b) in a case where that block or those blocks forms or form part of that location - revoke the declaration made under section 37 in respect of that location to the extent that it relates to that block or those blocks.*
- (4) Subsection (3) does not apply in relation to a block -*
- (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or*
- (b) in respect of which a lease or licence is in force.*

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

*(6) Where -*

- (a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and*
- (b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 38B(1) (c)(ii),*

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

*47. Application for licence in respect of surrendered blocks, &c.*

*(1) Where -*

- (a) a licence is surrendered or cancelled as to a block; or*
- (b) a permit or lease is surrendered, cancelled or determined as to a block -*

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

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

*the Minister may, at any subsequent time, by notice in the Gazette -*

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

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

*(2) The Minister shall, in a notice under subsection (1), state -*

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

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

*(3) Where the Minister, in a notice 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 notice, state that an applicant on whose application he is prepared to grant a licence will also be required to pay to him, in respect of the grant of the licence, the amount specified in that behalf in that notice.*

*(4) and (5) [Omitted]*

- (6) An application made under this section -**
- (a) shall be in accordance with an approved form;**
  - (b) shall be made in an approved manner;**
  - (c) shall be accompanied by the particulars referred to in section 41(1)(c);**
  - (d) in the case of an application under subsection (1), shall specify, in accordance with the requirement in the notice by which applications were invited, the amount or the rate of royalty, that the applicant would be prepared to pay; and**
  - (e) [Omitted]**
  - (f) may set out any other matters that the applicant wishes the Minister to consider.**

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

**48. Application fee, &c.**

**(1) An application made under section 47 shall be accompanied by -**

- (a) the prescribed fee; and**
- (b) a deposit -**

- (i) if the applicant has specified an amount that he would be prepared to pay in respect of the grant of a licence to him on the application - of 10% of that amount; or**
- (ii) if the Minister has, in the notice by which the 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 who has been served with a notice under section 49(1) does not request the Minister, under section 49(6), to grant to him the licence referred to in the notice, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.**

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

**(1) Where, at the expiration of the period specified in a notice under section 47(1), only one application has been made under that subsection in respect of the block specified in the notice, the Minister may reject or grant the application.**

**(2) Where, at the expiration of the period specified in a notice under section 47(1), 2 or more applications have been made under that**

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

*inform the applicant -*

- (c) that he is prepared to grant to him a licence; and*
- (d) that the applicant will be required to pay -*
  - (i) the amount specified in the application;*
  - (ii) royalty at the rate specified in the application; or*
  - (iii) royalty at the rate specified in the application and the amount specified in the notice under section 47(1), as the case may be.*

*(3) [Omitted]*

*(4) [Omitted]*

*(5) A notice under any of the preceding provisions of this section shall contain -*

- (a) a summary of the conditions subject to which the licence is to be granted;*
- (b) a statement of the balance of the amount, if any, that the applicant will be required to pay in respect of the grant of the licence to him; and*
- (c) a statement to the effect that the application will lapse -*
  - (i) if the applicant does not make a request under subsection (6); or*
  - (ii) in a case where the notice contains a statement referred to in paragraph (b) - if the applicant does not pay the balance of the amount referred to in that statement or enter into an agreement under section 109 in respect of that balance.*

*(6) An applicant who has been served with a notice under any of the preceding provisions of this section may, within a period of 3 months*

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

*(a) by notice in writing served on the Minister, request the Minister to grant to him the licence; and*

*(b) if the first-mentioned notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to him - pay that balance or enter into an agreement under section 109 in respect of that balance.*

*(7) Where an applicant who has been served with a notice under subsection (1) or (2) -*

*(a) has not made a request under subsection (6); or*

*(b) if the notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him - has not paid that balance or entered into an agreement under section 109 in respect of that balance,*

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

*(8) Where the application lapses, as provided by subsection (7), of an applicant who has been served with a notice under subsection (2), subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.*

*50. Grant of licence on request*

*Where an applicant who has been served with a notice under section 49 -*

*(a) has made a request under section 49(6); and*

*(b) if the notice contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him - has paid that balance or entered into an agreement under section 109 in respect of that balance,*

*within the period applicable under section 49(6), the Minister shall grant to him a licence in respect of the block specified in the notice.*

*51. Grant of licences in respect of individual blocks*

*(1) Where a licence (in this section called the "original licence") is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the licensee may make an application to the Minister for the grant to him of 2 or more licences in respect of the blocks the subject of the original licence in exchange for the original licence.*

- (2) An application under subsection (1) -*
- (a) shall be in accordance with an approved form;*
  - (b) shall be made in an approved manner;*
  - (c) shall specify the number of licences required;*
  - (d) shall specify the block or blocks the subject of the original licence in respect of which each licence is sought;*
  - and*
  - (e) shall be accompanied by the prescribed fee.*
- (3) [Omitted]*
- (4) Where a licensee has made an application under this section, the Minister shall grant to the licensee licences in accordance with the application.*
- (5) A licence granted on an application under this section -*
- (a) remains in force, subject to this Part, but notwithstanding section 53, for the remainder of the term of the original licence; and*
  - (b) shall be granted subject to conditions corresponding as nearly as may be to the conditions to which the original licence was subject.*
- (6) Where licences are granted on an application under this section the original licence is determined and the determination has effect on and from the day on which those licences come into force.*

*52. Rights conferred by licence*

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

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

*53. Term of licence*

*Subject to this Part, a licence remains in force -*

- (a) in the case of a licence granted otherwise than by way of renewal of a licence - for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day;*
- (b) in the case of a licence granted by way of the first renewal of a licence - for 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*  
*(c) in the case of a licence granted by way of a renewal, other than the first renewal, of a licence - for such period, 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, as the Minister determines and specifies in the licence, being a period not exceeding 21 years.*

*54. Application for renewal of licence*

*(1) A licensee may, from time to time, make an application to the Minister for the renewal of a licence.*

*(2) An application for the renewal of a licence -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by particulars of the proposals of the licensee for work and expenditure in respect of the licence area; and*

*(d) shall be accompanied by the prescribed fee.*

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

*55. Grant or refusal of licence*

*(1) Where -*

*(a) an application for the renewal of a licence has been made under section 54; and*

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

*the Minister -*

*(c) shall, if the application is in respect of the first renewal of the licence; or*

*(d) may, if the application is in respect of a renewal other than the first renewal of the licence,*

*by instrument in writing served on the person who is then the licensee, inform the person that he 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 54; and*

*(b) any of the conditions to which the licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have 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 he 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 or the Regulations have 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 notice in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.*

*(4) The Minister shall not, under subsection (3), refuse to grant the renewal of a licence unless -*

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

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

*(c) he has, in the notice -*

*(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 notice is served may, by notice 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 notice has been served.*

*(5) Where an application has been made under section 54 in respect of a renewal other than the first renewal of a licence, the Minister may, by notice in writing served on the person who is then the licensee, refuse to grant the renewal of the licence.*

*(6) [Omitted]*

*(7) A notice 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 applicant does not make a request under subsection (8).*

*(8) A licensee who has been served with a notice under subsection (1) or (2) may, within a period of one month after the date of service of the notice on him, by notice in writing served on the Minister, request the Minister to grant the renewal of the licence to the licensee.*

*(9) Where a licensee who has been served with a notice 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 who has been served with a notice under subsection (1) or (2) has not made a request under subsection (8) within the period referred to in subsection (8), the application lapses upon the expiration of that period.*

*(11) Where -*

*(a) an application for the renewal of a licence is made under section 54; and*

*(b) a licence expires -*

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

*(ii) before the application lapses as provided by subsection (10),*

*the licence shall be deemed to continue in force in all respects -*

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

*(d) until the application so lapses,*

*whichever first happens.*

*56. Conditions of licence*

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

*(2) A licence shall be deemed to contain a condition that the licensee will comply with the provisions of this Act relating to the payment of royalty as in force from time to time.*

*57. [Repealed]*

*58. Directions as to recovery of petroleum*

*(1) Where petroleum is not being recovered in a licence area and the Minister is satisfied that there is recoverable petroleum in that area, he may, by notice 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 notice 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 notice 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 notice.*

*(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 notice 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 the revenue of the Territory 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.*

*59. Unit development*

*(1) In this section, the expression "unit development" -*

- (a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee and partly in a licence area of another licensee or in an area that is not within an adjacent area but in which a person other than the first-mentioned licensee is lawfully entitled to carry on operations for the recovery of petroleum from the pool; and*
- (b) means the carrying on of operations for the recovery of petroleum from that pool under co-operative arrangements between the persons entitled to carry on such operations in each of those areas.*

*(2) A licensee may, from time to time, enter into an agreement in writing for or in relation to the unit development of a petroleum pool, but nothing in this subsection derogates from the operation of section 81(2).*

*(3) The Minister of his own motion or on application made to him in writing by -*

- (a) a licensee in whose licence area there is a part of a particular petroleum pool; or*

*(b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside an adjacent area that includes part of a particular petroleum pool that extends into the adjacent area,*

*may for the purpose of securing the more effective recovery of petroleum from the petroleum pool, direct any licensee whose licence area includes part of the petroleum pool, by instrument in writing served on the licensee, to enter into an agreement in writing, within the period specified in the notice, for or in relation to the unit development of the petroleum pool and to lodge an application in accordance with section 81 for approval of any dealing to which the agreement relates.*

*(4) Where -*

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

*(b) the licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 81,*

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

*(5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Minister may, by notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.*

*(6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the Minister may, by notice in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.*

*(7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by notice in writing served on the licensee or licensees concerned,*

*give to the licensee or licensees such directions, or further directions, as the case may be, as he thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.*

*(8) The Minister shall not give a direction under subsection (6) or (7) unless he has given to the licensee or licensees concerned an opportunity to confer with him concerning the proposed direction.*

*(9) Directions given under subsection (5), (6) or (7) may include directions as to the rate at which petroleum is to be recovered.*

*(10) In this section, "dealing" means a dealing to which section 81 applies.*

*(11) The Minister shall -*

*(a) if a petroleum pool extends, or is reasonably believed by him to extend, from an adjacent area into lands to which the laws of another State relating to the exploitation of petroleum resources apply, consult with the appropriate authority of that State concerning the exploitation of the petroleum pool;*

*(b) if a petroleum pool extends, or is reasonably believed by him to extend, from an adjacent area into the adjacent area in respect of a State within the meaning of the Commonwealth Act, consult with the Designated Authority under the Commonwealth Act in respect of that State concerning the exploitation of the petroleum pool; or*

*(c) if both paragraphs (a) and (b) apply, comply with both of those paragraphs.*

*(12) Where subsection (11) applies in relation to a petroleum pool, the Minister shall not approve an agreement under this section, or give a direction under this section, in relation to that petroleum pool except with the approval of any other authority or Designated Authority required by that subsection to be consulted.*

#### Division 4 - Pipeline Licences

*60. Construction, &c., of pipelines, &c.*

*(1) A person shall not, in the adjacent area -*

*(a) commence or continue the construction, or the alteration or reconstruction, of a pipeline; or*

*(b) operate a pipeline,*

*except under and in accordance with a pipeline licence.*

*(2) A person shall not, in the adjacent area -*

*(a) commence or continue the construction, or the alteration or reconstruction, of a secondary line or water line; or*

*(b) operate a secondary line or water line, except with and in accordance with a consent in writing of the Minister.*

*(3) A person shall not, in the adjacent area -*

*(a) commence or continue the construction, or the alteration or reconstruction, of a pumping station, tank station or valve station; or*

*(b) operate a pumping station, tank station or valve station, except under and in accordance with a pipeline licence or with and in accordance with a consent in writing of the Minister.*

*(4) A person shall not, in the adjacent area, commence to operate a pipeline, a secondary line or a water line unless -*

*(a) in the case of a pipeline, it has been constructed and tested in accordance with the pipeline licence;*

*(b) in the case of a secondary line or water line it has been constructed and tested in accordance with a consent in writing of the Minister; and*

*(c) the Minister has certified in writing that he is satisfied that the pipeline, secondary line or water line, as the case may be, has been so constructed and tested and is fit to be operated.*

*(5) A person shall not, in the adjacent area, recommence to operate a pipeline, a secondary line or a water line, the previous operation of which was discontinued, except with and in accordance with a consent in writing of the Minister.*

*(6) The Minister may refuse to give a consent or certificate for the purposes of this section and, where he gives a consent, may attach conditions to it.*

*Penalty for an offence against this section: \$50,000 or imprisonment for 5 years.*

*61. Acts done in emergency, &c.*

*It is not an offence against section 60 -*

*(a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline, water line, pumping station, tank station, valve station or secondary line in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline, water line, pumping station, tank station, valve station or secondary line in good order and repair and -*

*(i) as soon as practicable notifies the Minister of the act done; and*

*(ii) complies with any directions given to him by the Minister; or*

*(b) if a person does an act in compliance with a direction under this Act or the Regulations.*

62. *Removal of pipeline, &c., constructed in contravention of Act*

*(1) Where -*

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

*(b) a pipeline, water line, pumping station, tank station, valve station or secondary line is altered or reconstructed in contravention of this Act,*

*the Minister may, by notice in writing served on the appropriate person, direct him -*

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

*(d) to move the pipeline, water line, pumping station, tank station, valve station or secondary line to a specified place in, or to remove it from, the adjacent area,*

*within the period specified in the notice.*

*(2) For the purposes of subsection (1), the appropriate person is -*

*(a) if the construction of a pipeline, water line, pumping station, tank station, valve station or secondary line has been completed - the owner of the pipeline, water line, pumping station, tank station, valve station or secondary line; or*

*(b) if the construction of a pipeline, water line, pumping station, tank station, valve station or secondary line has not been completed - the person for whom the pipeline, water line, pumping station, tank station, valve station or secondary line is being constructed.*

*(3) Where a person who has been served with a notice under subsection (1) does not, within the period specified in the notice or within such further period, if any, as the Minister, on application in writing served on him before the expiration of the first-mentioned period, allows, comply with the direction, the Minister may do all or any of the things required by the direction to be done.*

*(4) Costs and expenses incurred by the Minister under subsection (3) are a debt due by the person referred to in that subsection to the Territory and are recoverable in a court of competent jurisdiction.*

63. *Terminal station*



*The Minister may, by notice in the Gazette, declare a pumping station, a tank station or a valve station in the adjacent area to be a terminal station.*

64. *Application for pipeline licence*

*(1) An application for a pipeline licence -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by particulars of -*

*(i) the proposed design and construction of the pipeline;*

*(ii) the proposed size and capacity of the pipeline;*

*(iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline;*

*(iv) the technical qualifications of the applicant and of his employees;*

*(v) the technical advice available to the applicant;*

*(vi) the financial resources available to the applicant; and*

*(vii) any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline;*

*(d) shall be accompanied by a plan, drawn to an approved scale, showing -*

*(i) the routes to be followed by the pipeline;*

*(ii) the sites of pumping stations, tank stations and valve stations to be used in connection with the pipeline; and*

*(iii) the site of any pumping station, tank station or valve station that the applicant desires to be declared under section 63 to be a terminal station in connection with the pipeline;*

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

*(f) shall be accompanied by the prescribed fee.*

*(2) Where a notice is published in the Gazette -*

*(a) of an application by a person other than the licensee for a pipeline licence in respect of the construction of a pipeline*

*for the conveyance of petroleum recovered in a licence area;  
or*

*(b) of an application by a person other than the pipeline operator under the Commonwealth Act or a corresponding law for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area under the Commonwealth Act or a corresponding law,*

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

*(3) Where -*

*(a) a notice referred to in subsection (2) is published in the Gazette; and*

*(b) a pipeline licence is granted to a licensee or to a pipeline operator under the Commonwealth Act or a corresponding law on an application under subsection (2),*

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

*(4) The Minister may, at any time, by notice in writing served on a person who has made an application under this section, require him to furnish, within the time specified in the notice, further information in writing in connection with his application.*

*(5) In this section, "pipeline operator under the Commonwealth Act or a corresponding law" has the same meaning as in section 65.*

*65. Grant or refusal of pipeline licence*

*(1) Where a person makes an application in accordance with section 64, the Minister may, if that person is not the licensee and the application has not been rejected under section 64(3), inform the applicant, by notice in writing served on him, that the Minister is prepared to grant a pipeline licence to him.*

*(2) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the licensee, the Minister -*

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

*(b) may, if -*

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

*(ii) the Minister is, nevertheless, satisfied that special circumstances exist that justify the granting of a pipeline licence,*

*by instrument in writing served on the person who is then the licensee, inform the person that he is prepared to grant to the person a pipeline licence.*

*(3) Where an application for a pipeline licence in respect of the construction in an adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area is made in accordance with section 64 by the licensee, the Minister shall, if -*

*(a) 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 or the Regulations have not been complied with; and*

*(b) the Minister is not satisfied that special circumstances exist that justify the granting of a pipeline licence,*

*by instrument in writing served on the person who is then the licensee, refuse to grant a pipeline licence.*

*(4) The Minister shall not, under subsection (3), refuse to grant a pipeline licence to a licensee unless -*

*(a) he has, by notice in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the pipeline licence;*

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

*(c) he has, in the notice -*

*(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 notice is served may, by notice 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 notice has been served.*

*(5) Where a person other than a licensee or a pipeline operator under the Commonwealth Act or a corresponding law makes an application in accordance with section 64 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area or, as the case may be, a licence area under the Commonwealth Act or a corresponding law, the Minister may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.*

*(6) [Omitted]*

*(7) A notice under subsection (1) or an instrument under subsection (2) -*

- (a) shall specify the route to be followed by the pipeline;*
- (b) shall contain a summary of the conditions subject to which a pipeline licence is to be granted; and*
- (c) shall contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection (9).*

*(8) The route to be specified in a notice under subsection (1) or an instrument under subsection (2) shall be -*

- (a) the route shown in the plan accompanying the application; or*
- (b) if the Minister is of the opinion that, for any reason, that route is not appropriate - a route that, in the opinion of the Minister, is appropriate.*

*(9) A person who has been served with a notice under subsection (1) or an instrument under subsection (2) may, within a period of 3 months after the date of service of the notice on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows, by notice in writing served on the Minister, request the Minister to grant to him the pipeline licence.*

*(10) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) has made a request under subsection (9) within the period applicable under subsection (9), the Minister shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the notice or instrument.*

*(11) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) has not made a request under subsection (9) within the period applicable under*

*subsection (9), the application lapses upon the expiration of that period.*

*(12) [Omitted]*

*(13) In this section, "pipeline operator under the Commonwealth Act or a corresponding law" means a person who is entitled under the Commonwealth Act or a corresponding law to carry on operations for the recovery of petroleum in an area outside the adjacent area and who the Minister is satisfied is or will be entitled to construct a pipeline from the first-mentioned area to the boundary of the adjacent area.*

*66. Rights conferred by pipeline licence*

*A pipeline licence, while it remains in force, authorizes the pipeline licensee, subject to this Act and the Regulations and in accordance with the conditions to which the pipeline licence is subject -*

*(a) to construct in an adjacent area -*

*(i) a pipeline of the design, construction, size and capacity specified in the pipeline licence along the route, and in the position in relation to the sea-bed in the adjacent area, so specified; and*

*(ii) the pumping stations, tank stations and valve stations so specified in the positions so specified;*

*(b) to operate that pipeline and those pumping stations, tank stations and valve stations; and*

*(c) to carry on such operations, to execute such works and to do all such other things in the adjacent area as are necessary for or incidental to the construction and operation of that pipeline and of those pumping stations, tank stations and valve stations.*

*67. Term of pipeline licence*

*(1) Subject to this Part, a pipeline licence remains in force -*

*(a) for a period of 21 years; or*

*(b) where the Minister is of the opinion that, having regard to the dates of expiration of the licences that relate to the licence areas from which petroleum is, or is to be, conveyed by means of the pipeline, it is not necessary for the pipeline licence to remain in force for a period of 21 years - for such period less than 21 years as the Minister determines and specifies in the pipeline licence.*

*(2) A pipeline licence comes into force on the day on which it is granted or, if a later day is specified in the pipeline licence as being the day on which it is to come into force, on that later day.*

68. *Application for renewal of pipeline licence*

*(1) A pipeline licensee may, from time to time, make an application to the Minister for the renewal of the pipeline licence.*

*(2) An application for the renewal of a pipeline licence -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall be accompanied by the prescribed fee.*

*(3) The Minister may receive an application for the renewal of a pipeline licence less than 6 months before, but not in any case after, the day on which the pipeline licence ceases to be in force.*

69. *Grant or refusal of renewal of pipeline licence*

*(1) Where an application has been made under section 68 for the renewal of a pipeline licence, the Minister -*

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

*(b) may, if -*

*(i) any of the conditions to which the pipeline licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with; and*

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

*by instrument in writing served on the person who is then the pipeline licensee, inform the person -*

*(c) that he is prepared to grant to him the renewal of the pipeline licence.*

*(2) Where an application has been made under section 68 for the renewal of a pipeline licence, the Minister shall, if -*

*(a) any of the conditions to which the pipeline licence is, or has from time to time been, subject or any of the provisions of this Part or the Regulations have not been complied with; and*

*(b) the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the pipeline licence,*

*by instrument in writing served on the person who is then the pipeline licensee, refuse to grant the renewal of the pipeline licence.*

***(3) The Minister shall not refuse to grant the renewal of the pipeline licence unless -***

***(a) he has, by notice in writing served on the pipeline licensee, given not less than one month's notice of his intention to refuse to grant the renewal of the pipeline licence;***

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

***(c) he has, in the notice -***

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

***(ii) specified a date on or before which the pipeline licensee or a person on whom a copy of the notice is served may, by notice 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 pipeline licensee or by a person on whom a copy of the first-mentioned notice has been served.***

***(4) A notice under subsection (1) shall contain -***

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

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

***(5) A pipeline licensee who has been served with a notice under subsection (1) may, within a period of one month after the date of service of the notice on him, by notice in writing served on the Minister, request the Minister to grant to him the renewal of the pipeline licence.***

***(6) Where a pipeline licensee who has been served with a notice 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 pipeline licence.***

***(7) Where a pipeline licensee who has been served with a notice 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 pipeline licence is made under subsection (7); and***

***(b) the pipeline licence expires -***

- (i) before the Minister grants, or refuses to grant, the renewal of the pipeline licence; or*
- (ii) before the application lapses as provided by subsection (7),*

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

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

*whichever first happens.*

*70. Conditions of pipeline licence*

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

*(2) The conditions referred to in subsection (1) may include a condition that the pipeline licensee shall complete the construction of the pipeline within the period specified in the pipeline licence.*

*(3) This section extends to a pipeline licence granted by way of the renewal of a pipeline licence and, in the case of a pipeline licence so granted, the conditions may include conditions varying or adding to the conditions of the previous licence and conditions requiring reconstruction or modification of the pipeline or of associated works.*

*71. Variation of pipeline licence on application by pipeline licensee*

*(1) A pipeline licensee may, at any time, make an application to the Minister for the variation of the pipeline licence.*

*(2) An application under this section -*

- (a) shall be in accordance with an approved form;*
- (b) shall be made in an approved manner;*
- (c) shall be accompanied by particulars of the proposed variation;*
- (d) shall specify the reasons for the proposed variation; and*
- (e) shall be accompanied by the prescribed fee.*

*(3) The Minister may, at any time, by notice in writing served on a person who has made an application under this section, require him to furnish, within the period specified in the notice, further information in writing in connection with his application.*

*(4) The Minister shall, by notice in the Gazette of an application under this section, specify a period within which a person may submit to the Minister, in writing, any matters that he wishes the Minister to consider in connection with the application.*

*(5) After considering any matters submitted to him under subsection (4) the Minister may, by notice in writing, vary the pipeline licence to such extent as he thinks necessary or may refuse to vary the pipeline licence.*



72. *Variation of pipeline licence by designated authority*

**(1) The Minister may -**

**(a) at the request of -**

**(i) a Minister or a Minister of State of the Commonwealth; or**

**(ii) a body established by a law of the Commonwealth or a Territory or of a State; and**

**(b) if, in his opinion, it is in the public interest so to do, by notice in writing served on a person who is a pipeline licensee or the holder of a notice of consent under section 60, direct that person to make such changes in the design, construction, route or position of the pipeline, or of a water line, pumping station, tank station, valve station or secondary line to which the pipeline licence or notice of consent relates, as are specified in the first-mentioned notice, within the period specified in the first-mentioned notice and, if the person so directed is a pipeline licensee, shall vary the pipeline licence accordingly.**

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

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

**(3) Where the Minister gives a direction under subsection (1), and the person to whom the direction was given has complied with the direction, that person may bring an action in the Supreme Court against the Minister or Minister of State of the Commonwealth or body making the request.**

**(4) The Supreme Court shall hear the action, without a jury, and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.**

**(5) If the Supreme Court determines that it is just that such a payment ought to be made, the Supreme Court shall determine the amount of the payment and give judgment accordingly.**

73. *Common carrier*

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

**(2) Subsection (1) does not apply in relation to a pipeline, or a part of a pipeline, that is a Covered Pipeline within the meaning of the Gas Pipelines Access (Northern Territory) Law as defined in the Gas Pipelines Access (Northern Territory) Act.**

74. *Ceasing to operate pipeline*

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

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

***(2) It is not an offence against subsection (1) if the failure of the pipeline licensee to operate the pipeline -***

***(a) was in the ordinary course of operating the pipeline;***

***(b) was for the purpose of repairing or maintaining the pipeline; or***

***(c) was in an emergency in which there was a likelihood of loss or injury.***

Division 5 - Registration of Instruments

***74A. Interpretation***

***In this Division, "title" means a permit, lease, licence, pipeline licence or access authority.***

***75. Register of certain instruments to be kept***

***For the purposes of this Part, the Minister shall keep a register of titles and special prospecting authority granted by him.***

***75A. Application of Law of Property Act***

***On the commencement of the Law of Property Act 2000 -***

***(a) that Act applies to estates, interests and any other rights in or in respect of land, granted, created or taking effect under this Act, but if there is an inconsistency between the provisions of that Act and a specific provision of this Act, this Act prevails;***

***(b) Part 7 of that Act applies to or in respect of an interest granted, created or taking effect under this Act, subject that a reference to the Registrar-General is to be construed as a reference to the Minister; and***

***(c) in registering the creation or transfer of an interest under this Act, the Minister is to record co-owners (if any) of the interest as tenants in common unless satisfied that the intention was for the interest to be held as joint tenants.***

***76. Particulars to be entered in register***

***(1) The Minister shall enter in the register a memorial in respect of each title or special prospecting authority -***

***(a) specifying the name of the holder of the title or special prospecting authority;***

***(b) in the case of a permit, lease or licence, setting out an accurate description (including, where convenient, a map) of the permit area, lease area or licence area;***

- (c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient, a map) of the area in respect of which the special prospecting authority or access authority is in force;*
- (d) in the case of a pipeline licence, setting out a description of the route of the pipeline;*
- (e) specifying the term of the title and special prospecting authority;*
- (f) setting out such other matters and things as are required by this Part to be entered in the register; and*
- (g) setting out such further matters relating to the registered holder or to the terms and conditions of the title or special prospecting authority as the Minister deems proper and expedient in the public interest.*

*(2) The Minister shall enter in the register a memorial of -*

- (a) any notice varying, cancelling, surrendering or otherwise affecting a title or special prospecting authority;*
- (b) any notice under section 59(5), (6) or (7);*
- (c) any agreement under section 109; and*
- (d) any notice or instrument varying or revoking a notice or instrument referred to in paragraph (a) or (b).*

*(3) It is sufficient compliance with the requirements of subsection (1) or (2) if the Minister enters a copy of the title, special prospecting authority or instrument in the register.*

*(4) [Omitted]*

*(5) The Minister shall endorse on the memorial or copy of the title, special prospecting authority or instrument a memorandum of the date upon which the memorial or copy was entered in the register.*

*77. Memorials to be entered of permits, &c., determined, &c.*

*Where -*

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

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

*78. Approval and registration of transfers (See back note 2)*

*(1) A transfer of a title is of no force or effect until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.*

*(2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.*

*(3) An application for approval of a transfer of a title shall be accompanied by -*

*(a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee;*

*(b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out -*

*(i) the technical qualifications of that transferee or those transferees;*

*(ii) details of the technical advice that is or will be available to that transferee or those transferees; and*

*(iii) details of the financial resources that are or will be available to that transferee or those transferees; and*

*(c) a copy of the application and of the instruments referred to in paragraphs (a) and (b).*

*(4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.*

*(5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as he considers appropriate.*

*(6) The Minister shall consider each application for approval of the transfer of a title and determine whether to approve the transfer.*

*(7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister.*

*(8) [Omitted]*

*(9) Where the Minister approves the transfer of a title, he shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of*

*the fee provided by this Act, enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.*

*(10) Upon the entry in the register of a memorandum of the transfer of a title and of the name of the transferee in accordance with subsection (9) -*

*(a) the transfer shall be deemed to be registered; and*

*(b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.*

*(11) Where the Minister refuses to approve the transfer of a title, he shall make a notation of the refusal in the register.*

*(12) Where a transfer is registered -*

*(a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and*

*(b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.*

*(13) The mere execution of an instrument of transfer of a title creates no interest in the title.*

*79. Entries in register on devolution of title, &c.*

*(1) A person upon whom the rights of a registered holder of a particular title have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the title.*

*(2) The Minister shall, if he is satisfied that the rights of a holder have devolved upon an applicant by operation of law and on payment of the prescribed fee enter the name of the applicant in the register as the holder of the title and, upon that entry being so made, the applicant becomes the registered holder of the title.*

*(3) Where a company that is the registered holder of a particular title has changed its name, it may apply in writing to the Minister to have its new name substituted for its previous name in the register in relation to that title and, if -*

*(a) the Minister is satisfied that the company has so changed its name; and*

*(b) the company has paid the prescribed fee,*

*the Minister shall make the necessary alterations in the Register.*

*80. [Repealed]*

*81. Approval of dealings relating to existing titles (See back note 3)*

*(1) This section applies to a dealing that would, but for subsection*

*(2), have one or more of the following effects:*

- (a) the creation or assignment of an interest in an existing title;*
- (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;*
- (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by, or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under co-operative arrangements for the recovery of petroleum);*
- (d) the creation or assignment of -*
  - (i) an interest in or in relation to an existing permit, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or*
  - (ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorized by an existing permit, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;*
- (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);*
- (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d); and*
- (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f),*

*but this section does not apply to a transfer to which section 78 applies.*

*(2) A dealing to which this section applies is of no force or effect in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until*

-

- (a) the dealing, in so far as it relates to that title, has been approved by the Minister; and*

- (b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12).*
- (3) A party to a dealing to which this section applies may lodge with the Minister -*
- (a) in a case where the dealing relates to only one title, an application in writing for approval by the Minister of the dealing; or*
  - (b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each title to which the dealing relates.*
- (4) An application under subsection (3) for approval of a dealing -*
- (a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and*
  - (b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind. (See back note 5)*
- (4A) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of -*
- (a) the application;*
  - (b) the instrument referred to in subsection (4)(a); and*
  - (c) any instrument lodged for the purposes of subsection (4)(b).*
- (5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within the period of 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister in special circumstances, allows.*
- (6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 81A(1), the Minister shall not approve the dealing unless -*
- (a) a provisional application for approval of the dealing was lodged in accordance with section 81A(1); or*
  - (b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.*
- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the*

*issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.*

*(8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4)(a), and with subsection (4A) in so far as that subsection requires 2 copies of the document referred to in subsection (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document relating to the creation of that charge required to be lodged under section 100 of the Companies Act or with the National Companies and Securities Commission pursuant to section 201 of the Companies Act 1981 of the Commonwealth or pursuant to the corresponding provision of a law of a State or another Territory of the Commonwealth.*

*(9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register on the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.*

*(10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.*

*(11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.*

*(12) If the Minister approves a dealing, he shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the fee provided by this Act make an entry of the approval of the dealing in the register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.*

*(13) Where an entry is made in the Register in relation to a dealing in accordance with subsection (12) -*

*(a) if the dealing was approved before the commencement of section 11 of the Petroleum (Submerged Lands) Amendment Act 1989 or the application for approval of the dealing was not accompanied by an instrument for the purpose of subsection (4)(b), one copy of the instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division;*



*(b) if the application for approval of the dealing was accompanied by an instrument for the purpose of subsection (4)(b), a copy of that instrument endorsed with a copy of the memorandum of approval of the dealing shall be retained by the Minister and made available for inspection in accordance with this Division but a copy of the instrument evidencing the dealing shall not be so made available; and*

*(c) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval and the instrument (if any) lodged for the purpose of subsection (4)(b) shall be returned to the person who made the application for approval.*

*(13A) The approval of a dealing or the making of an entry in the Register in relation to a dealing is not rendered ineffective by a failure to comply, in relation to the application for approval of the dealing, with the requirements of this section.*

*(14) Where the Minister refuses to approve a dealing, he shall make a notation of the refusal in the register.*

*(15) In this section, "charge" and "debenture" have the same respective meanings as they have for the purposes of section 201 of the Companies Act 1981 of the Commonwealth.*

*81A. Approval of dealings in future interests, &c. (See back note 3)*

*(1) Where 2 or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 81 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title, lodge with the Minister -*

*(a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or*

*(b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.*

*(2) Section 81(4), (7) and (8) applies to a provisional application lodged under subsection (1) of this section as if that provisional application were an application lodged under section 81(3).*

*(3) Where -*

*(a) the title to which a dealing referred to in sub-section (1) relates comes into existence; and*

*(b) upon that title coming into existence, the dealing becomes a dealing to which section 81 applies, the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 81(3) on the day on which that title came into existence.*

*(4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period -*

*(a) commencing -*

*(i) in the case of a permit, lease, licence or pipeline licence - on the day of service of an instrument informing the applicant for the permit, lease, licence or pipeline licence that the Minister is prepared to grant the permit, lease, licence or pipeline licence; or*

*(ii) in the case of an access authority - on the day on which the application for the grant of the access authority is made; and*

*(b) ending on the day on which the title comes into existence.*

*82. True consideration to be shown*

*(1) A person who is a party to a transfer referred to in section 78, a dealing to which section 81 applies or a dealing referred to in section 81A(1) shall not lodge with the Minister -*

*(a) an instrument of transfer;*

*(b) an instrument evidencing the dealing; or*

*(c) an instrument of the kind referred to in section 81(4)(b),*

*that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing under this Act, being a statement that is, to the knowledge of the person, false or misleading in a material particular.*

*Penalty: \$10,000.*

*(2) Where a person is found guilty of an offence against subsection (1), the Minister may make a fresh determination of the amount of the fee payable under section 92 in respect of the memorandum relating to the transfer or dealing.*

*(3) Section 91(2) and (3) applies in relation to a determination under subsection (2) as it applies in relation to a determination under section 91(1).*

*83. Minister not concerned with certain matters*

*Neither the Minister nor a person acting under his direction or authority is concerned with the effect in law of any instrument lodged with him in pursuance of this Division nor does the approval of a*

*transfer or dealing give to the transfer or dealing any force, effect or validity that the transfer or dealing would not have had if this Division had not been enacted.*

*84. Power of Minister to acquire information as to dealings*

*(1) The Minister may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Division to furnish to him in writing such information concerning the transfer or dealing as the Minister considers necessary or advisable.*

*(1A) The Minister may require a person who is a party to a dealing approved under section 81 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.*

*(1B) The Minister may require a person making an application under section 79(1) or (3) or 87A(2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.*

*(1C) A person shall not fail or refuse to comply with a requirement given under subsection (1), (1A) or (1B).*

*(2) A person who is required to furnish information shall not knowingly furnish information that is false or misleading in a material particular.*

*Penalty: \$5,000.*

*85. Production and inspection of documents*

*(1) The Minister may require any person to produce to him or to make available for inspection by him any documents in the possession or under the control of that person and relating to a transfer or dealing in relation to which approval is sought under this Division.*

*(1A) The Minister may require a person to produce to him or to make available for inspection by him a document in the possession or under the control of that person and relating to an application made under section 79(1) or (3) or 87A(2) to the Minister.*

*(2) A person shall not fail or refuse to comply with a requirement given to him under subsection (1) or (1A)*

*Penalty: \$5,000.*

*86. Inspection of register and documents*

*(1) The register and all instruments or copies of instruments subject to inspection under this Division shall at all convenient times be open for inspection by any person upon payment of the fee prescribed or calculated in accordance with the Regulations.*

*(2) [Omitted]*

*87. Evidentiary provisions*

*(1) The register shall be received by all courts as evidence of all matters required or authorized by this Division to be entered in the register.*

*(2) The Minister may, on payment of a fee calculated in accordance with the Regulations, supply copies of or extracts from the register or of or from any instrument lodged with him under this Division certified by writing under his hand, and such a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.*

*(3) The Minister may, on payment of the fee prescribed or calculated in accordance with the Regulations, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.*

*87A. Minister may make corrections to register*

*(1) The Minister may alter the register for the purposes of correcting a clerical error or an obvious defect in it.*

*(2) Subject to subsection (3), the Minister may, on application being made in writing to him by a person or of his own motion, make such entries in the register as he considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to a title.*

*(3) Where the Minister proposes to make an entry in the register in accordance with subsection (2), he shall cause to be published in the Gazette a notice -*

*(a) setting out the terms of the entry that he proposes to make; and*

*(b) inviting interested persons to give to him by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, submissions in writing relating to the making of the entry.*

*(4) Where submissions are, in accordance with a notice under subsection (3), given to the Minister in relation to the proposed making of an entry in the register, he shall -*

*(a) take those submissions into account before making an entry in the register; and*

*(b) after making an entry in the register, cause to be published in the Gazette a notice setting out the terms of the entry.*

88. Appeals

*(1) The Supreme Court may, on the application of a person aggrieved by -*

- (a) the omission of an entry from the register;*
- (b) an entry made in the register without sufficient cause;*
- (c) an entry wrongly existing in the register; or*
- (d) an error or defect in an entry in the register,*

*make such an order as it thinks fit directing the rectification of the register.*

*(2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.*

*(3) Notice of an application under this section shall be given to the Minister, who may appear and be heard and shall appear if so directed by the Supreme Court.*

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

89. Minister not liable to certain actions

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

90. Offences

*A person who wilfully -*

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

*is guilty of an offence.*

*Penalty: \$5,000.*

91. Assessment of fee

*(1) The Minister may determine the amount of the fee payable under section 92 in respect of any memorandum.*

*(2) A person dissatisfied with a determination of the Minister under subsection (1) may appeal to the Supreme Court against the determination.*

*(3) Upon the hearing of an appeal under subsection (2), the Supreme Court may affirm, reverse or modify the determination of the Minister.*

92. *Imposition of registration fees*

*(1) In this section "title" means a permit, lease, licence, pipeline licence or access authority.*

*(2) Subject to this section, there is payable to the Minister in respect of an entry in the register of a memorandum of the transfer of a title under section 78 a fee at the rate of 1.5% of -*

*(a) the value of the consideration for the transfer; or*

*(b) the value of the title transferred,*

*whichever is the greater or, if the amount of that fee is less than the prescribed amount, a fee of the prescribed amount.*

*(3) Where -*

*(a) a fee imposed by subsection (5) in respect of an entry of approval of a dealing, being a dealing pursuant to which the transfer of a title is agreed to, has been paid; and*

*(b) but for this subsection, the amount of the fee imposed by subsection (2) in respect of the entry of a memorandum of the transfer of the title, being a transfer executed for the purpose of giving effect to the dealing referred to in paragraph (a), would be greater than the prescribed amount,*

*the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer is the prescribed amount.*

*(4) Where -*

*(a) the parties to a transfer of a title lodged for approval under section 78 satisfy the Minister that -*

*(i) they are related corporations within the meaning of the Corporations Law;*

*(ii) the transfer was executed solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and*

*(iii) the transfer was not executed substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (2) in respect of the entry of a memorandum of the transfer; and*

*(b) but for this subsection, the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer of the title would be more than the prescribed amount,*

*the amount of the fee imposed by subsection (2) in respect of the entry of the memorandum of the transfer is the prescribed amount.*

*(5) Subject to this section, there is payable to the Minister in respect of an entry in the register of the approval of a dealing under section 81 a fee at the rate of 1.5% of -*

*(a) the value of the consideration for the dealing or, if the Minister approves the dealing in relation to another title or other titles, an amount equal to the value of the consideration for the dealing divided by the number of titles in relation to which the dealing is approved; or*

*(b) in a case where -*

*(i) the entry of approval relates to an interest in a licence or pipeline licence;*

*(ii) the value of the interest is greater than the amount applicable under paragraph (a);*

*(iii) the dealing has an effect of the kind*

*referred to in section 81(1)(a), (b) or (d); and*

*(iv) the Minister is satisfied that the dealing was not made pursuant to another dealing, being a dealing that relates to that title and in respect of an entry of approval of which a fee imposed by this subsection has been paid,*

*the value of the interest.*

*(6) Where -*

*(a) but for this subsection, the amount of the fee imposed by subsection (5) in relation to an entry of approval of a dealing would be less than the prescribed amount; or*

*(b) an approval under section 81 is given in respect of a dealing that is a dealing to which that section applies by reason only that the dealing creates, varies or terminates a charge over some or all of the assets of a body corporate,*

*the amount of the fee imposed by subsection (5) in respect of the entry of that approval is the prescribed amount.*

*(7) Where -*

*(a) the parties to a dealing lodged for approval under section 81 satisfy the Minister that -*

*(i) they are related corporations within the meaning of the Corporations Law;*

*(ii) the dealing was entered into solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and*

*(iii) the dealing was not entered into substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (5) in respect of the entry of approval of the dealing; and*

*(b) but for this subsection, the amount of the fee imposed by subsection (5) in relation to the entry of approval of the dealing would be more than the prescribed amount, the amount of the fee imposed by subsection (5) in respect of the entry of approval of that dealing is the prescribed amount.*

*(8) For the purposes of calculating the amount of the fee imposed by subsection (5) in respect of an entry of approval of a dealing, the value, as determined by the Minister of any exploration works to be carried out pursuant to the dealing, being works that were, at the time when the application for approval of the dealing was lodged, required or permitted to be carried out by or under the relevant title, shall be deducted from the value of the consideration for the dealing or from the value of the interest in the relevant licence as the case requires.*

*93. Exemption from stamp duty*

*Duty under the Stamp Duty Act shall not be chargeable -*

- (a) on a permit, licence, pipeline licence or access authority;*
- (b) on a transfer of a permit, licence, pipeline licence or access authority to which section 78 applies; or*
- (c) on any other instrument in so far as it relates to a legal or equitable interest in or affecting a permit, licence, pipeline licence or access authority.*

Division 6 - General

*94. Notice of grants of permits, &c., 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, licence or pipeline licence;*
- (b) the variation of a licence or pipeline licence;*
- (c) the surrender or cancellation of a permit, lease or licence as to all or some of the blocks in the permit area, lease area or licence area;*
- (d) the determination of a permit or lease as to a block or blocks;*
- (e) an application for a pipeline licence or for the renewal or variation of a pipeline licence;*



*(f) the surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline; and*

*(g) the expiry of a permit, lease, licence or pipeline licence, under this Part to be published in the Gazette.*

95. *Date of effect of permits, &c.*

*(1) [Omitted]*

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

*(3) The surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline has effect on and from the day on which notice of the surrender or cancellation is published in the Gazette.*

*(4) A variation of a licence or pipeline licence has effect on and from the day on which notice of the variation is published in the Gazette.*

96. *Commencement of works*

*(1) Where a permit, lease, licence or pipeline licence is granted subject to a condition that works or operations specified in the permit, lease, licence or pipeline licence are to be carried out, the permittee, lessee, licensee or pipeline licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force.*

*(2) The Minister may, by notice in writing served on the permittee, lessee, licensee or pipeline licensee -*

*(a) exempt him from compliance with the requirements of subsection (1); and*

*(b) direct him to commence to carry out the works or operations specified in the permit, lease, licence or pipeline licence, as the case may be, within such period after the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force as is specified in the notice.*

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

*Penalty: \$10,000.*

97. *Work practices*

*(1) A permittee, lessee or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area, lease area or licence area in a proper and workmanlike manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in*

*those operations in or about the permit area, lease area or licence area.*

*(2) In particular, and without limiting the generality of subsection (1), but subject to any authorization or requirement given or made by or under this Act or regulations or directions under this Act, a permittee, lessee or licensee shall -*

*(a) control the flow and prevent the waste or escape in the permit area, lease area or licence area of petroleum or water;*

*(b) prevent the escape in the permit area, lease area or licence area of any mixture of water or drilling fluid with petroleum or any other matter;*

*(c) prevent damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which the permit, lease or licence is not in force;*

*(d) keep separate -*

*(i) each petroleum pool discovered in the permit area, lease area or licence area; and*

*(ii) such of the sources of water, if any, discovered in that area as the Minister, by notice in writing served on that person, directs; and*

*(e) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area or licence area except when required by, and in accordance with, good oilfield practice.*

*(3) A pipeline licensee shall operate a pipeline in a proper and workmanlike manner and shall secure the safety, health and welfare of persons engaged in operations in connection with the pipeline.*

*(4) In particular, and without limiting the generality of subsection (3), a pipeline licensee shall prevent the waste or escape of petroleum or water from a pipeline or from any secondary line, pumping station, tank station, valve station or water line.*

*(5) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oilfield practice and shall secure the safety, health and welfare of persons engaged in those operations in or about that area.*

*(6) [Omitted]*

*(7) It is a defence if a person charged with failing to comply with a provision of this section, or a defendant in an action arising out of a*

*failure by the defendant to comply with a provision of this section, proves that he took all reasonable steps to comply with that provision.*

*Penalty for an offence against this section: \$10,000.*

*97A. Conditions relating to insurance*

*(1) The holder of a permit, lease, licence or pipeline licence shall maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, lease, licence or pipeline licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.*

*(2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the holder maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.*

*(3) Where:*

*(a) a permit, lease, licence or pipeline licence was in force immediately before the commencement;*

*(b) the Minister has required the holder to maintain insurance under subsection (1); and*

*(c) the Minister is satisfied that the required insurance is in effect;*

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

*(4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, lease, licence or pipeline licence, being a security that was required under this Act before the commencement of this section, 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.*

*98. Maintenance, &c., of property*

*(1) In this section -*

*"operations area" -*

*(a) in relation to an operator who is a permittee, lessee or licensee - means a permit area, lease area or licence area, as the case may be;*

*(b) in relation to an operator who is a pipeline licensee - means the part of an adjacent area in which a pipeline is constructed; and*

*(c) in relation to an operator who is the holder of a special prospecting authority or access authority - means the area in respect of which that authority is in force;*

*"operator" means the permittee, lessee, licensee, pipeline licensee or holder of a special prospecting authority or access authority.*

*(2) An operator shall maintain in good condition and repair all structures, equipment and other property in an operations area and used in connection with the operations in which he is engaged.*

*(3) An operator shall remove from an operations area all structures, equipment or 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: \$10,000.*

*99. Sections 97 and 98 to have effect subject to this Act, &c.*

*Sections 97 and 98 have effect subject to -*

*(a) any other provisions of this Act;*

*(b) the Regulations;*

*(c) a direction under section 101; and*

*(d) any other law.*

*100. Drilling near boundaries*

*(1) A permittee, lessee or licensee shall not make a well any part of which is less than 300 metres from the boundary of the permit area, lease area or licence area, as the case may be, except with the consent in writing of the Minister and in accordance with such conditions, if any, as are specified in the notice of consent.*

*(2) Where a permittee, lessee or licensee does not comply with subsection (1), the Minister may, by notice in writing served on the permittee, lessee or licensee, as the case may be, direct him to do one or more of the following, within the period specified in the notice:*

*(a) plug the well;*

*(b) close off the well; and*

*(c) comply with such directions relating to the making or maintenance of the well as are specified in the notice.*

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

*Penalty: \$10,000.*

*101. Directions*

*(1) The Minister may, by notice in writing served on the registered holder of a permit, lease, licence, pipeline licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter in respect of which regulations may be made. (See back note 4)*

*(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) a person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the adjacent area for any reason touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil 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 adjacent area for a reason of that kind,*

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

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

*Penalty: \$5,000.*

*(2B) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the registered holder shall cause a copy of the instrument by which the direction was given to be exhibited at a prominent position at a place in an adjacent area.*

**Penalty: \$5,000.**

**(2C) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2)(b), the Minister may, by notice in writing given to the registered holder, require him to cause to be displayed at such places in an adjacent area, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.**

**Penalty: \$5,000.**

**(3) The Minister shall not give a direction of a standing or permanent nature except after consultation with the Minister of State for the time being administering the Commonwealth Act, but the validity of a direction of the Minister shall not be called in question by reason only of a failure to comply with this subsection.**

**(4) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.**

**(5) A direction under this section has effect and shall be complied with notwithstanding anything in the Regulations or the applied provisions.**

**(6) Subsections (2A) and (2B) of section 151 apply in relation to directions made under this section in like manner as they apply to the Regulations.**

**(7) A person who fails to comply with a direction in force under subsection (1) that applies to the person is guilty of an offence.**

**Penalty: \$10,000.**

**(8) Where -**

**(a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (7) in relation to the direction; and**

**(b) the person adduces evidence that he did not know, and could not reasonably be expected to have known, of the existence of the direction,**

**he shall not be found guilty 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.**

**102. Compliance with directions**

**(1) Where a person does not comply with a direction given or applicable to him under this Part or the Regulations the Minister may do all or any of the things required by the direction to be done.**

**(2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the**

*direction was given or was applicable to the Territory and are recoverable in a court of competent jurisdiction.*

*(2A) Where -*

- (a) a direction given under section 101 applies to a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and*
- (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,*

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

*(3) It is a defence if a person charged with failing to comply with a direction given or applicable to him 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.*

*103. Exemption*

*(1) Where -*

- (a) a permit, lease, licence or pipeline licence is, under this Part, deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, lease, licence or pipeline licence;*
- (b) a licence is varied under section 45;*
- (c) a licensee enters into an agreement under section 59 or a direction is given to a licensee under that section;*
- (d) a permit, lease or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force;*
- (e) a pipeline licence is varied under section 71 or 72;*
- (f) a direction is given to a pipeline licensee under section 73;*
- (g) a pipeline licence is partly cancelled;*
- (h) an access authority is granted in respect of a block the subject of a permit, lease or licence, or an access authority as in force in respect of such a block is varied;*
- (j) a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority applies, by notice in writing served on the Minister -*
  - (i) for a variation or suspension; or*
  - (ii) for exemption from compliance with,*

*any of the conditions to which the permit, lease, licence, pipeline licence, special prospecting authority or access authority is subject; or*  
*(k) the Minister under this Part or the Regulations gives a direction or consent to a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority,*

*the Minister may, at any time, by notice in writing served on the permittee, lessee, licensee, pipeline licensee or the holder of the special prospecting authority or access authority -*

*(m) vary or suspend; or*

*(n) exempt the permittee, lessee, licensee, pipeline licensee or the holder of the special prospecting authority or access authority from compliance with,*

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

*(2) Subsection (1) does not authorize the making of an instrument to the extent that it would affect the term of a permit, lease, licence or pipeline licence.*

*(3) Where, in pursuance of subsection (1), the Minister suspends, or exempts the permittee or lessee from compliance with, any of the conditions to which a permit or lease is subject, the Minister may, if he considers that circumstances make it reasonable to do so, in the notice of suspension or exemption or by a later notice in writing served on the permittee or lessee, extend the term of the permit or lease by a period not exceeding the period of suspension or exemption.*

*104. Surrender of permits, &c.*

*(1) The registered holder of an instrument, being a permit, lease, licence or pipeline licence may, at any time, by application in writing served on the Minister, apply for consent to surrender the instrument*

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*(a) in the case of a permit or licence - as to all or some of the blocks in respect of which it is in force;*

*(aa) in the case of a lease - as to all of the blocks in respect of which it is in force; or*

*(b) in the case of a pipeline licence - as to the whole or a part of the pipeline in respect of which it is in force.*

*(2) Subject to subsection (3), the Minister shall not give his consent to a surrender of an instrument under subsection (1) unless the registered holder -*



- (a) has paid all fees and amounts payable by him under this Act, or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts;*
- (b) has complied with the conditions to which the instrument is subject and with the provisions of this Part and of the Regulations;*
- (c) has, to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorized by the instrument, or has made arrangements that are satisfactory to the Minister with respect to that property;*
- (d) has, to the satisfaction of the Minister, plugged or closed off all wells made in the area by any person engaged or concerned in the operations authorized by the instrument;*
- (e) subject to this Part and to the Regulations, has made provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in the area; and*
- (f) has, to the satisfaction of the Minister, made good any damage to the sea-bed or subsoil in the area caused by any person engaged or concerned in the operations authorized by the instrument.*

*(3) Where the registered holder of an instrument, being a permit, lease, licence or pipeline licence, has not complied with the conditions to which the instrument is subject and with the provisions of this Part and of the Regulations, the Minister may give his consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder has not so complied, special circumstances exist that justify the giving of consent to the surrender.*

*(4) Where the Minister consents to an application under subsection (1), the applicant may, by notice in writing served on the Minister, surrender the instrument accordingly.*

- (5) In this section, the "area to which the surrender relates" means -*
- (a) in relation to a surrender of a permit, lease or licence - the area constituted by the blocks as to which the permit, lease or licence is proposed to be surrendered; and*
  - (b) in relation to a surrender of a pipeline licence - the part of an adjacent area in which the pipeline, or the part of the pipeline, as to which the pipeline licence is proposed to be surrendered, is constructed.*

*105. Cancellation of permits, &c.*

- (1) Where a permittee, lessee, licensee or pipeline licensee -*

- (a) has not complied with a condition to which a permit, lease, licence or pipeline licence is subject;*
- (b) has not complied with a direction given to him under this Part by the Minister;*
- (c) has not complied with a provision of this Part or of the Regulations; or*
- (d) has not paid any amount payable by him under the Act, within a period of 3 months after the day on which the amount became payable,*

*the Minister may, on that ground, by notice in writing served on the permittee, lessee, licensee or pipeline licensee, as the case may be -*

- (e) in the case of a permit or licence - cancel the permit or licence as to all or some of the blocks in respect of which it is in force;*
- (ea) in the case of a lease - cancel the lease as to all the blocks in respect of which it is in force; or*
- (f) in the case of a pipeline licence - cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.*

*(2) The Minister shall not, under subsection (1), cancel a permit, licence or pipeline licence as to all or some of the blocks, or as to the whole or a part of the pipeline, in respect of which it is in force, or cancel a lease as to all of the blocks in respect of which it is in force, on a ground referred to in that subsection unless -*

- (a) he has, by notice in writing served on the permittee, lessee, licensee or pipeline licensee, as the case may be, given not less than one month's notice of his intention so to cancel the permit, lease, licence or pipeline licence on that ground;*
- (b) he has served a copy of the notice on such other persons, if any, as he thinks fit;*
- (c) he has, in the notice, specified a date on or before which the permittee, lessee, licensee or pipeline licensee or a person on whom a copy of the notice is served may, by notice in writing served on the Minister, submit any matters that he wishes the Minister to consider; and*
- (d) he has taken into account -
  - (i) any action taken by the permittee, lessee, licensee or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and*
  - (ii) any matters so submitted to him on or before the specified date by the permittee,**

*lessee, licensee or pipeline licensee or by a person on whom a copy of the first-mentioned notice has been served.*

*106. Cancellation of permit, &c., not affected by other provisions*

*(1) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence or pipeline licence has not complied with a provision of this Part or of the Regulations notwithstanding that he has been found guilty of an offence by reason of his failure to comply with the provisions.*

*(2) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he has not complied with a provision of this Part or of the Regulations may be found guilty of an offence by reason of his failure to comply with the provision, notwithstanding that the permit, lease, licence or pipeline licence has been so cancelled.*

*(3) A permit, licence or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence or pipeline licence had not paid an amount payable by him under this Act within a period of 3 months after the day on which the amount became payable, notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.*

*(4) A person who was the registered holder of a permit, lease, licence or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence or pipeline licence that has been partly cancelled, on the ground that he has not paid an amount payable by him under this Act within a period of 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount, notwithstanding that the permit, lease, licence or pipeline licence has been so cancelled.*

*107. Removal of property, &c., by permittee, &c.*

*(1) Where a permit, licence or pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled, or has expired, or a lease has been wholly determined, partly determined or wholly cancelled or has expired, the Minister may, by notice in writing served on the person who was, or is, as the case may be, the permittee, lessee, licensee or pipeline licensee, direct that person to do any one or more of the following things:*

- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the permit, lease, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;*
- (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations;*
- (c) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and*
- (d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.*

*(2) The Minister may, by notice in writing served on a permittee, lessee, licensee or pipeline licensee, direct him to do any one or more of the following things:*

- (a) to remove or cause to be removed from the permit area, lease area, licence area or part of the adjacent area in which the pipeline is constructed, as the case may be, all property brought into that area or part by any person engaged or concerned in the operations authorized by the permit, lease, licence or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;*
- (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area or part by any person engaged or concerned in those operations;*
- (c) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area or part; and*
- (d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area or part caused by any person engaged or concerned in those operations.*

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

- (a) in the case of a direction given under subsection (1) - within the period specified in the notice by which the direction was given; or*

*(b) in the case of a direction given under subsection (2) - on or before the date of expiration of the permit, lease, licence or pipeline licence concerned.*

*Penalty: \$10,000.*

*108. Removal of property, &c., by Minister*

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

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

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

*109. Payment by instalments*

*(1) The Minister and a person who may request, or has requested, that a permit under section 27 or a licence under section 50 be granted to him may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the permit or licence, together with interest at the rate that is the specified rate from time to time on so much of that amount as from time to time remains unpaid.*

*(2) For the purposes of subsection (1), the specified rate is 10% per annum or, if a lower rate is prescribed, that lower rate.*

*(3) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not be greater than 21 years.*

*(4) Where a person enters into an agreement under this section for or in relation to the payment of an amount in respect of the grant of a permit or licence, any instalment or interest that is due under the agreement and has not been paid is payable by the registered holder of the permit or licence, as the case may be.*

*110. Penalty for late payments of instalments, &c.*

*(1) Where the liability of a person under section 109 to pay an amount, being an instalment or any interest, is not discharged at or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of one-third of 1% per day upon so much of the first-mentioned amount as from time to time remains unpaid, to be computed from the time when the first-mentioned amount became payable until it is paid.*

*(2) The Minister may, in a particular case, remit the whole or part of an amount payable under this section.*

*111. Special prospecting authorities*

*(1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.*

*(2) An application under this section -*

*(a) shall be in accordance with an approved form;*

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

*(c) shall specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations; and*

*(d) shall be accompanied by the prescribed fee.*

*(3) The Minister may -*

*(a) grant to the applicant a special prospecting authority subject to such conditions as the Minister thinks fit and specifies in the authority; or*

*(b) refuse to grant the application.*

*(4) A special prospecting authority, while it remains in force, authorizes the holder, subject to this Act and the Regulations and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks specified in the special prospecting authority the petroleum exploration operations so specified.*

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

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

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

*(6B) Where -*

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

*(b) another special prospecting authority is granted to another person in respect of the block,*  
*the Minister shall, by notice in writing served on each of those persons, inform each of them of -*  
*(c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person;*  
*and*  
*(d) the conditions to which the special prospecting authority granted to the other person is subject.*

*(7) A special prospecting authority -*

*(a) may be surrendered by the holder at any time by notice in writing served on the Minister; and*  
*(b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by notice in writing served on the holder.*

*(8) Where a special prospecting authority has been surrendered or cancelled or has expired, the Minister may, by notice in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things:*

*(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property;*  
*(b) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and*  
*(c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.*

*(9) A person to whom a direction is given under subsection (8) shall comply with the direction.*

*Penalty: \$10,000.*

*(10) Section 108 applies to and in relation to a special prospecting authority as if -*

*(a) a reference in that section to a permit were a reference to a special prospecting authority; and*  
*(b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (8).*

*112. Access authorities*

***(1) A permittee, lessee or licensee may make an application to the Minister for the grant of an access authority to enable him to carry on in an area, being part of an adjacent area that is not part of a permit area, lease area or licence area, petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, lease area or licence area.***

***(1A) A holder of a State title may make an application to the Minister for the grant of an access authority to enable the holder to carry on, in a part of the adjacent area, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that State title relates.***

***(1B) The holder of a special prospecting authority may make an application to the Minister for the grant of an access authority to enable the applicant to carry on petroleum exploration operations in an area, being part of the adjacent area not included in any block that is the subject of the special prospecting authority.***

***(1C) The holder of a permit, lease, licence or special prospecting authority may make an application to the Minister for the grant of an access authority to enable the applicant to carry on, in a block or blocks within an adjoining adjacent area -***

***(a) petroleum exploration operations; or***

***(b) where the applicant is the holder of a permit, lease or licence, operations related to the recovery of petroleum in or from any block within the adjacent area that is the subject of the permit, lease or licence.***

***(2) An application under this section -***

***(a) shall be in accordance with an approved form;***

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

***(c) shall specify the operations that the applicant proposes to carry on and the area in which the applicant proposes to carry on those operations; and***

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

***(3) The Minister may -***

***(a) if he is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper performance of the duties, of a permittee, lessee, licensee, holder of a special prospecting authority or holder of a state title who has made an application under this section, grant to him an access authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and***



*(b) at any time, by notice in writing served on the registered holder of an access authority so granted, vary the access authority.*

*(4) Subject to subsection (4AA), the Minister shall not grant an access authority on an application made under a provision of this section other than subsection (1C) in respect of a block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the applicant, or vary such an access authority as in force in respect of a block that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority, unless -*

*(a) he has, by notice in writing served on that person, given not less than one month's notice of his intention to grant or vary, as the case may be, the access authority;*

*(b) he has served a copy of the notice -*

*(i) on such other persons, if any, as he thinks fit; and*

*(ii) in a case where he intends to vary an access authority - on the registered holder of the access authority;*

*(c) he has, in the notice -*

*(i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and*

*(ii) specified a date on or before which a person on whom the notice, or a copy of the notice, is served may, by notice 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 submitted to him under paragraph (c) on or before the specified date by a person on whom the first-mentioned notice, or a copy of that notice, has been served.*

*(4AA) Subsection (4) does not apply if the holder of the permit, lease, licence or special prospecting authority has consented in writing to the grant of the access authority.*

*(4A) The Minister shall not grant or vary an access authority on an application under subsection (1C) without the approval of the Minister of State administering the corresponding law in respect of the adjoining adjacent area within which the block or blocks to be specified in the access authority is or are situated.*

*(4B) Where the approval of the Minister is sought in respect of -*

*(a) an application under a corresponding law for the grant of an access authority in respect of a block within the adjacent area that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the applicant; or*

*(b) a proposal to vary an access authority granted on an application under a corresponding law in respect of a block within the adjacent area that is the subject of a permit, lease, licence or special prospecting authority of which the registered holder is a person other than the registered holder of the access authority,*

*the Minister shall not approve the grant or the variation unless -*

*(c) the Minister has, by instrument in writing served on that person, given not less than one month's notice of the intention to grant or vary, as the case may be, the access authority;*

*(d) a copy of the instrument has been served -*

*(i) on such other persons, if any, as the Minister thinks fit; and*

*(ii) where it is proposed to vary an access authority - on the registered holder of the access authority;*

*(e) the instrument gives -*

*(i) particulars of the access authority that it is proposed to grant or vary, as the case may be; and*

*(ii) notice that a person on whom the instrument, or a copy of the instrument, has been served may, by instrument in writing served on the Minister on or before the date specified in the instrument, submit any matters that the person wishes the Minister to consider; and*

*(f) the Minister has taken into account any matters submitted in accordance with the notice referred to in paragraph (e)(ii).*

*(5) An access authority, while it remains in force, authorizes the holder, subject to this Act and the Regulations and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.*

*(6) Nothing in an access authority authorizes the holder to make a well.*

*(7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified but may be extended by the Minister for a further period.*

*(8) An access authority -*

*(a) may be surrendered by the holder at any time by notice in writing served on the Minister; and*

*(b) may be cancelled by the Minister at any time by notice in writing served on the holder and on any person in whose permit area, lease area or licence area operations may be carried on in pursuance of the access authority.*

*(9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by notice in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things:*

*(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property;*

*(b) subject to this Part and to the Regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and*

*(c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.*

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

*Penalty for an offence against this subsection: \$10,000.*

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

*Penalty for an offence against this subsection: \$5,000.*

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

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*(a) a reference in that section to a permit were a reference to an access authority; and*

*(b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (9).*

*(13) In this section -*

*"adjoining adjacent area" means an adjacent area (within the meaning of a corresponding law) that adjoins the adjacent area;*

*"State Title" means an authority, however described, under a law of the Commonwealth, Western Australia or Queensland, to explore for, or to recover, petroleum.*

*113. Sale of property*

*(1) Where a direction under section 108 has not been complied with in relation to any property, the Minister may do all or any of the following things:*

*(a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;*

*(b) dispose of, in such manner as he thinks fit, all or any of that property; and*

*(c) if he has served a copy of the notice by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any of that property that belongs, or that he believes to belong, to that person.*

*(2) The Minister may deduct from the proceeds of a sale held under subsection (1) of property that belongs, or that he believes to belong, to a particular person -*

*(a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;*

*(b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by that person; and*

*(c) all or any part of any fees or amounts due and payable under this Act by that person.*

*(3) Costs and expenses incurred by the Minister under subsection (1)*

*-*

*(a) if incurred in relation to the removal, disposal or sale of a property, are a debt due by the owner of the property to the Territory; or*

*(b) if incurred in relation to the doing of any thing required by a direction under section 107, 111 or 112, as the case may be, to be done by a person who is or was a permittee, lessee, licensee, pipeline licensee or holder of a special prospecting authority or access authority, are a debt due by that person to the Territory,*

*and, to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction.*

*(4) Subject to subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.*

*114. [Repealed]*

*115. Minister, &c., may require information to be furnished, &c.*

*(1) Where the Minister or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in an adjacent area, he may, by notice in writing served on that person, require that person -*

*(a) to furnish to him in writing within the period and in the manner specified in the notice, any such information; or*

*(b) to attend before him or a person specified in the notice, at such time and place as is specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are specified.*

*(2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 117.*

*116. Power to examine on oath*

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

*(2) Where a person attending before the Minister or an inspector in pursuance of section 115 conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.*

*(3) An affirmation made under subsection (2) is of the same force and effect, and entails the same penalties, as an oath.*

117. *Failing to furnish information, &c.*

*A person shall not -*

*(a) refuse or fail to comply with a requirement in a notice under section 115 to the extent to which he is capable of complying with it;*

*(b) in purported compliance with such a requirement, knowingly furnish information that is to his knowledge, false or misleading in a material particular; or*

*(c) when attending before the Minister or an inspector in pursuance of such a requirement, knowingly make a statement or produce a document that is, to his knowledge, false or misleading in a material particular.*

*Penalty: \$10,000.*

118. *Release of information*

*(1) The Minister may, at any time, make available to a Minister of State of the Commonwealth or of a State of the Commonwealth -*

*(a) any information contained in a document to which this section applies that has been furnished to the Minister; and*

*(b) any cores or cuttings from, or samples of, the sea-bed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister.*

*(1A) The Minister may, at any time after the grant or renewal, or refusal to grant or renew, a permit, lease, licence, pipeline licence, access authority or special prospecting authority -*

*(a) make publicly known; or*

*(b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person,*

*any information contained in, or accompanying, the application for the grant or renewal, as the case may be, but not including -*

*(c) information of a kind referred to in subsection (2) or (5A); or*

*(d) particulars of -*

*(i) the technical qualifications of the applicant and of the employees of the applicant;*

*(ii) the technical advice available to the applicant; or*

*(iii) the financial resources available to the applicant.*

*(2) The Minister may, at any time after the relevant day -*

*(a) make publicly known; or*

*(b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person, any information contained in a document to which this section applies that has been furnished to the Minister, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any such information.*

*(3) The Minister may, at any time after the relevant day -*

*(a) make publicly known any particulars of;* or

*(b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, permit that person to inspect,*

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

*(4) For the purposes of subsections (2) and (3) -*

*(a) where -*

*(i) a permit or lease is in force in respect of the block; and*

*(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:*

*(A) the permit or lease;*

*(B) in a case where a lease is in force in respect of the block - the permit that ceased to be in force in respect of the block by virtue of section 38B(7) on the day on which the lease came into force, the relevant day is the day on which the period of 2 years that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;*

*(b) where -*

*(i) a licence is in force in respect of the block; and*

*(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:*

*(A) the licence;*

*(B) the permit or lease that ceased to be in force in respect of the block by virtue of section 44(5) on the day on which the licence came into force,*

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

*(c) where the document, core, cutting or sample was furnished to the Minister during a period during which a permit, lease or licence was in force in respect of the block and -*

*(i) the permit, lease or licence is surrendered, cancelled or determined as to the block; or*

*(ii) the permit, lease or licence expires but is not renewed in respect of the block,*

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

*(d) where -*

*(i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and*

*(ii) the information in the document or the core, cutting or sample was collected for the purpose of the sale of information on a non-exclusive basis,*

*the relevant day is the day determined by the Minister, being a day not more than 5 days after the day on which the document, core,*



*cutting or sample was furnished to the Minister; and*

*(e) where -*

*(i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and*

*(ii) paragraph (d)(ii) does not apply, the relevant day is the day determined by the Minister, being a day not more than 2 years after the day on which the document, core, cutting or sample was furnished to the Minister.*

*(5) Where -*

*(a) a document, core, cutting or sample referred to in subsection (1) was furnished to the Minister -*

*(i) during or in respect of a period during which a permit, lease or licence was in force in respect of a block; or*

*(ii) during or in respect of a period during which a special prospecting authority or access authority was in force in respect of a block but during which a permit, lease or licence was not in force in respect of the block; and*

*(b) the permittee, lessee, licensee or holder of a special prospecting authority or access authority or, if the permit, lease, licence, special prospecting authority or access authority has ceased to be in force, the person who was the holder of the permit, lease, licence, special prospecting authority or access authority -*

*(i) has made publicly known any information contained in the document or has consented in writing to any of that information being made publicly known; or*

*(ii) has made publicly known any particulars of that core, cutting or sample or has consented in writing to any particulars of that core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection,*

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

*(c) make publicly known that information or, on request by another person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make that information available to that other person; or  
(d) make publicly known those particulars or, on request by any other person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, permit that other person to inspect that core, cutting or sample,*

*as the case may be.*

*(5A) Subject to subsection (5F), the Minister may, at any time after 5 years after a document to which this section applies was furnished to him -*

*(a) make publicly known; or  
(b) on request by a person and, if the Minister so requires, on payment of a fee calculated in accordance with the Regulations, make available to that person,*

*any information contained in the document, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, and that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on any such information.*

*(5B) Before the Minister makes available or publicly known any information pursuant to subsection (5A) he shall*

*(a) cause to be published in the Gazette a notice -  
(i) stating that he proposes to make the information available or publicly known;  
(ii) inviting interested persons to give to him by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, a notice objecting to the whole or any part of the information being made available or publicly known; and  
(iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known; and*

*(b) if it is practicable to do so, cause a copy of the notice so published in the Gazette to be served on the person who furnished the document containing the information.*

*(5C) There shall be set out in a notice of objection under subsection (5B)(a)(ii) the reasons for making the objection.*

***(5D) A person is not entitled to make an objection to information being made available or publicly known except on the grounds that to do so would disclose -***

***(a) a trade secret; or***

***(b) any other information the disclosure of which would, or could reasonably be expected to, adversely affect him in respect of his lawful business, commercial or financial affairs.***

***(5E) Where a person makes an objection to the Minister in accordance with such an invitation, the Minister shall, within 45 days after the receipt of the notice of objection, consider the objection, and may disallow it or allow it in whole or in part, and shall cause to be served on the person written notice of the decision on the objection.***

***(5F) The Minister shall not make available or make publicly known any information pursuant to subsection (5A) if there is in force an objection made in relation to the information being made available or publicly known but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (5B) being made in relation to the information.***

***(6) Except as provided by the preceding provisions of this section or for the purposes of the administration of this Act and the Regulations, the Minister shall not -***

***(a) make publicly known, or make available to any person (not being a Minister of State of the Commonwealth or another State), any information contained in a document to which this section applies; or***

***(b) make publicly known any particulars of, or permit any person (not being a Minister referred to in paragraph (a)) to inspect any core, cutting or sample so referred to.***

***(6A) This section applies to -***

***(a) an application made under this Act to the Minister or a document accompanying such an application; and***

***(b) a report, return or other document relating to a block that has been furnished under this Act to the Minister.***

***(7) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.***

***(8) For the purposes of this section -***

***(a) cores and cuttings, and well data logs, sample descriptions and other documents relating to the drilling of a well shall be deemed to have been furnished to the Minister not later than one month after the drilling of the well was, in the opinion of the Minister, substantially completed; and***

*(b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been furnished to the Minister not later than one year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.*

*(9) Subsections (2) and (5A) apply to information contained in a document to which this section applies that was furnished to the Minister before or after the commencement of section 29 of the Petroleum (Submerged Lands) Amendment Act 1986.*

*(10) Subsection (3) applies to cores, cuttings and samples furnished to the Minister before or after the commencement of section 29 of the Petroleum (Submerged Lands) Amendment Act 1985.*

*119. [Repealed]*

*120. Discovery of water*

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

*Penalty: \$10,000.*

*121. Survey of wells, &c.*

*(1) The Minister may, at any time, by notice in writing served on a permittee, lessee or licensee, direct the permittee, lessee or licensee -*

*(a) to carry out a survey of the position of the well, structure or equipment specified in the notice; and*

*(b) to furnish to him a report in writing of the survey.*

*(2) Where the Minister is not satisfied with a report of a survey furnished to him under subsection (1) by a permittee, lessee or licensee, he may, by notice in writing served on the permittee, lessee or licensee, direct the permittee, lessee or licensee to furnish further information in writing in connection with the survey.*

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

*Penalty: \$10,000.*

*122. Records, &c., to be kept*

*(1) The Minister may, by notice in writing served on a person carrying on operations in an adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority or notice of consent under section 123, direct that person to do any one or more of the following things:*

*(a) to keep such accounts, records and other documents in connection with those operations as are specified in the notice;*

*(b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified; and  
(c) to furnish to the Minister, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings and samples in connection with those operations as are specified.*

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

*Penalty: \$10,000.*

#### *123. Scientific investigations*

*(1) The Minister may, by notice in writing, consent to the carrying on in an adjacent area by any person of petroleum exploration operations in the course of scientific investigation.*

*(2) A notice of consent given under subsection (1) may be made subject to such conditions, if any, as are specified in the notice.*

*(3) A notice of consent in force under subsection (1) authorizes the person specified in the notice, subject to section 124 and in accordance with the conditions, if any, to which the notice is subject, to carry on, in an adjacent area, petroleum exploration operations specified in the course of the scientific investigation specified.*

#### *124. Interference with other rights*

*A person carrying on operations in an adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority or instrument of consent under section 123 shall carry on those operations in a manner that does not interfere with -*

*(a) navigation;*

*(b) fishing;*

*(ba) registered native title rights and interests;*

*(c) the conservation of the resources of the sea and sea-bed;  
or*

*(d) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or by way of construction or operation of a pipeline,*

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

*Penalty: \$10,000.*

#### *125. Inspectors*

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

*(2) The Minister may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act and the Regulations.*

***(3) Where the appointment of a person under this section expires or is revoked, that person shall forthwith surrender the certificate furnished to him under this section to the Minister or, if the Minister, by notice in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.***

***Penalty: \$500.***

***126. Powers of inspectors***

***(1) For the purposes of this Act and the Regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 125 -***

***(a) shall have access to any part of the adjacent area and to any structure, ship, aircraft or building in that area that, in his opinion, has been, is being or is to be used in connection with petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in that area;***

***(b) may inspect and test any equipment that, in his opinion, has been, is being or is to be used in that area in connection with any of those operations; and***

***(c) may enter any structure, ship, aircraft, building or place in that area or in the State, in which, in his opinion, there are any documents relating to any of those operations and may inspect, take extracts from and make copies of any of those documents.***

***(2) A person who is the occupier or person in charge of any building, structure or place, or is the person in charge of any ship, aircraft or equipment referred to in subsection (1), shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.***

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

***Penalty for an offence against this subsection: \$5,000.***

***127. Property in petroleum***

***Subject to this Act, if petroleum is recovered by a permittee, lessee or licensee in the permit area, lease area or licence area -***

***(a) the petroleum becomes the property of the permittee, lessee or licensee; and***

***(b) it is not subject to any rights of other persons (other than any person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).***

***128. Suspension of rights conferred by permit***

*(1) Where the Minister is satisfied that it is necessary to do so in the public interest, he shall, by notice in writing served on a permittee, suspend, either for a specified period or indefinitely, all or any of the rights conferred by the permit.*

*(2) Where any rights are suspended in accordance with subsection (1), any conditions required to be complied with in the exercise of those rights are also suspended.*

*(3) The Minister may, by notice in writing served on the permittee, terminate a suspension of rights under subsection (1).*

*(4) Where rights conferred by a permit are suspended in accordance with subsection (1), the Minister may, by the notice of suspension or by a later notice in writing served on the permittee, extend the term of the permit by a period not exceeding the period of suspension.*

*129. Certain payments to be made by Territory to Commonwealth  
The Treasurer shall, not later than the last day of each month of the year, pay to the Commonwealth, from the public moneys of the Territory amounts ascertained in accordance with the formula -*

*4 A*

*B*

*where -*

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

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

*and the Allocation for that purpose is established or increased to the extent necessary.*

*130. Determination to be disregarded in certain cases*

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

*131. Continuing offences*

*(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the Regulations, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.*

*(2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act or the Regulations, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.*

*(3) Where, under subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, upon being found guilty for such an additional offence, to a fine not exceeding \$10,000.*

132. [Repealed]

133. Orders for forfeiture in respect of certain offences

*(1) Where a person is found guilty by the Supreme Court of an offence against section 19, 39 or 60 the Court, arising under section 4, 8, 12, 13 or 16 of the Criminal Code in relation to an office referred to in section 19, 39 or 60, the Court may, in addition to imposing a fine, make one or more of the following orders:*

- (a) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence;*
- (b) an order for the forfeiture of specified equipment used in the commission of the offence; and*
- (c) an order -*

*(i) for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence;*

*(ii) for the payment by that person to the Territory of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed; or*

*(iii) for the payment by that person to the Territory of an amount equal to the value at the well-head, assessed by the Court, of the quantity, so assessed, of petroleum so recovered or conveyed or for the payment of such part of that amount as the Court, having regard to all the circumstances, thinks fit.*

*(2) Where the Court is satisfied that an order made under subsection (1)(c)(i) cannot, for any reason, be enforced, the Court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subsection (1)(c)(ii) or (iii).*



***(3) The Court may, before making an order under this section, require notice to be given to, and hear, such persons as the Court thinks fit.***

***134. Disposal of forfeited goods***

***Goods in respect of which an order is made under section 133 shall be dealt with as the Attorney-General directs and, pending his direction, may be detained in such custody as the Court directs.***

***135. Time for bringing proceedings for offences***

***Proceedings in respect of an offence against this Act (being an offence arising under this Part or under the Criminal Code in relation to an offence referred to in this Part) or the Regulations may be brought at any time.***

***136. Judicial notice***

***(1) All courts shall take judicial notice of the signature of a person who is, or has been, the Minister or a delegate of the Minister and of the fact that that person is, or has been, the Minister or a delegate of the Minister.***

***(2) In this section, "court" includes all persons authorized by the law of the Territory or by consent of parties to receive evidence.***

***137. Service***

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

***(a) by delivering the document to that person personally;***

***(b) by prepaying and posting the document as a letter addressed to that person at his last-known place of residence or business or, if he is carrying on business at 2 or more places, at one of those places;***

***(c) by leaving the document at the last-known place of residence of that person with some person apparently a resident of that place and apparently not less than 16 years of age; or***

***(d) by leaving the document at the last-known place of business of that person or, if he is carrying on business at 2 or more places, at one of those places, with some person apparently in the service of that person and apparently not less than 16 years of age.***

***(2) A document required or permitted by this Act to be served on the Minister shall be served -***

***(a) by prepaying and posting the document as a letter addressed to the Minister at a place of business of the Minister; or***

***(b) by leaving it at a place of business of the Minister with some person apparently employed in connection with the***

*business of the Minister and apparently not less than 16 years of age.*

*(3) A document required by this Act to be served upon a person, being a corporation, shall be served -*

*(a) by prepaying and posting the document as a letter addressed to the corporation at its last-known place of business or, if it is carrying on business at 2 or more places, at one of those places; or*

*(b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.*

*137AA. Service of documents on 2 or more permittees, &c.*

*(1) Where there are 2 or more registered holders of a title or special prospecting authority, those registered holders may, by notice in writing signed by each of them and served on the Minister, nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.*

*(2) Subject to subsections (3) and (4), where -*

*(a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder;*

*(b) there are 2 or more registered holders of the title or special prospecting authority; and*

*(c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the title or special prospecting authority,*

*the document shall be deemed to have been served on each of those registered holders.*

*(3) Where -*

*(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and*

*(b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination,*

*that nomination ceases to be in force.*

*(4) Where -*

*(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and*

*(b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority,*

*that nomination ceases to be in force.*

**(5) In this section, "title" means a permit, lease, licence, pipeline licence or access authority.**

**137AB. Liability for approval given under this Act, &c.**

**(1) This section applies to the following bodies and people:**

- (a) the Minister;**
- (b) an inspector;**
- (c) a person acting under the direction or authority of the Minister.**

**(2) A body or person to whom this section applies is not liable to an action, suit or proceeding for or in respect of an approval given in good faith under -**

- (a) this Act;**
- (b) the Regulations; or**
- (c) a direction under this Act.**

**(3) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been approved by or on behalf of the Minister.**

#### Division 6A - Safety Zones

**137A. Interpretation**

**(1) In this Division -**

**"authorized person" means -**

- (a) a member or special member within the meaning of the Australian Federal Police Act 1979 of the Commonwealth;**
- (b) a member of the Police Force;**
- (c) a member of the Police Force of a State of the Commonwealth;**
- (d) a defence member within the meaning of the Defence Force Discipline Act 1982 of the Commonwealth; or**
- (e) a person, or a person included in a class of persons, authorized under subsection (2) to perform duties under this Division;**

**"exempt vessel", in relation to a safety zone, means a vessel -**

- (a) that is excluded from the operation of section 137B in relation to that safety zone by virtue of the instrument establishing the safety zone; or**

*(b) in respect of which there is in force a consent, under section 137B(1), of the Minister in relation to that safety zone;*

*"master", in relation to a vessel, means the person having command or charge of the vessel;*

*"owner", in relation to a vessel, means -*

*(a) in a case to which paragraph (b) does not apply - the person who owns the vessel; or*

*(b) where the vessel is being operated by a person (not being the person who owns the vessel) who has the whole possession and control of the vessel - the operator of the vessel;*

*"safety zone" means an area specified in a notice under section 137B(1).*

*(2) The Minister may, by notice in the Gazette, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.*

*137B. Safety zones*

*(1) For the purpose of protecting a well, structure or equipment, in an adjacent area, the Minister may, by notice in the Gazette, prohibit*

*-*

*(a) all vessels;*

*(b) all vessels other than specified vessels; or*

*(c) all vessels other than the vessels included in specified classes of vessels,*

*from entering or remaining in a specified area surrounding the well, structure or equipment without the consent in writing of the Minister.*

*(2) A safety zone specified in a notice under subsection (1) may extend to a distance of 500 metres around the well, structure or equipment specified in the notice measured from each point of the outer edge of the well, structure or equipment.*

*(3) Where a vessel enters or remains in a safety zone in contravention of a notice under subsection (1), the owner and the person in command or in*

*charge of the vessel are each guilty of an offence against this section.*

*Penalty: \$100,000 or imprisonment for 10 years.*

*(4) It is a defence to a prosecution for an offence against this section where the person charged satisfies the court that -*

*(a) an unforeseen emergency rendered it necessary for the vessel to enter or remain in the safety zone in order to attempt to secure the safety of the vessel, of another vessel, of a well, pipeline, structure or equipment or of human life;*  
*or*

*(b) the vessel entered or remained in the safety zone in circumstances not under the control of the person who was in charge of the navigational watch of the vessel.*

*137C. Powers of authorized persons*

*(1) Subject to subsection (3), an authorized person may -*

*(a) board a vessel that the authorized person has reasonable grounds to believe has been used, is being used or is about to be used, in contravention of section 137B;*

*(b) where, under paragraph (a), he has boarded a vessel -*

*(i) require a person on board the vessel to answer questions relating to the vessel or to the movements of the vessel;*

*(ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under section 137B(1) and, if so, to produce the consent;*

*(iii) if the vessel is registered under the Shipping Registration Act 1981 of the Commonwealth - require the master of the vessel to produce the certificate of registration of the vessel; or*

*(iv) search the vessel for documents relating to the vessel or movements of the vessel;*

*(c) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone;*

*(d) require the master of a disabled vessel that is in a safety zone to permit the vessel to be towed away from the safety zone or to accept the giving of such other assistance to the vessel as the authorized person considers necessary; or*

*(e) detain a vessel that the authorized person has reasonable grounds to believe has been used in contravention of section 137B.*

*(2) A person who -*

*(a) fails to facilitate, by all reasonable means, the boarding under subsection (1)(a) of a vessel by an authorized person;*

*(b) refuses to allow a search to be made under subsection (1)(b)(iv) by an authorized person;*

*(c) refuses or neglects to comply with a requirement made under subsection (1) by an authorized person;*

*(d) where, under subsection (1), an authorized person requires the person to give information, gives information that is, to the knowledge of the person, false or misleading in a material particular; or*

*(e) resists or obstructs an authorized person who is acting in pursuance of subsection (1),*

*is guilty of an offence.*

*Penalty: \$5,000.*

*(3) The powers, under subsection (1)(a), (b) and (e), of an authorized person in relation to a vessel shall not be exercised except -*

*(a) in pursuance of a warrant issued under section 137D;*

*(b) after obtaining the consent of the master of the vessel; or*

*(c) in circumstances of seriousness and urgency, under section 137E.*

*137D. Search warrants*

*(1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used, in contravention of section 137B and the information sets out those grounds and identifies the vessel, a magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in section 137C(1)(a), (b) and (e) in relation to that vessel.*

*(2) A magistrate shall not, under subsection (1), issue a warrant unless -*

*(a) the informant or some other person has given the magistrate either orally or by affidavit such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and*

*(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.*

*(3) A warrant issued under subsection (1) shall -*

*(a) specify the purpose for which it is issued;*

*(b) set out a description of the vessel in relation to which it is issued; and*

*(c) specify a day, not being later than 7 days after the day on which it is issued, as being the day on which it ceases to have effect.*

*137E. Exercise of powers in serious circumstances*

*An authorized person may exercise, in relation to a vessel, all or any of the powers under section 137C(1)(a), (b) and (e) where -*

*(a) the authorized person has reasonable grounds to believe that -*

*(i) the vessel has been used, is being used or is about to be used, in contravention of section 137B; or*

*(ii) the exercise of those powers is necessary to prevent damage being caused to a well, structure or equipment in a safety zone; and*

*(b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 137D.*

Division 7 - Fees and Royalties

*138. Fees*

*(1) The holder of -*

*(a) an exploration permit;*

*(b) a retention lease;*

*(c) a production licence; or*

*(d) a pipeline licence;*

*shall pay a fee in respect of each year of the term of the permit, lease or licence. (See back note 6)*

*(2) The fee -*

*(a) is payable to the Minister; and*

*(b) is to be calculated in accordance with the Regulations.*

*(3) The fee for the first year of the term of the permit, lease or licence is payable within one month after the day on which the term commences.*

*(4) The fee for a subsequent year of the term of the permit, lease or licence is payable within one month after the anniversary of the day on which the first year of the term commences.*

*139. - 140. [Repealed]*

*140. [Repealed]*

*141. Time of payment of fees*

*A fee under section 138 is payable within one month after -*

*(a) in the case of the first year of the term of a permit, licence or pipeline licence - the day on which that term commenced; and*

*(b) in the case of a year of the term of a permit, licence or pipeline licence other than the first - the anniversary of that day.*

*142. Royalty*

*(1) A permittee, lessee or licensee shall, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the permittee, lessee or licensee in the permit area, lease area or licence area.*

*(2) Subject to the succeeding provisions of this section and section 143, the prescribed rate in respect of petroleum recovered under a permit, lease or licence is 10% of the value of the petroleum at the well-head.*

*(3) The prescribed rate in respect of petroleum recovered under a secondary licence is the percentage determined by the Minister in pursuance of section 42(1) in respect of petroleum so recovered.*

*(4) Where a secondary licence is granted to the holder of a primary licence, the prescribed rate in respect of petroleum recovered under the primary licence is, as from the commencement of the next royalty period after the day from which the secondary licence has effect, the same percentage as is applicable in respect of petroleum recovered under the secondary licence.*

*(5) Where -*

*(a) a licence is granted on an application under section 47; and*

*(b) the notice served on the applicant under section 49 contains a statement that the applicant will be required to pay, in respect of petroleum recovered under that licence, royalty at the rate specified in that statement,*

*the prescribed rate in respect of petroleum recovered under that licence is the percentage specified in that statement.*

*(6) Where a licence is granted on an application under section 51(1), the prescribed rate in respect of petroleum recovered under that licence is the same percentage as was applicable in respect of petroleum recovered under the original licence as defined by that subsection.*

*(7) The prescribed rate in respect of petroleum recovered in the licence area referred to in a licence granted by way of renewal is the percentage that would be the prescribed rate of the previous licence.*

*(8) A reference in this section or in a permit, lease or licence to royalty at the prescribed rate or royalty at the rate that is for the time being the prescribed rate shall be read as a reference to royalty at the rate that is or was the prescribed rate applicable in accordance with the provisions of this Act as in force from time to time.*

*143. Reduction of royalty in certain cases*

*(1) Where the Minister is satisfied that the rate of recovery of petroleum from a well has become so reduced that, having regard to the rate or rates of royalty applicable under section 142, further*



*recovery of petroleum from that well would be uneconomic, the Minister may, by notice in writing, determine that the royalty in respect of all or any of the petroleum recovered from that well on or after a date specified in the determination shall be at such rate (being a rate lower than the rate that would be applicable under section 142) as the Minister specifies.*

*(2) The prescribed rate in respect of petroleum to which a determination under subsection (1) is applicable is the rate specified in the determination.*

*(3) he Minister may, by notice in writing, revoke or vary a determination under subsection (1) and the revocation or variation applies to petroleum recovered on or after such date as is specified in the notice.*

*144. Royalty not payable in certain cases*

*(1) Royalty under this Act -*

*(a) is not payable in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained;*

*(b) is not payable in respect of petroleum that is used by the permittee, lessee or licensee, as approved by the Minister, for the purposes of petroleum exploration operations; and*

*(c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.*

*(2) Where petroleum that has been recovered by a permittee, lessee or licensee is, with the approval of the Minister, returned to a natural reservoir, royalty under this Act is not payable in respect of that petroleum by reason of that recovery but this subsection does not affect the liability of that or any other permittee, lessee or licensee to pay royalty in respect of petroleum that is recovered from that natural reservoir.*

*145. Ascertainment of well-head*

*For the purposes of this Act, the well-head, in relation to any petroleum, is such valve station as is agreed between the permittee, lessee or licensee and the Minister or, in default of agreement within such period as the Minister allows, is such valve station as is determined by the Minister as being that well-head.*

*146. Ascertainment of value*

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

*147. Ascertainment of quantity of petroleum recovered*

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

*(a) the quantity measured during that period by a measuring device approved by the Minister and installed at the well-head or at such other place as the Minister approves; or*

*(b) where no such measuring device is installed, or the Minister is not satisfied that the quantity of petroleum recovered by the permittee, lessee or licensee from that well has been properly or accurately measured by such a measuring device - the quantity determined by the Minister as being the quantity recovered by the permittee, lessee or licensee during that period.*

*148. Payment of royalty*

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

*149. Penalty for late payment*

*(1) Where a fee or an amount of royalty under this Act is not paid under this Division at or before the time when the fee or the amount of royalty is payable there is payable to the Minister by the permittee, lessee, licensee or pipeline licensee an additional amount calculated at the rate of one-third of 1% per day on the amount of the fee or royalty from time to time remaining unpaid to be computed from the time when the amount became payable until it is paid.*

*(2) An additional amount in respect of royalty is not payable under subsection (1) or section 149B(2)(a) in respect of any period before the expiration of 7 days after the value of the petroleum was agreed or determined under section 146.*

*149A. Provisional payment of royalty*

*(1) Where, in relation to petroleum recovered during a royalty period, the value of the petroleum has not been agreed or determined under section 146, the Minister may determine a provisional value. (See back note 7)*

*(2) Where -*

*(a) a provisional value of any petroleum has been determined under subsection (1); and*

*(b) the value of that petroleum has not yet been agreed or determined under section 146;*

*the Act operates in relation to that petroleum as if -*

- (c) the provisional value of the petroleum were its value;*
- and*
- (d) the determination of the provisional value were an agreement or determination under section 146.*

*149B. Adjustment of payment*

*(1) This section applies -*

- (a) where section 149A(2) has operated in relation to petroleum recovered during a royalty period and a value of the petroleum different to the provisional value is subsequently agreed or determined under section 146; or*
- (b) where an error has been made in the calculation of royalty due or in the application of a procedure by the application of which the value of the petroleum has been ascertained. (See back note 7)*

*(2) Where this section applies -*

- (a) if the determined royalty is greater than the provisional royalty, the difference is payable within 28 days; and*
- (b) if the determined royalty is less than the provisional royalty, the difference is deducted from any amount subsequently payable by the permittee, lessee or licensee concerned.*

*(3) In this section -*

*"determined royalty" means -*

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the value ascertained under section 146; and*
- (b) where subsection (1)(b) applies, the amount of royalty payable in relation to the petroleum;*

*"provisional royalty" means -*

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the provisional value; and*
- (b) where subsection (1)(b) applies, the amount of royalty demanded in relation to petroleum as a result of the erroneous calculation.*

*150. Fees and penalties debts due to the Territory*

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

*PART III - REGULATIONS*

*151. Regulations*

*(1) The Administrator may make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.*

*(2) In particular, but without limiting the generality of subsection (1), the Regulations may make provision for securing, regulating, controlling or restricting all or any of the following matters:*

- (a) exploration for petroleum and the carrying on of operations and the execution of works for that purpose;*
- (b) recovery of petroleum and the carrying on of operations and the execution of works for that purpose;*
- (c) conserving and preventing the waste of natural resources whether petroleum or otherwise of the adjacent area;*
- (d) construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations and the carrying on of operations, and the execution of works, for any of those purposes;*
- (e) construction, erection, maintenance, operation or use of installations or equipment;*
- (f) control of the flow or discharge, and the prevention of the escape, of petroleum, water or drilling fluid, or a mixture of water or drilling fluid with petroleum or any other matter;*
- (g) clean-up or other remedying of the effects of the escape of petroleum;*
- (h) prevention of damage to petroleum-bearing strata in an area, whether in the adjacent area or not, in respect of which a permit, lease or licence is not in force;*
- (j) keeping separate -*
  - (i) each petroleum pool discovered in a permit area, lease area or licence area; and*
  - (ii) each source of water discovered in a permit area, lease area or licence area;*
- (k) prevention of water or other matter from entering a petroleum pool through wells;*
- (m) prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station;*
- (n) maintaining in good condition and repair all structures, equipment and other property in the adjacent*

*area used or intended to be used for or in connection with the exploration for, or the exploitation of, petroleum in the adjacent area; and*

*(p) removal from the adjacent area of structures, equipment and other property brought into the adjacent area for or in connection with exploration for, or the exploitation of, petroleum that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum in the adjacent area.*

*(2A) The Regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the Regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.*

*(2B) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the Regulations, of the consent or approval of a person specified in the Regulations.*

*(3) The Regulations may prescribe, in relation to the exploration for petroleum, and the exploitation of, the adjacent area, matters for carrying out or giving effect to the Convention.*

*(4) The Regulations may provide, in respect of an offence against the Regulations, for the imposition of -*

*(a) a fine not exceeding \$10,000; or*

*(b) a fine not exceeding \$10,000 for each day on which the offence occurs.*

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## SCHEDULE 1

### Section 2

#### SCHEME FOR TRANSITIONAL ARRANGEMENTS

##### 1. Interpretation

###### (1) In this Scheme -

*"altered arrangements" means the arrangements agreed on between the Commonwealth, the States and the Northern Territory with respect to the exploration for, and the exploitation of, the petroleum resources of certain submerged lands in lieu of the arrangements provided for by the agreement between the Commonwealth and the States dated 16 October 1967;*

*"commencing day" means the day on which the Commonwealth Act for giving effect to the altered arrangements comes into operation;*

*"Commonwealth Act" means the Petroleum (Submerged Lands) Act 1967 of the Commonwealth, as amended from time to time;*

*"Commonwealth jurisdiction" means the areas comprised in the adjacent areas under the Commonwealth Act, as amended to give effect to the altered arrangements;*

*"new permit" means a permit that is to be deemed, under clause 2 of this Scheme, to be in force on and after the commencing day;*

*"new pipeline licence" means a pipeline licence that is to be deemed, under clause 4 of this Scheme, to be in force on and after the commencing day;*

*"pipeline" includes pumping stations, tank stations or valve stations related to a pipeline;*

*"State Act" means the Act of a State corresponding to the Petroleum (Submerged Lands) Act 1967 of the Commonwealth, being that State Act as amended from time to time, or the Act of the Northern Territory enacted to give effect to the altered arrangements, as amended from time to time;*

*"State jurisdiction", in relation to a State, means the area comprised in the adjacent area under the State Act of that State, as amended to give effect to the altered arrangements;*

*"subsisting permit" means an exploration permit for petroleum subsisting under the Commonwealth Act immediately before the commencing day, being a permit in respect of an area that is partly in the Commonwealth jurisdiction and partly in a State jurisdiction;*

*"subsisting pipeline licence" means a pipeline licence subsisting under the Commonwealth Act immediately before the commencing day, being a pipeline licence in respect of a pipeline that is, or is to be, partly in the Commonwealth jurisdiction and partly in the State jurisdiction.*

*(2) References in this Scheme to a State shall, unless the contrary intention appears, be read as including references to the Northern Territory.*

*2. Subsisting Permits To Be Deemed To Be 2 Permits*

- (1) On and after the commencing day but subject to the law relating to surrender, cancellation, variation or suspension of permits, each subsisting permit shall be deemed to comprise 2 permits, being -*
- (a) a permit under the Commonwealth Act, in respect of the portion of the permit area that is within the Commonwealth jurisdiction, for the balance of the period of the subsisting permit but otherwise in the same terms as the subsisting permit; and*
  - (b) a permit under the State Act, in respect of the portion of the permit area that is within the State jurisdiction of a State, for the balance of the period of the subsisting permit but otherwise in the same terms as the subsisting permit.*
- (2) The carrying out of work or the expenditure of money by the permittee in or in relation to the permit area of either of the new permits (whether before or after the commencing day) is to be taken into account as performance to the extent of that work or expenditure of the conditions of both the new permits.*
- (3) For the purposes of any condition of a new permit relating to the carrying out of work or the expending of moneys by the permittee -*
- (a) a reference in that condition to a year of the permit shall be read as a reference to a year that was, or would have been, that year of the subsisting permit; and*
  - (b) the new permits shall be deemed to have been in force during the whole of the year of the subsisting permit that is current on the commencing day.*
- (4) A variation or suspension of, or an exemption from compliance with, any of the conditions of a new permit arising out of a subsisting permit shall not have effect unless the same variation, suspension or exemption is effected in respect of the other new permit arising out of the same subsisting permit.*
- (5) In a matter arising under a State Act in relation to a new permit, being a matter of a kind that, if it arose under the Commonwealth Act, would be a matter for decision by, or could be referred to, a Joint Authority established under the Commonwealth Act, the Designated Authority under the State Act shall not take action except after consultation with the Commonwealth Minister.*

### *3. Renewal of permits*

- (1) A person who holds 2 new permits arising out of a subsisting permit may apply under the Commonwealth Act for renewal of the new permit under that Act and may apply under the State Act for renewal of the new permit under that Act, or may make either of such applications.*

*(2) If a person who was the holder of 2 new permits arising out of a subsisting permit has ceased to be the holder of one of those permits, he may apply under the Commonwealth Act or the State Act, whichever is appropriate, for renewal of the other new permit, and the relevant Act shall apply in relation to such an application as if the new permit had been a permit granted under that Act in respect of the blocks that are comprised in the new permit.*

*(3) Where the holder of 2 new permits arising out of a subsisting permit wishes to apply for renewal of either or both of the new permits, the blocks that were comprised in the subsisting permit that may be included, in whole or in part, in the application or applications shall be selected in accordance with the Commonwealth Act as if the new permits were one permit under the Commonwealth Act and the application or applications were an application under that Act for renewal of that permit.*

*(4) For the purposes of subclause (3) of this clause the Designated Authority under the Commonwealth Act may exercise his powers under section 31(5) and (6) of the Commonwealth Act.*

*(5) An application referred to in subclause (3) of this clause under the Commonwealth Act shall relate to the blocks selected in accordance with that subclause, and parts of those blocks, that are within the Commonwealth jurisdiction and an application referred to in that subclause under the State Act shall relate to the blocks and parts of those blocks so selected, that are within the State jurisdiction.*

*(6) Subject to the foregoing provisions of this clause, an application under the Commonwealth Act made in accordance with this clause shall be dealt with under the Commonwealth Act and an application under the State Act made in accordance with this clause shall be dealt with under the State Act.*

*(7) For the purposes of the application, in accordance with this clause, of the provisions of the Commonwealth Act or of a State Act relating to the renewal of permits, a reference in those provisions to compliance with the conditions to which the permit is subject shall be read as including a reference to compliance with the conditions to which the subsisting permit was subject before the commencing day.*

*4. Subsisting pipeline licences to be deemed to be 2 licences*

*(1) On and after the commencing day but subject to the law relating to surrender, cancellation or variation of pipeline licences, each subsisting pipeline licence shall be deemed to comprise 2 pipeline licences, being -*

*(a) a pipeline licence under the Commonwealth Act, in respect of the portion of the pipeline that is, or is to be, within the Commonwealth jurisdiction, for the balance of*



*the period of the subsisting pipeline licence but otherwise in the same terms as the subsisting pipeline licence, but so that those terms shall have effect only to the extent that they are applicable to or in relation to the portion of the pipeline that is, or is to be, within the Commonwealth jurisdiction; and (b) a pipeline licence under the State Act, in respect of the portion of the pipeline that is, or is to be, within the State jurisdiction of a State, for the balance of the period of the subsisting pipeline licence but otherwise in the same terms as the subsisting pipeline licence, but so that those terms shall have effect only to the extent that they are applicable to or in relation to the portion of the pipeline that is, or is to be, within that State jurisdiction.*

*(2) For the purposes of the application, in relation to a new pipeline licence, of the provisions of the Commonwealth Act or of a State Act relating to the renewal of pipeline licences, a reference in those provisions to compliance with the conditions to which the pipeline licence is subject shall be read as including a reference to compliance with the conditions to which the subsisting pipeline licence was subject before the commencing day.*

*5. Transfer of permits and pipeline licences*

*A transfer of a new permit arising out of a subsisting permit or of a new pipeline licence arising out of a subsisting pipeline licence shall not be made unless a transfer to the same transferee of the other new permit or new pipeline licence arising out of that subsisting permit or subsisting pipeline licence (if that other permit or licence is still in force) is made at the same time and neither of such transfers has effect before the other transfer has been approved in accordance with the Commonwealth Act, or the relevant State Act, as the case requires.*

*6. Preservation of existing interests and rights*

*All legal and equitable interests and rights that existed immediately before the commencing day in or in relation to a subsisting permit or subsisting pipeline licence, to the extent that those interests or rights were applicable, in relation to the permit area of a new permit arising out of that subsisting permit, or to the portion of the pipeline to which a new pipeline licence arising out of the subsisting pipeline licence relates, shall be deemed to continue in or in relation to that new permit or new licence.*

*7. Saving of approvals, &c.*

*Every approval, consent or direction given before the commencing day under or in relation to a subsisting permit or subsisting pipeline licence has effect, on and after the commencing day, in relation to*

*each new permit or new pipeline licence arising out of that subsisting permit or subsisting pipeline licence, as if it were a corresponding approval, consent or direction given under or in relation to that new permit or new pipeline licence.*

*8. Existing Register*

*The Register kept and maintained by the Designated Authority for the purposes of the Commonwealth Act immediately before the commencing day shall continue to be the Register for the purposes of the Commonwealth Act and, except as provided in clause 9, shall cease on that day to be the Register for the purpose of a State Act.*

*9. Registration of subsisting permits and pipeline licences, and instruments relating thereto*

*(1) This clause applies to -*

*(a) every instrument being a subsisting permit or subsisting pipeline licence; and*

*(b) any instrument by which such a permit or licence has been transferred or by which a legal or equitable interest in or affecting such a permit or licence has or may have been created, assigned, affected or dealt with, being an instrument in respect of which an entry or notation has been made before the commencing day in the Register kept for the purposes of the Commonwealth Act.*

*(2) On the commencing day, the Designated Authority under the Commonwealth Act shall forthwith make such entries in the Register referred to in subclause (1) and on copies of instruments to which this clause applies that are kept by him as he thinks appropriate to indicate that instruments to which this clause applies have effect subject to the provisions of this Scheme.*

*(3) For the purposes of a State Act but subject to subclause (4), the Commonwealth Register shall be deemed to be the State Register in relation to instruments to which this clause applies to the extent that they have effect under a State Act in accordance with this Scheme, transfers of interests under such instruments, and instruments by which legal or equitable interests in or affecting interests under such instruments are or may be created.*

*(4) The Designated Authority under a State Act may, if he thinks fit to do so, make entries in the Register kept by him under the State Act, in accordance with the State Act, in respect of a subsisting permit or subsisting pipeline licence that has effect, in accordance with this Scheme, under the law of the State, and if he does so -*

*(a) he shall make an appropriate entry of the kind referred to in subclause (2); and*

*(b) the Commonwealth Register shall cease to be deemed to be the State Register in relation to that permit or licence to the extent that it has effect under the State Act in accordance with this Scheme, or in relation to instruments of the kind referred to in subclause (3) affecting that permit or licence as so having effect.*

*10. Fees*

*In the application in relation to, or to transactions in respect of, a new permit or new pipeline licence of the laws of the Commonwealth and of the States relating to fees -*

*(a) a reference to a year of the term of the permit or licence shall be read as a reference to a year that would have been a year of the term of the subsisting permit or subsisting pipeline licence commencing on or after the commencing day;*

*(b) fees in respect of a year of the term of the subsisting permit or subsisting pipeline licence that commenced before the commencing day and not paid before the commencing day shall be payable in accordance with the law that was in force immediately before that day; and*

*(c) a person is not liable to pay by way of such fees in respect of any year or transaction, a greater total amount than would have been payable if the subsisting permit or subsisting licence had continued in force and the whole of the permit area or the whole of the pipeline, had been within the Commonwealth jurisdiction.*

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*SCHEDULE 2*

*Section 3*

*TRANSITIONAL PROVISIONS*

*1. Preservation of certain applications*

*(1) This clause applies to -*

*(a) an application for an exploration permit for petroleum which, immediately before the commencement of this Act, was subsisting under section 23 of the Commonwealth Act in respect of blocks all of which are within the adjacent area (within the meaning of this Act);*

*(b) an application for a production licence for petroleum which, immediately before the commencement of this Act, was subsisting under section 40 or 47 of the Commonwealth Act in respect of blocks all of which are within the adjacent area (within the meaning of this Act); and*

*(c) an application for a pipeline licence which, immediately before the commencement of this Act, was subsisting under section 64 of the Commonwealth Act in respect of a pipeline no part of which is, or is to be, beyond the outer limits of the adjacent area (within the meaning of this Act).*

*(2) An application to which this clause applies continues to have effect under and subject to this Act.*

*(3) An application to which this clause applies shall be dealt with by the Minister as an application under the relevant provision of this Act as if it had been addressed to the Minister.*

*(4) Anything done before the commencement of this Act under or pursuant to a provision of the Commonwealth Act as then in force and, in accordance with that provision, for the purposes of or in relation to an application to which this clause applies, shall be as effectual for the purposes of this Act as it would be for the purposes of the Commonwealth Act if that Act had continued to be in force in the adjacent area (within the meaning of this Act).*

*2. Applications in respect of certain blocks*

*For the purposes of section 47 of the Commonwealth Act, where, before the commencement of this Act -*

*(a) a production licence for petroleum under the Commonwealth Act as then in force was surrendered or cancelled as to a block which is within the adjacent area (within the meaning of this Act); or*

*(b) an exploration permit for petroleum under the Commonwealth Act as then in force was surrendered, cancelled or determined as to a block -*

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

*(ii) in which, in the opinion of the Minister, there is petroleum, being a block which is within the adjacent area (within the meaning of this Act),*

*the grant and the surrender, cancellation or determination of the licence or permit shall, in so far as they relate to the block, be deemed to have taken place under and in accordance with this Act.*

*3. Pipelines, &c., illegally constructed, &c.*

*Where, in the adjacent area (within the meaning of this Act) -*

*(a) the construction of a pipeline, water line, pumping station, tank station, valve station or secondary line was, before the commencement of this Act, commenced,*

*continued or completed in contravention of the Commonwealth Act as then in force; or*  
*(b) a pipeline, water line, pumping station, tank station, valve station or secondary line was, before the commencement of this Act, altered or reconstructed in contravention of the Commonwealth Act as then in force,*  
*the contravention of the Commonwealth Act shall, for the purposes of section 62 of this Act, be deemed to be a contravention of this Act.*

*4. Powers of Minister in respect of certain wells*

*Where, before the commencement of this Act, the registered holder of an exploration permit for petroleum or a production licence for petroleum under the Commonwealth Act as then in force made a well any part of which is less than 300 metres from the boundary of the permit area or licence area without the consent in writing of the Designated Authority in respect of the adjacent area in respect of the Territory under section 100 of that Act as then in force, or without complying with the conditions, if any, specified in an instrument of consent under that section, the registered holder shall, if the well is within the adjacent area (within the meaning of this Act), for the purposes of section 100(2) of this Act be deemed to have failed to comply with section 100(1) of this Act and the Minister may take action accordingly.*

*5. Cancellation of certain new permits and new pipeline licences*

*(1) Where -*

*(a) an exploration permit is at the commencement of this Act, or was at any time before that commencement, in force in respect of a block which is within the adjacent area (within the meaning of this Act);*

*(b) a production licence for petroleum is at the commencement of this Act, or was at any time before that commencement, in force in respect of a block which is within the adjacent area (within the meaning of this Act); or*

*(c) a pipeline licence is at the commencement of this Act, or was at any time before that commencement, in force in respect of a pipeline, or part of a pipeline, which is within the adjacent area (within the meaning of this Act),*

*and before the commencement of this Act the registered holder of the permit, licence or pipeline licence -*

*(d) failed to comply with a direction given to him under the Commonwealth Act by the Designated Authority in respect of the adjacent area in respect of the Territory;*

*(e) failed to comply with a provision of the Commonwealth Act, or the Regulations thereunder, as then in force; or*

*(f) failed to pay an amount payable by him under a provision of the Commonwealth Act as then in force within a period of 3 months from the day on which it became payable,*

*the failure to comply or pay shall, for the purposes of section 105 of this Act, be deemed to be -*

*(g) a failure to comply with a direction of the Minister under this Act;*

*(h) a failure to comply with the corresponding provision of this Act or the Regulations made under this Act; or*

*(j) a failure to pay an amount payable under the corresponding provisions of this Act within 3 months from the day on which it became payable,*

*as the case requires.*

*(2) Where a person is by subclause (1) deemed to have failed to comply with a direction of the Minister or a provision of this Act or the Regulations, the failure to comply shall be deemed to have occurred on the day on which it occurred under the Commonwealth Act.*

*(3) Where a person is by subclause (1) deemed to have failed to pay an amount payable under this Act within 3 months of the day on which it became payable, the period of 3 months shall be deemed to have ended on the day on which the period of 3 months from the day on which the amount became payable under the Commonwealth Act ended.*

*6. Application of section 107 to certain areas*

*Where, before the commencement of this Act -*

*(a) an exploration permit for petroleum;*

*(b) a production licence for petroleum; or*

*(c) a pipeline licence,*

*under the Commonwealth Act was wholly or partly cancelled or determined under the Commonwealth Act as then in force, or expired by virtue of that Act as then in force, and the relinquished area is wholly or partly within the adjacent area (within the meaning of this Act), the cancellation or determination, or the expiration, of the permit, licence or pipeline licence shall, in so far as it relates to the relinquished area, or the part of the relinquished area that is within the adjacent area (within the meaning of this Act), as the case may be, be deemed for the purposes of section 107 of this Act to have occurred under or by virtue of this Act.*

*7. Application of section 113(2), (3) and (4) to certain property*

*Where, before the commencement of this Act, the Designated Authority in respect of the adjacent area in respect of the Territory*

*exercised a power conferred upon him by section 113(1) of the Commonwealth Act as then in force in relation to property which is, or was, within the adjacent area (within the meaning of this Act), the power shall, for the purposes of section 113(2), (3) and (4) of this Act, be deemed to have been exercised by the Minister under and in accordance with section 113(1) of this Act.*

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SCHEDULE 3

Section 4

**AREA THAT INCLUDES THE ADJACENT AREA**

*The area the boundary of which commences at the point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Western Australia and runs thence northerly along the geodesic to a point of Latitude 14° 37' 30" South, Longitude 129° 01' 45" East, thence northerly along the geodesic to a point of Latitude 14° 32' 30" South, Longitude 129° 01' 15" East, thence north-westerly along the geodesic to a point of Latitude 14° 19' 30" South, Longitude 128° 53' East, thence north-westerly along the geodesic to a point of Latitude 14° South, Longitude 128° 42' 15" East, thence north-westerly along the geodesic to a point of Latitude 13° 49' 45" South, Longitude 128° 33' 15" East, thence north-westerly along the geodesic to a point of Latitude 13° 39' 45" South, Longitude 128° 30' 45" East, thence north-westerly along the geodesic to a point of Latitude 13° 15' 30" South, Longitude 128° 28' East, thence northerly along the meridian of Longitude 128° 28' East to its intersection by the parallel of Latitude 12° 55' 30" South, thence north-westerly along the geodesic to a point of Latitude 12° 32' 45" South, Longitude 128° 24' East, thence north-westerly along the geodesic to a point of Latitude 12° 26' 30" South, Longitude 128° 22' East, thence north-westerly along the geodesic to a point of Latitude 11° 48' South, Longitude 127° 53' 45" East, thence north-westerly along the geodesic to a point of Latitude 11° 13' 15" South, Longitude 127° 32' East, thence north-westerly along the geodesic to a point of Latitude 10° 05' South, Longitude 126° 47' 30" East, thence north-easterly along the geodesic to a point of Latitude 9° 53' 45" South, Longitude 127° 18' 30" East, thence north-easterly along the geodesic to a point of Latitude 9° 28' South, Longitude 127° 56' East, thence north-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude*

*128° East, thence easterly along the rhumb line which is on the parallel of Latitude 9° 25' South to its intersection by the meridian of Longitude 130° 10' East, thence north-easterly along the rhumb line to a point of Latitude 8° 54' South, Longitude 133° 14' East, thence north-easterly along the rhumb line to a point of Latitude 8° 53' South, Longitude 133° 23' East, thence south-easterly along the rhumb line to a point of Latitude 9° 25' South, Longitude 134° 50' East, thence north-easterly along the rhumb line to a point of Latitude 9° 22' South, Longitude 135° 03' East, thence north-easterly along the rhumb line to a point of Latitude 9° 17' South, Longitude 135° 13' East, thence north-easterly along the rhumb line to a point of Latitude 9° 08' South, Longitude 135° 29' East, thence south-easterly along the rhumb line to a point of Latitude 9° 57' South, Longitude 137° 45' East, thence south-easterly along the rhumb line to a point of Latitude 10° 09' South, Longitude 138° 13' East, thence south-easterly along the rhumb line to a point of Latitude 10° 22' South, Longitude 138° 35' East, thence south-easterly along the rhumb line to a point of Latitude 10° 24' South, Longitude 138° 38' East, thence south-easterly along the rhumb line to a point of Latitude 10° 50' South, Longitude 139° 12' East, thence south-easterly along the geodesic to a point of Latitude 10° 51' South, Longitude 139° 12' 30" East, thence south-easterly along the geodesic to a point of Latitude 11° South, Longitude 139° 15' East, thence southerly along the meridian of Longitude 139° 15' East to its intersection by the parallel of Latitude 14° 30' South, thence westerly along that parallel to its intersection by the meridian of Longitude 138° 30' East, thence southerly along that meridian to its intersection by the parallel of Latitude 15° 55' South, thence south-westerly along the geodesic to the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland, thence along the coastline of the Northern Territory of Australia at mean low water to the point of commencement.*

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## Notes

*1. The Petroleum (Submerged Lands) Act comprises the Petroleum (Submerged Lands) Act 1981 as amended by the other Acts specified in the following table:*

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<i>Act</i>			
<i>Number and year</i>	<i>Date of assent by Administrator</i>	<i>Date of commencement</i>	
<b>Petroleum (Submerged Lands) Act 1981</b>	<i>No. 50, 1982</i>	<i>20 Aug 1983</i>	<i>14 Feb 1983(a)</i>
<b>Petroleum Submerged Lands) Amendment Act 1985</b>	<i>No. 23, 1985</i>	<i>24 May 1985</i>	<i>1 July 1985</i>
<b>Petroleum (Submerged Lands) Amendment Act 1986</b>	<i>No. 6, 1986</i>	<i>19 May 1986</i>	<i>3 Sept 1986</i>
<b>Companies and Securities (Consequential Amendments) Act 1986</b>	<i>No. 18, 1986</i>	<i>30 June 1986</i>	<i>1 July 1986</i>
<b>Statute Law Revision Act 1986</b>	<i>No. 64, 1986</i>	<i>19 Dec 1986</i>	<i>19 Dec 1986</i>
<b>Petroleum (Submerged Lands) Amendment Act 1989</b>	<i>No. 19, 1989</i>	<i>15 June 1989</i>	<i>2 Aug 1989</i>
<b>Corporations (Consequential Amendments) Act 1990</b>	<i>No. 59, 1990</i>	<i>14 Dec 1990</i>	<i>1 Jan 1991</i>
<b>Petroleum (Submerged Lands) Amendment Act 1991</b>	<i>No. 51, 1991</i>	<i>26 Sept 1991</i>	<i>18 Dec 1991</i>
<b>Petroleum</b>	<i>No. 69, 1994</i>	<i>15 Dec 1994</i>	<i>15 Dec 1994</i>

<b>(Submerged Lands) Amendment Act 1994</b>			
<b>Petroleum (Submerged Lands) Amendment Act 1995</b>	<i>No. 40, 1995</i>	<i>29 Sept 1995</i>	<i>19 Dec 1995</i>
<b>Sentencing (Consequential Amendments) Act 1996</b>	<i>No. 17, 1996</i>	<i>19 Apr 1996</i>	<i>s. 7: 19 Apr 1996 Remainder: 1 July 1996</i>
<b>Petroleum (Submerged Lands) Amendment Act 1998</b>	<i>No. 54, 1998</i>	<i>28 Aug 1998</i>	<i>1 Oct 1998</i>
<b>Statute Law Revision Act (No. 2) 1998</b>	<i>No. 92, 1998</i>	<i>11 Dec 1998</i>	<i>11 Dec 1998</i>
<b>Lands and Mining (Miscellaneous Amendments) Act 1998</b>	<i>No. 93, 1998</i>	<i>23 Dec 1998</i>	<i>1 Oct 1998</i>
<b>Statute Law Revision Act 1999</b>	<i>No. 27, 1999</i>	<i>18 June 1999</i>	<i>18 June 1999</i>
<b>Law of Property (Consequential Amendments) Act 2000</b>	<i>No. 46, 2000</i>	<i>12 Sept 2000</i>	<i>1 Dec 2000</i>

*(a) See section 1(2) and 1983 Commonwealth Government Gazette No. S29, p.1.*

*2. Section 78 was substituted by section 15(1) of the Petroleum (Submerged Lands) Amendment Act 1986. Section 15(2), (3) and (4) of that Act provide as follows:*

*"(2) Section 78 of the Principal Act as amended by this Act applies in relation to applications for approval of transfers of permits, licences, pipeline licences or access authorities lodged after the commencement of this section.*

*"(3) Notwithstanding the repeal of section 78 of the Principal Act effected by subsection (1) of this section, that section continues to apply in relation to applications for approval of transfers of permits, licences, pipeline licences or access authorities lodged before the commencement of this section.*

*"(4) A transfer approved and registered under section 78 of the Principal Act shall be deemed to have been approved and registered under section 78 of the Principal Act as amended by this Act."*

*3. Sections 81 and 81A were substituted and inserted respectively by section 17(1) of the Petroleum (Submerged Lands) Amendment Act 1986. Section 17(2), (3), (4) and (5) of that Act provide as follows:*

*"(2) Subject to this section, sections 81 and 81A of the Principal Act as amended by this Act apply in relation to dealings evidenced by instruments executed after the commencement of this section.*

*"(3) A party to an instrument to which section 81 of the Principal Act applied, being an instrument that had not been approved under that section may, if the instrument evidences a dealing -*

*(a) to which section 81 of the Principal Act as amended by this Act would, if the instrument had been executed after the commencement of this section, apply; and*

*(b) that relates to a permit, licence, pipeline licence or access authority that was in existence at the time of execution of the instrument,*

*make an application in writing, within 12 months after the commencement of this section, to the Minister for his approval of the dealing.*

*"(4) Where -*

*(a) before the commencement of this section, 2 or more persons entered into a dealing relating to a permit, licence, pipeline licence or access authority that was not in existence at the time of execution of the instrument evidencing the dealing;*

*(b) that dealing would, if the instrument evidencing the dealing had been executed after the commencement of this section, be a dealing referred to in section 81A(1) of the Principal Act as amended by this Act; and*

*(c) that permit, licence, pipeline licence or access authority has come, or comes, into existence,*

*a party to the dealing may make an application in writing within -*

*(d) in a case where that permit, licence, pipeline licence or access authority came into existence before the commencement of this section, 12 months after that commencement; or*

*(e) in any other case, 3 months after that permit, licence, pipeline licence or access authority comes into existence,*

*to the Minister for his approval of the dealing.*

*"(5) Section 81 of the Principal Act as amended by this Act (other than subsections (5) and (6) of that section) applies to a dealing in respect of which an application is made under subsection (3) or (4) of this section."*

*4. Section 101 was amended by section 25(1) of the Petroleum (Submerged Lands) Amendment Act 1986. Section 15(2) and (3) of that Act provide as follows:*

*"(2) A direction in force under section 101 of the Principal Act immediately before the commencement of this section shall, after that commencement, continue to apply to the person or persons to whom it applied before that commencement as if it were a direction under section 101 of the Principal Act as amended by this Act.*

*"(3) A registered holder is not required by section 101(2A) of the Principal Act as amended by this Act to cause a copy of a direction to which subsection (2) of this section 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."*

*5. Section 81(4) was substituted by section 8(1) of the Petroleum (Submerged Lands) Amendment Act 1989. Section 8(2) and (3) of that Act provide as follows:*

*"(2) If, when the first regulations made for the purposes of section 81(4)(b) of the Principal Act, as amended by this Act, take effect, an application for approval of a dealing has been made but the Minister has neither approved nor refused to approve the dealing -*

*(a) the Minister shall give to the applicant written notice that the applicant is entitled to lodge an instrument for the purpose of section 81(4)(b) in relation to the application;*

- (b) the applicant may lodge an instrument for the purpose of section 81(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.*

*"(3) An instrument lodged under subsection (2) shall be taken, for the purposes of section 81(13) of the Principal Act, as amended by this Act, to have accompanied the application when the application was lodged."*

*6. Section 138 was substituted by section 34 of the Petroleum (Submerged Lands) Amendment Act 1995. Section 40(1) of that Act provides as follows:*

*"(1) A fee is not payable under section 138 of the Principal Act, as substituted by this Act, in respect of a year of a permit, lease or licence if the fee payable for that year had been paid before the commencement of this Act under section 138, 138A, 139 or 140 of the Principal Act as then in force."*

*7. Sections 149A and 149B were inserted by section 38 of the Petroleum (Submerged Lands) Amendment Act 1995. Section 40(2) and (3) of that Act provides as follows:*

*"(2) Sections 149A and 149B of the Principal Act, as inserted by this Act, apply in relation to petroleum recovered during a royalty period commencing on or after the date of the commencement of this Act.*

*"(3) Sections 149A and 149B of the Principal Act, as inserted by this Act, apply in relation to petroleum recovered during a royalty period that commenced before the commencement of this Act if, at that commencement, the value of the petroleum had not been agreed or determined under section 146 of the Principal Act."*

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## Table of Amendments

### *Section*

*Preamble. Amended by No. 40, 1995, s. 4*

*4. Amended by No. 23, 1985, s. 4; No. 6, 1986, ss. 4 and 34; No. 40, 1995, s. 5; No. 54, 1998, s. 4; No. 93, 1998, s. 260*

*7. Amended by No. 6, 1986, s. 34*

*Heading*

*Division 3 Inserted by No. 54, 1998, s. 5*

*15A. Inserted by No. 54, 1998, s. 5*

*15B. Inserted by No. 54, 1998, s. 5*

*15C. Inserted by No. 54, 1998, s. 5*

*18. Amended by No. 6, 1986, s. 34*

*18A. Inserted by No. 69, 1994, s. 2*

*19. Amended by No. 40, 1995, s. 6*

*20. Amended by No. 19, 1989, s. 4*

*21. Amended by No. 51, 1991, s. 4*

*22. Amended by No. 40, 1995, s. 7*

*23. Amended by No. 6, 1986, s. 34; No. 19, 1989, s. 5*

*24. Amended by No. 51, 1991, s. 5*

*25. Amended by No. 40, 1995, s. 8*

*26. Amended by No. 40, 1995, s. 9*

*27. Amended by No. 40, 1995, s. 10*

*29. Amended by No. 23, 1985, s. 5*

*30. Amended by No. 51, 1991, s. 6*

*32. Amended by No. 51, 1991, s. 7; No. 40, 1995, s. 11*

*36. Amended by No. 6, 1986, s. 34; substituted by No. 19, 1989, s. 6*

*37. Amended by No. 23, 1985, s. 6; substituted by No. 19, 1989, s. 6*

*38. Amended by No. 19, 1989, s. 11*

*Heading*

*Division 2A Inserted by No. 6, 1986, s. 5*

*38A. Inserted by No. 6, 1986, s. 5; amended by No. 51, 1991, s. 8*

*38B. Inserted by No. 6, 1986, s. 5; amended by No. 40, 1995, s. 12*

*38BA. Inserted by No. 51, 1991, s. 9*

*38C. Inserted by No. 6, 1986, s. 5*

*38D. Inserted by No. 6, 1986, s. 5*

*38E. Inserted by No. 6, 1986, s. 5*

*38F. Inserted by No. 6, 1986, s. 5; amended by No. 51, 1991, s. 10*

*38G. Inserted by No. 6, 1986, s. 5; amended by No. 51, 1991, s. 11; No. 40, 1995, s. 13*

*38H. Inserted by No. 6, 1986, s. 5*

*38J. Inserted by No. 6, 1986, s. 5*

*38K. Inserted by No. 6, 1986, s. 5*

*40. Amended by No. 6, 1986, s. 6; No. 19, 1989, s. 11; No. 51,*

*1991, s. 12*  
*40A. Inserted by No. 6, 1986, s. 7; amended by No. 51, 1991, s. 13*  
*41. Amended by No. 6, 1986, s. 8; No. 51, 1991, s. 14*  
*43. Amended by No. 6, 1986, s. 9; No. 40, 1995, s. 14*  
*44. Amended by No. 23, 1985, s. 7; No. 6, 1986, s. 34; No. 40, 1995, s. 15*  
*44A. Inserted by No. 51, 1991, s. 15*  
*45. Amended by No. 23, 1985, s. 8*  
*46. Amended by No. 23, 1985, s. 9; No. 6, 1986, ss. 10 and 34; No. 19, 1989, s. 11*  
*47. Amended by No. 6, 1986, s. 34; No. 19, 1989, s. 7*  
*48. Amended by No. 19, 1989, s. 11; No. 51, 1991, s. 16*  
*49. Amended by No. 19, 1989, s. 11; No. 40, 1995, s. 16*  
*50. Amended by No. 40, 1995, s. 17*  
*51. Amended by No. 23, 1985, s. 10; No. 51, 1991, s. 17; No. 40, 1995, s. 18*  
*53. Amended by No. 23, 1985, s. 11*  
*54. Amended by No. 23, 1985, s. 12; No. 51, 1991, s. 18*  
*55. Amended by No. 51, 1991, s. 19; No. 40, 1995, s. 19*  
*57. Repealed by No. 51, 1991, s. 20*  
*58. Amended by No. 23, 1985, s. 13*  
*59. Amended by No. 23, 1985, s. 14; No. 6, 1986, s. 11*  
*64. Amended by No. 51, 1991, s. 21*  
*65. Amended by No. 51, 1991, s. 22; No. 40, 1995, s. 20*  
*67. Amended by No. 23, 1985, s. 15*  
*68. Amended by No. 23, 1985, s. 16; No. 51, 1991, s. 23*  
*69. Amended by No. 51, 1991, s. 24; No. 40, 1995, s. 21*  
*71. Amended by No. 51, 1991, s. 25*  
*73. Amended by No. 92, 1998, s. 14*  
*74A. Inserted by No. 6, 1986, s. 12*  
*75. Amended by No. 6, 1986, s. 13*  
*75A. Inserted by No. 46, 2000, s. 8*  
*76. Amended by No. 23, 1985, s. 17; No. 6, 1986, ss 14 and 34; No. 40, 1995, s. 22*  
*77. Amended by No. 6, 1986, s. 34*  
*78. Substituted by No. 6, 1986, s. 15; amended by No. 19, 1989, s. 11*  
*79. Amended by No. 6, 1986, s. 16; No. 51, 1991, s. 26*  
*80. Repealed by No. 6, 1986, s. 16*  
*81. Substituted by No. 6, 1986, s. 17; amended by No. 19, 1989, s. 8*  
*81A. Inserted by No. 6, 1986, s. 17*

82. Amended by No. 6, 1986, s. 18; No. 17, 1996, s. 6
83. Amended by No. 6, 1986, s. 19
84. Amended by No. 6, 1986, s. 20; No. 40, 1995, s. 23
85. Amended by No. 6, 1986, s. 21
86. Amended by No. 6, 1986, s. 22; No. 19, 1989, s. 9; No. 51, 1991, s. 27
87. Amended by No. 51, 1991, s. 28
- 87A. Inserted by No. 6, 1986, s. 23
92. Substituted by No. 6, 1986, s. 24; amended by No. 59, 1990, s. 4; No. 51, 1991, s. 29
94. Amended by No. 6, 1986, s. 34
95. Amended by No. 23, 1985, s. 18; No. 6, 1986, s. 34
96. Amended by No. 23, 1985, s. 19; No. 6, 1986, s. 34
97. Amended by No. 6, 1986, s. 34; No. 40, 1995, s. 24
- 97A. Inserted by No. 40, 1995, s. 25
98. Amended by No. 6, 1986, s. 34
100. Amended by No. 6, 1986, s. 34
101. Amended by No. 23, 1985, s. 20; No. 6, 1986, s. 25; No. 17, 1996, s. 6
102. Amended by No. 6, 1986, s. 26
103. Amended by No. 6, 1986, s. 34
104. Amended by No. 6, 1986, s. 34
105. Amended by No. 6, 1986, s. 34
106. Amended by No. 6, 1986, s. 34; No. 17, 1996, s. 6
107. Amended by No. 6, 1986, s. 34
108. Amended by No. 6, 1986, s. 34
111. Amended by No. 23, 1985, s. 21; No. 6, 1986, s. 27; No. 51, 1991, s. 30
112. Amended by No. 23, 1985, s. 22; No. 6, 1986, ss. 28 and 34; No. 19, 1989, s. 11; No. 51, 1991, s. 31; No. 40, 1995, s. 26
113. Amended by No. 6, 1986, s. 34
114. Amended by No. 6, 1986, s. 34; No. 51, 1991, s. 32; repealed by No. 40, 1995, s. 27
118. Amended by No. 23, 1985, s. 23; No. 6, 1986, ss. 29 and 34; No. 64, 1986, s. 4; No. 19, 1989, ss. 10 and 11; No. 51, 1991, s. 33; No. 40, 1995, s. 28
119. Repealed by No. 23, 1985, s. 24
120. Amended by No. 6, 1986, s. 34
122. Amended by No. 6, 1986, s. 34
124. Amended by No. 6, 1986, s. 34; No. 54, 1998, s. 6
127. Amended by No. 6, 1986, s. 34; substituted by No. 40, 1995, s. 29
129. Amended by No. 6, 1986, s. 34; No. 27, 1999, s. 15



- 131. Amended by No. 17, 1996, s. 6*
- 132. Substituted by No. 23, 1985, s. 25; repealed by No. 40, 1995, s. 30*
- 133. Amended by No. 40, 1995, s. 31; No. 17, 1996, s. 6*
- 135. Amended by No. 40, 1995, s. 32*
- 137AA. Inserted by No. 6, 1986, s. 30*
- 137AB. Inserted by No. 40, 1995, s. 33*
- Heading**
- Division 6A Inserted by No. 23, 1985, s. 26*
- 137A. Inserted by No. 23, 1985, s. 26*
- 137B. Inserted by No. 23, 1985, s. 26*
- 137C. Inserted by No. 23, 1985, s. 26*
- 137D. Inserted by No. 23, 1985, s. 26*
- 137E. Inserted by No. 23, 1985, s. 26*
- 138. Amended by No. 51, 1991, s. 34; substituted by No. 40, 1995, s. 34*
- 138A. Inserted by No. 6, 1986, s. 31; No. 51, 1991, s. 35; repealed by No. 40, 1995, s. 35*
- 139. Amended by No. 51, 1991, s. 36; repealed by No. 40, 1995, s. 35*
- 140. Amended by No. 51, 1991, s. 37; repealed by No. 40, 1995, s. 35*
- 141. Amended by No. 6, 1986, s. 32; No. 40, 1995, s. 36*
- 142. Amended by No. 6, 1986, s. 34*
- 144. Amended by No. 6, 1986, s. 34*
- 145. Amended by No. 6, 1986, s. 34*
- 146. Amended by No. 6, 1986, s. 34*
- 147. Amended by No. 6, 1986, s. 34*
- 149. Amended by No. 6, 1986, s. 34*
- 149A. Inserted by No. 40, 1995, s. 38*
- 149B. Inserted by No. 40, 1995, s. 38*
- 150. Amended by No. 6, 1986, s. 34*
- 151. Amended by No. 6, 1986, ss. 33 and 34; No. 64, 1986 s. 4*
- Schedule 4 Repealed by No. 40, 1995, s. 39*
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