

SOUTH AUSTRALIA

PETROLEUM ACT 1940

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **24 December 1998**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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being

Mining (Petroleum) Act 1940 No. 58 of 1940
[Assented to 5 December 1940]¹

as amended by

Mining (Petroleum) Act Amendment Act 1958 No. 16 of 1958 [Assented to 23 October 1958]
Mining (Petroleum) Act Amendment Act 1963 No. 42 of 1963 [Assented to 28 November 1963]
Mining (Petroleum) Act Amendment Act 1967 No. 75 of 1967 [Assented to 23 November 1967]²
Petroleum (Submerged Lands) Act 1967 No. 78 of 1967 [Assented to 30 November 1967]³
Petroleum Act Amendment Act 1968 No. 36 of 1968 [Assented to 19 December 1968]
Petroleum Act Amendment Act 1969 No. 90 of 1969 [Assented to 11 December 1969]
Mining Act 1971 No. 109 of 1971 [Assented to 9 December 1971]⁴
Petroleum Act Amendment Act 1978 No. 95 of 1978 [Assented to 7 December 1978]⁵
Petroleum Act Amendment Act 1981 No. 8 of 1981 [Assented to 5 March 1981]⁶
Petroleum Act Amendment Act 1984 No. 40 of 1984 [Assented to 24 May 1984]⁷
Petroleum (Miscellaneous) Amendment Act 1991 No. 60 of 1991 [Assented to 28 November 1991]⁸
Petroleum (Pipeline Licences) Amendment Act 1993 No. 82 of 1993 [Assented to 27 October 1993]
Pipelines Authority (Sale of Pipelines) Amendment Act 1995 No. 44 of 1995 [Assented to 11 May 1995]⁹
Petroleum (Safety Net) Amendment Act 1995 No. 60 of 1995 [Assented to 3 August 1995]
Gas Pipelines Access (South Australia) Act 1997 No. 74 of 1997 [Assented to 18 December 1997]¹⁰
Petroleum (Production Licences) Amendment Act 1998 No. 81 of 1998 [Assented to 24 December 1998]

¹ Came into operation 31 July 1941: *Gaz.* 31 July 1941, p. 165.

² Came into operation 30 November 1967: *Gaz.* 30 November 1967, p. 2347.

³ Came into operation 1 April 1968: *Gaz.* 28 March 1968, p. 1070.

⁴ Came into operation 3 July 1972: *Gaz.* 29 June 1972, p. 2689.

⁵ Came into operation 7 December 1978: *Gaz.* 7 December 1978, p. 2158.

⁶ Came into operation 9 April 1981: *Gaz.* 9 April 1981, p. 1092.

⁷ Came into operation (except s. 3(1)) 24 May 1984: *Gaz.* 24 May 1984, p. 1261; s. 3(1) came into operation 1 July 1982, being the day on which the Companies (Application of Laws) Act 1982 came into operation: *Gaz.* 1 July 1982, p. 2: s. 3(2).

⁸ Came into operation 19 December 1991: *Gaz.* 19 December 1991, p. 1903.

⁹ Came into operation 1 June 1995: *Gaz.* 1 June 1995, p. 2529.

¹⁰ Came into operation 30 July 1998 (being the day on which the *Gas Pipelines Access (Commonwealth) Act 1998* received the Royal Assent: *Commonwealth of Australia Gazette* No. GN 34, 26 August 1998): *Gaz.* 2 April 1998, p. 1606.

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix 1.

An Act relating to the search for and mining of petroleum and for purposes incidental thereto.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY PROVISIONS**

Short title and commencement

1. This Act may be cited as the *Petroleum Act 1940* and shall come into operation on a day to be fixed by the Governor by proclamation.

* * * * *

Interpretation

3. (1) In this Act and in every licence issued under this Act, the following terms shall, unless the context otherwise requires, or some other meaning is clearly intended, have the following meanings, namely:—

"**authorised officer**" in relation to the doing of any act, the exercise of any power or function, or the performance of any duty, means any officer authorised in writing by the Minister to do such act, exercise such power or function or perform such duty;

"**bore hole**" includes well;

"**the Department**" means the Department of Mines and Energy;

"**the Director-General**" means the person for the time being holding, or acting in, the office of Director-General of Mines and Energy;

"**drilling**" means the perforation of the earth's surface crust by mechanical means not involving the descent of workmen into the hole caused by the perforation and whether the hole is vertical, inclined, or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from being filled by extraneous materials, including water;

"**field**" means an area approximately conterminous with a subterranean geological formation within which a pool or a number of pools lie;

"**geologist**" means a person trained in the science of geology and approved by the Minister in writing as a person qualified to carry out geological surveys for the purposes of this Act;

"**licence**" means a petroleum exploration licence or a petroleum production licence or a pipeline licence granted under this Act or an oil exploration licence in force by virtue of this Act;

"**licensee**" means a person holding a licence, his successors in title and the persons deriving title under him;

"**natural gas**" means petroleum that is or would be gaseous at Standard Temperature and Pressure;

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"**of economic quantity and quality**", in relation to petroleum, means of such quantity and quality that the petroleum can, in ordinary circumstances, be recovered from the earth with profit;

"**petroleum**" means any naturally occurring hydrocarbon or mixture of hydrocarbons in gaseous, liquid or solid state whether occurring with or in combination with other substances or not but does not include coal or oil shale or any substance derived from coal or oil shale by subjecting it to an industrial process;

"**pipeline**" means a pipe or system of pipes for conveying petroleum and includes related tanks, machinery and equipment;

"**pool**" means a subterranean geological structure within which petroleum has or might have accumulated;

"**waste**" means the loss, dissipation or destruction of petroleum whether before or after recovery from the earth, that might by the implementation of sound and economic measures or the exercise of reasonable precautions have been obviated;

"**wasteful operations**" include any one or more of the following:—

- (a) the location, operation or use of a well or of any equipment or machinery in a manner that impairs the production of petroleum from a pool either by reducing the total quantity of petroleum that can be recovered therefrom or rendering the recovery of petroleum therefrom more difficult or expensive; and
- (b) the use of any method that results in excessive surface loss or destruction of petroleum; and
- (c) the inefficient use or dissipation of reservoir energy; and
- (d) the failure to make timely use of any practicable measure by which the capacity of a well to produce petroleum might be increased; and
- (e) the escape or effluxion of natural gas into the atmosphere, or the destruction or inefficient use of natural gas if by the implementation of sound and practicable measures it could be collected and stored or used efficiently in the course of operations for the recovery of petroleum or operations (if any) for the treatment, processing or refining of petroleum conducted upon or in the vicinity of the field from which the natural gas could be recovered; and
- (f) the inefficient storage of petroleum; and
- (g) the production of petroleum in a quantity in excess of that which can be stored and sold in an orderly manner.

(1a) The provisions of this Act with the exception of subsection (1) of section 35 of this Act shall apply to and in relation to any naturally occurring subterranean accumulation of any of or any mixture of the following:—

- (a) hydrogen sulphide; and
- (b) nitrogen; and
- (c) helium; and
- (d) carbon dioxide; and
- (e) any other substance that the Governor declares by proclamation (which he is hereby empowered to do) to be a substance to and in relation to which this Act applies,

in all respects as if the word "**petroleum**" denoted or included such substances.

(1b) The Minister may determine the rate at which royalty shall be paid upon any of the substances in subsection (1a) of this section mentioned or any substance declared by proclamation thereunder to be a substance to and in relation to which this Act applies, and such a determination shall, subject to the right of the Minister to vary or revoke the determination, have the force and effect of a provision of this Act.

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Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Rights of Crown to petroleum

4. (1) Notwithstanding anything to the contrary in any Act or in any land grant, certificate of title, lease, agreement, or other instrument of title, but subject to the provisos contained in this subsection, all petroleum existing in its natural condition at or below the surface of any land whether alienated from the Crown or not and if alienated, whether the alienation took place before or after the passing of this Act, is hereby declared to be the property of the Crown: Provided that the rights and title of the Crown under this section shall be subject to—

- (a) any right or title lawfully granted to or vested in any person pursuant to this Act:
- (b) any express grant of any right or title to petroleum made by the Crown after the commencement of this Act.

* * * * *

(2) Upon the extraction or effluxion of petroleum from a natural reservoir in which it has been contained, the petroleum shall become the property of the person by whom it has been extracted or released but the property in any petroleum that is returned or reverts to a natural reservoir, shall revert to the Crown.

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Transitional provisions

4A. (1) Any oil exploration licence granted under the *Mining (Petroleum) Act 1940-1963* and in force immediately prior to the commencement of the *Mining (Petroleum) Act Amendment Act 1967* shall, (unless it is a condition of the licence that it shall determine upon the commencement of the *Mining (Petroleum) Act Amendment Act 1967* or, upon the expiration of some stipulated time thereafter) continue in force for the unexpired portion of the term for which it was granted or last renewed and be subject to the terms and conditions upon which it was held immediately prior to the commencement of the *Mining (Petroleum) Act Amendment Act 1967* and, notwithstanding the repeal or amendment of certain provisions of the *Mining (Petroleum) Act 1940-1963* by the *Mining (Petroleum) Act Amendment Act 1967*, the provisions of the *Mining (Petroleum) Act, 1940-1963*, with the exception of the provisions of that Act whereby a licensee might be entitled to a renewal of the oil exploration licence or the grant of an oil prospecting licence or an oil mining licence, shall, by virtue of this subsection, continue in force in relation to such a licence and the holder of such a licence in all respects as if the *Mining (Petroleum) Act Amendment Act 1967* had not been enacted.

(2) When a licence, continued in force under subsection (1) of this section, expires, the Minister, if he is satisfied—

- (a) that the licensee has adequately carried out the obligations of the licence; and
- (b) that the licensee has adequate financial resources and is otherwise competent effectively to engage in exploration for petroleum in pursuance of a licence granted under this Act,

shall, upon the application of the licensee, grant to him a petroleum exploration licence which shall, for the purposes of this Act, be deemed to be a licence granted for an initial term under this Act and shall be subject to the provisions (with the exception of subsection (1) of section 15) of this Act and shall comprise an area that the expired licence would have comprised if it had been renewed under the provisions of the *Mining (Petroleum) Act 1940-1963*.

(3) Where the Minister has, pursuant to subsection (2) of section 40 of the *Mining (Petroleum) Act 1940-1963* covenanted that the powers conferred upon him by subsection (1) of that section shall not be exercised upon application for the renewal of an oil exploration licence during the period of the covenant, upon the expiry of the licence and the grant of a petroleum exploration licence under subsection (2) of this section and notwithstanding the repeal of section 40 of the *Mining (Petroleum) Act 1940-1963* by the *Mining (Petroleum) Act Amendment Act 1967*—

- (a) the area comprised in the petroleum exploration licence shall not, during the period of the covenant or thereafter, be reduced by virtue of subsection (1) of section 15 of this Act and shall not, during the period of the covenant be reduced by virtue of section 18 of this Act; and
- (b) the licensee shall not, during the period of the covenant, be subject to the provisions of section 16 of this Act; and
- (c) the licensee shall not, during the period of the covenant be subject to the provisions of section 17 or section 18A of this Act but any conditions upon which the licence was held immediately before the commencement of the *Mining (Petroleum) Act Amendment Act 1967* and whereby the licensee was required to expend moneys upon exploration for petroleum and the extent of such expenditure was prescribed shall endure throughout the period of the covenant; and

- (d) the provisions of this Act shall, except as provided by this subsection, apply to and in relation to the licence and the licensee; and
- (e) the licensee may from time to time during the period of the covenant apply for the renewal of the licence and such renewal shall, subject to subsection (1) of section 18 of this Act, be granted but upon the licence being renewed for the last time within the period of the covenant, it shall be a term of such renewal that the licence shall expire simultaneously with the period of the covenant; and
- (f) upon the simultaneous expiry of the licence and the period of the covenant, the licensee may apply for the renewal of the licence and such renewal shall, subject to subsection (1) of section 18 of this Act, be granted and, upon that renewal, the area comprised in the licence shall not be reduced by virtue of section 18 of this Act but the provisions of sections 17, 18 and 18A of this Act shall apply thereafter (subject to any written agreement between the Minister and the licensee) in all respects as if that renewal were the grant of a petroleum exploration licence for an initial term under this Act.

(4) A licensee who holds an oil exploration licence that continues in force by virtue of this section shall have the same rights to apply for and be granted a petroleum production licence as a licensee who holds a petroleum exploration licence under this Act.

Delegation

4AB. (1) The Minister may, by instrument published in the *Gazette*—

- (a) delegate any of the Minister's powers or functions under this Act to a person named in the instrument, or to any person who is, when the occasion for exercising the relevant power or function arises, holding, or acting in an office specified in the instrument; or
- (b) vary or revoke a delegation under this section.

(2) A delegation under this section does not prevent the exercise of the delegated power or function by the Minister.

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**PART 2
LICENCES**

Application of this Part and Part 2A

4B. The provisions of Part 2 and Part 2A of this Act shall, except as provided in section 80H of this Act, apply to or in relation to petroleum exploration licences and petroleum production licences only.

Prohibition of petroleum exploration and production without licence

5. (1) Subject to this Act, no person shall engage in petroleum exploration or production except in pursuance of a licence issued by the Minister under this Act.

Penalty: Division 1 fine.

(2) A licence shall not be issued except on application duly made in accordance with this Act and the regulations.

Persons who may apply for licence

6. (1) Subject to this Act, and the regulations, application may be made for a petroleum exploration licence or a petroleum production licence by a natural person or a body corporate that may lawfully carry on business in the State.

(1a) A licence shall not be granted in respect of any land if, as a result of such grant, that land would be comprised in two licences held by different persons at the same time.

(2) Notice of the grant of a licence specifying the area comprised in the licence and the date upon which the licence will expire shall be published in the *Gazette*.

Application for licence

7. (1) Every application shall be addressed to the Director-General.

(2) An application must be accompanied by the prescribed fee.

(3) To the application there shall be attached two copies of a map upon which shall be shown or indicated the area in respect of which the licence is applied for.

(3a) In the case of an application for a petroleum exploration licence, the applicant shall submit with his application a statement outlining the exploratory operations that he proposes to carry out in each year of the term of the licence with an estimate of the expenditure to be incurred in each year in carrying out those operations.

(4) The applicant shall, with his application, furnish evidence as to his financial position and technical qualifications, and as to his ability to comply with this Act and the terms and conditions of the licence for which application is made. The applicant shall forthwith, upon request by the Minister, furnish further evidence relating to such matters, and if such further evidence is not furnished to the satisfaction of the Minister within three months after the request therefor the application shall, unless the Minister otherwise determines, be deemed void.

Power to hold several licences

8. (1) Nothing in this Act shall prevent the Minister from granting more than one licence to the same person.

(2) An applicant for two or more licences shall make a separate application for each licence.

Grant of licence in respect of two or more areas

8A. A licence may be granted in respect of two or more separate areas of land only—

- (a) if the licence is granted in renewal of a licence that applied in respect of two or more separate areas of land; or
- (b) if, in the opinion of the Minister, exceptional circumstances exist justifying the inclusion in the same licence of those separate areas.

Grant of licence to person holding interest in land

9. A licence may be granted to any person over land of which that person is owner or lessee, or in which that person has any other interest or over which he holds a licence of a different kind issued under this Act; and the provisions of this Act, except to the extent that they are inapplicable by reason of the fact that the licensee is the owner or lessee of the land or has some other interest therein or holds such other licence, shall apply in respect of such licence and all operations carried on thereunder.

Non-execution of licence

10. If a licence is not executed within three months after it has been sent by the Minister to the applicant for execution the right of the applicant to such licence shall be deemed to have lapsed: Provided that the Minister may, if he thinks just cause exists for doing so, extend the time for executing the licence.

Exclusive rights

11. Subject to this Act, a licensee shall have the exclusive right to engage in petroleum exploration or production on the land comprised in the licence.

Terms of licences

12. Every licence shall contain such of the terms, covenants and conditions authorised or permitted by this Act or prescribed by regulations under this Act as are appropriate, subject to such modifications and exclusions as the Minister thinks fit and such additional clauses conferring rights or imposing duties on the licensee or the Minister or covering ancillary matters as the Minister thinks necessary.

Bond

13. (1) Before the grant of any such licence a bond in the sum of not less than the prescribed amount or such greater sum as the Minister requires shall be executed and lodged with the Minister and the Minister may require security to be given sufficient to ensure satisfaction of the bond.

(2) The bond shall be given to the Minister by the intended licensee or by some other person approved by the Minister and shall be conditioned upon the due execution and observance by the licensee of all the terms, covenants and conditions of the licence.

(3) The sum mentioned in a bond given under this section shall be deemed not to be a penalty, but shall be liquidated damages and recoverable in full unless the person giving the bond proves performance of every condition upon which the bond is defeasible.

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Discretion of Minister

14. Subject to this Act the Minister shall have a discretion to grant or refuse any application for a licence, but shall not capriciously refuse any application properly made.

Petroleum Exploration Licences

Area to be comprised in petroleum exploration licence and term thereof

15. (1) The area comprised in a petroleum exploration licence shall not exceed twenty-six thousand square kilometres.

(2) The term of a petroleum exploration licence shall be five years.

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Expenditure in relation to initial term

17. (1) It shall be a condition of a petroleum exploration licence during its initial term that the licensee must, in carrying out the exploratory operations required by the licence, expend not less than the following amounts:

- (a) during each of the first two years of the initial term of the licence—sixteen dollars for each square kilometre of the area comprised in the licence; and
- (b) during each subsequent year of the initial term of the licence—twenty-four dollars for each square kilometre of the area comprised in the licence.

(1a) The Minister may, when granting a petroleum exploration licence—

- (a) attach to the licence conditions prescribing the exploratory operations to be carried out by the licensee in each year of the term of the licence;
- (b) vary the condition referred to in subsection (1).

(2) Where an amount is expended upon exploratory operations during any year in excess of the required minimum expenditure, the Minister may authorise the excess, or part of the excess, to be carried over until a subsequent year (including a year of a subsequent term of the licence) and, where such an authorisation has been given, the amount carried over shall, for the purposes of this Act and the conditions of the licence, be deemed to have been expended upon exploratory operations during that subsequent year.

(3) On application by the licensee, the Minister may, at any time during the term of a licence, vary or revoke a condition of the licence (including the condition referred to in subsection (1)) or attach new conditions to the licence.

* * * * *

Renewal of petroleum exploration licence

18. (1) The holder of a petroleum exploration licence may apply to the Minister for the renewal of the licence.

(1a) The applicant shall submit with his application a statement outlining the exploratory operations that he proposes to carry out in each year of the renewed term of the licence with an estimate of the expenditure to be incurred, in each year, in carrying out those operations.

(1b) If the licensee has carried out his obligations under the licence and under this Act to the satisfaction of the Minister and if the Minister is satisfied that the licensee has the technical and financial resources to comply with this Act and the conditions that will be attached to the renewed licence, he shall renew the licence for a further term.

(2) Upon each renewal of the licence an area comprising or areas comprising in aggregate not less than one quarter of the area in respect of which the licence was originally granted shall be excised therefrom and the licence shall be renewed only in respect of the residue.

(3) If the licensee does not include in his application for renewal of a licence a description of the area or areas that he selects for excision pursuant to subsection (2), the Minister may select the area or areas to be excised.

(4) The area or areas to be excised shall be selected so as to satisfy the following requirements:

- (a) the area or areas excised and the area retained shall be bounded by straight lines and, where the boundary does not coincide with the boundary of the area comprised in the existing licence, the boundary shall be comprised, as far as possible, of parallels of latitude or meridians of longitude or both parallels of latitude and meridians of longitude;
- (b) where possible no point on a straight line that forms part of the boundary of an excised area or the retained area shall lie closer than ten minutes of latitude or ten minutes of longitude to any point on any other straight line that forms part of the boundary of that area except the straight lines with which that line forms a junction;
- (c) where two or more areas are excised, each of them shall comprise at least two thousand square kilometres.

(5) Subsection (4) shall not apply in relation to the renewal of petroleum exploration licences numbers 5 and 6 but the areas to be excised from those licences upon renewal shall be within an area that would have been excised, pursuant to this section, from an area that is the sum of the areas of each of those licences, if a licence comprising that total area had been renewed pursuant to this section.

(5a) If the holders of petroleum exploration licences number 5 and 6 cannot agree on the areas to be excised from their licences, the Minister may select the areas for excision pursuant to this section.

(5b) An application for the renewal of a licence under this section must be made not less than three months before the existing licence is due to expire.

(6) Where a licensee applies for the renewal of his licence in accordance with this section, the existing licence shall remain in force until the application is finally determined.

(7) If the licence is renewed and the previous term of the licence has been extended pursuant to subsection (6), the renewed term shall be deemed to have commenced at the time that the previous term would, but for subsection (6), have expired.

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(8) Where, by virtue of subsection (7), the notional commencement of the renewed term of a licence is likely to precede the final determination of the application for renewal by three months or more, the Minister shall, when determining the conditions with which the licensee must comply in the first year of the renewed term, take into account the reduced period during which the licensee will have to comply with those conditions.

Expenditure to be incurred by licensee upon renewal of petroleum exploration licence

18A. (1) After the renewal of a petroleum exploration licence for a second or subsequent term, it shall be a condition of the licence that the licensee must, in carrying out the exploratory operations required by the licence, expend not less than the following amounts in each year of the term of the licence:

- (a) during the period of the first renewal—\$100 for every square kilometre of the area comprised in the licence; and
- (b) during the period of the second renewal—\$125 for every square kilometre of the area comprised in the licence; and
- (c) during the period of the third renewal—\$150 for every square kilometre of the area comprised in the licence.

(1a) Subject to subsection (1b), the Minister may, when renewing a petroleum exploration licence—

- (a) attach to the licence conditions prescribing the exploratory operations to be carried out by the licensee in each year of the renewed term of the licence;
- (b) vary the condition referred to in subsection (1).

(1b) Unless the Minister has the approval of the licensee concerned, he shall not—

- (a) pursuant to subsection (1a), attach a condition to a licence that is inconsistent with an agreement subsisting between him and the licensee; or
- (b) vary the condition referred to in subsection (1) in a manner that is inconsistent with that agreement.

(2) Where an amount is expended upon approved works during any year in excess of the minimum expenditure referred to in subsection (1) of this section, the Minister may authorise the excess, or any part of the excess, to be carried over until a subsequent year (including a year of a subsequent term of the licence) and, where such an authorisation has been given, the amount carried over shall, for the purposes of this Act and the conditions of the licence, be deemed to have been expended upon approved works during that subsequent year.

(3) On application by the licensee, the Minister may, at any time during the renewed term of the licence, vary or revoke a condition of the licence (including the condition referred to in subsection (1)) or attach new conditions to the licence.

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Unauthorised operations not to be carried out

18AB. The holder of a petroleum exploration licence shall not carry out any operations on the land subject to the licence unless those operations have been approved by the Minister.

Obligations of licensee upon discovery of petroleum

18B. (1) If a licensee discovers petroleum within the area comprised in a petroleum exploration licence, he shall—

- (a) forthwith furnish the Minister with a report of the discovery; and
- (b) as soon as practicable, take all necessary steps for the ascertainment of the quantity and quality of the petroleum; and
- (c) furnish the Minister with particulars of the quantity and quality of the petroleum and with such other information as the Minister may, by notice in writing served personally or by post upon the licensee, require within such time as the Minister may specify in the notice.

(2) Except with the approval of the Minister, no person shall dispose of any petroleum recovered from any land comprised in a petroleum exploration licence until a petroleum production licence has been obtained in respect of the land.

Annual fees

18C. A licensee who holds a petroleum exploration licence must pay to the Minister annually and in advance an annual licence fee calculated in accordance with the prescribed scale.

Statements and accounts

18D. A licensee who holds a petroleum exploration licence shall furnish the Minister with such statements and accounts relating to the expenditure of moneys for, or in connection with, petroleum exploration conducted in pursuance of the licence, as the Minister may, by notice in writing served personally or by post upon the licensee, require, or as may be prescribed.

Special provision relating to exploration expenditure where licensee holds a petroleum exploration licence and a petroleum production licence

18E. (1) Where—

- (a) a licensee holds a petroleum exploration licence and a petroleum production licence comprising contiguous areas; and
- (b) the area comprised in the petroleum production licence was excised from an area formerly comprised in the petroleum exploration licence,

the Minister may on the application of the licensee, approve for the purposes of this section, works relating to the exploration for petroleum to be carried out by the licensee upon the area of the petroleum production licence.

(2) Where the Minister has, in pursuance of subsection (1) of this section, approved works relating to the exploration for petroleum, any expenditure to be made in any year by the licensee under the petroleum exploration licence shall be reduced by the amount expended by the licensee in that year in carrying out works approved by the Minister under subsection (1) of this section.

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Petroleum Production Licences

Right to petroleum production licence

27. (1) Subject to subsection (1a), a licensee who holds a petroleum exploration licence that comprises an area within which petroleum has been discovered, shall, if he is not in default of his obligations under the licence or this Act at the time of such discovery, be entitled, subject to this Act, to be granted a petroleum production licence in respect of the area within which petroleum has been discovered.

(1a) A licence shall not be granted under subsection (1) if the quantity or quality of the petroleum is not sufficient to warrant production.

(2) If, at the time of such discovery, the licensee is in default of his obligations under the licence or this Act, the Minister shall stipulate a reasonable period within which the licensee may remedy his default and if at the expiration of that period the licensee has remedied his default, he shall be entitled, subject to this Act, to be granted a petroleum production licence in respect of the area within which petroleum has been discovered.

(3) If at the expiration of the period stipulated by the Minister under subsection (2) of this section, the licensee has failed to remedy any default under the licence or this Act, the Minister may excise from the area comprised in the petroleum exploration licence the area of the field in which petroleum has been discovered and grant to any person a petroleum production licence in respect of the field.

(4) Upon the grant of a petroleum production licence, the area comprised therein, shall be excised from the area comprised in the petroleum exploration licence.

(5) If a licensee who holds a petroleum exploration licence applies for the grant of a petroleum production licence for an area comprised, at the time of the application, in the petroleum exploration licence—

- (a) the licensee's entitlement (if any) to the grant of a petroleum production licence is not affected by the expiry of the petroleum exploration licence, or a contraction of its area, before determination of the application; and
- (b) no further petroleum exploration licence can be granted for the area to which the application relates until the application has been finally determined.

Consequences of failure to obtain production licence when petroleum is of economic quantity and quality

27A. The Minister may, by notice in writing served personally or by post upon a licensee who holds a petroleum exploration licence, declare that any petroleum discovered within the area comprised in the petroleum exploration licence is, in his opinion, of economic quantity and quality and, if within twelve months or such longer period as the Minister may stipulate, of the service of such notice, the licensee has not made application for a petroleum production licence, the Minister may excise from the area comprised in the petroleum exploration licence the area of the field in which petroleum has been discovered and grant to any person a petroleum production licence in respect of the field.

Area of petroleum production licence

28. A petroleum production licence shall not be granted in respect of an area that exceeds—

- (a) twice the area of the field concerned; or
- (b) two hundred and sixty square kilometres,

whichever is smaller.

Licence in respect of area comprising two or more fields

28A. Where two or more fields are so situated that they may be comprised within a single undivided area not exceeding two hundred and sixty square kilometres in extent, the Minister may grant a single petroleum production licence in respect of such area.

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Shape of area

30. Each area in respect of which a petroleum production licence is granted shall, as far as practicable, be bounded by parallels of latitude and meridians of longitude.

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Term and renewal of petroleum production licence

32. (1) The term of a petroleum production licence shall be twenty-one years.

(2) An application for the renewal of a petroleum production licence shall—

- (a) be made in a manner and form approved by the Minister; and
- (b) be made not less than three months before the expiry of the licence; and
- (c) be accompanied by the prescribed fee.

(3) Upon application by a licensee, the Minister shall, if satisfied that the licensee has adequately carried out the obligations of the licence and this Act, from time to time renew the licence for a further term of twenty-one years.

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Rights conferred by petroleum production licence

33. A petroleum production licence shall confer on the licensee the exclusive right to conduct operations for the production of, and exploration for, petroleum within the area comprised in the licence together with a right to construct and maintain on that land such works, buildings, plant, waterways, roads, pipelines, dams, reservoirs, tanks, pumping stations, tramways, railways, telephone lines, wireless stations and other structures and equipment as are necessary for the full enjoyment of the licence or the fulfilment of the licensee's obligations thereunder.

Fees

34. A licensee who holds a petroleum production licence shall pay to the Minister annually and in advance a licence fee calculated in accordance with the prescribed scale.

Royalty

35. (1) Subject to subsection (2) of this section, a licensee who holds a petroleum production licence shall pay to the Minister a royalty of ten per centum of the value at the well-head of all petroleum recovered from the land comprised in the licence.

(2) Royalty shall not be payable in respect of—

- (a) any petroleum that is returned to the pool or is destroyed or dissipated in accordance with sound petroleum production practices; or
- (b) any petroleum used by the licensee in the course of operations for the recovery of petroleum and for any purposes incidental thereto (including the heating and lighting of any houses or buildings upon the petroleum field used by the employees of the licensee).

(3) An annual fee paid by a licensee under section 34 of this Act in respect of a particular year may be set off against royalty payable by the licensee upon petroleum recovered during that year if the petroleum is recovered from an area comprised in the licence in respect of which the fee was paid, or from a contiguous area comprised in a licence held by the same licensee.

(4) The licensee shall in each month furnish the Minister with a statement in a form approved by the Minister, in relation to the last preceding month, of the quantity of petroleum recovered, the quantity of any petroleum or derivatives therefrom which has or have been sold and the amount realised upon such sale and with such other information as the Minister may, by notice in writing served personally or by post upon the licensee, require.

(5) The licensee shall, at the request of the Director of Mines or of any person authorised by him to make the request on his behalf, produce to the Director or to the person authorised as aforesaid, all books, accounts and other records in his possession or power relating to transactions or dealings with petroleum recovered by the licensee and shall permit the Director or the person authorised as aforesaid, to inspect and make copies of those books, accounts and records.

(6) For the purposes of this section the value at the well-head of petroleum shall be an amount calculated by subtracting from the amount that the petroleum might reasonably be expected to realise upon sale to a *bona fide* purchaser all expenses actually incurred or to be incurred by the licensee in treating, processing or refining the petroleum prior to delivery or in conveying the petroleum to the point of delivery to the purchaser.

(7) The Minister shall, in accordance with subsection (6) of this section, determine the value at the well-head of petroleum produced by the licensee and a value so determined shall, in any proceedings before a court or other tribunal, be taken as the value at the well-head of the petroleum, unless the contrary is proved.

Development plan to be submitted to Minister

35A. (1) A licensee who holds a petroleum production licence shall, within six months of the grant of the licence (or such longer period as the Minister may allow) submit for the approval of the Minister a development plan containing—

- (a) an outline of the developmental works that the licensee proposes to carry out within the area comprised in the licence during the term of the licence; and
- (b) the stages in which the licensee proposes to carry out the developmental works; and
- (c) an estimate of the times at which each stage of the developmental works will be commenced and completed.

(2) If a licensee holds petroleum production licences in respect of contiguous areas, or areas that are, under the provisions of any Act, to be treated as contiguous, a single development plan may be submitted in respect of those areas.

(3) The Minister may approve a development plan submitted under this section.

(4) The Minister may from time to time amend a development plan approved under this section in order to bring the plan into conformity with—

- (a) developmental works actually carried out by the licensee; or
- (b) altered or substituted proposals for or relating to the carrying out of developmental works submitted by the licensee and approved by the Minister.

Schedule and programme to be submitted to Minister

36. (1) A licensee who holds a petroleum production licence shall submit for the approval of the Minister when so required by this section—

- (a) a programme of drilling and other works that the licensee proposes to carry out to develop any field that lies within the area comprised in the licence during a period of twelve months specified in the programme; and
- (b) a schedule setting forth estimated rates at which the licensee proposes to produce petroleum, during the period to which the programme relates, from each of the wells within the area comprised in the licence—
 - (i) that exist at the time of preparation of the schedule; or
 - (ii) that are to be drilled before the expiration of the period to which the programme relates.

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(1a) If a licensee holds petroleum production licences in respect of contiguous areas, or areas that are, under the provisions of any Act, to be treated as contiguous, the requirements of subsection (1) of this section may, with the approval of the Minister, be complied with by the submission of a single schedule and programme in respect of those areas in all respects as if they constituted a single area held under a petroleum production licence.

(1b) The licensee shall submit a programme and schedule for the approval of the Minister—

- (a) where no previous programme and schedule have been submitted in pursuance of this section—within six months of the grant of the licence (or such longer period as the Minister may allow) and at least one month before the commencement of drilling or other developmental works within the area comprised in the licence; and
- (b) in any other case, at least one month (or such lesser period as the Minister may allow) before the commencement of the period to which the programme and schedule relate.

(1c) The Minister may approve a programme and schedule submitted under this section wholly or in part.

(1d) In determining whether to approve a programme and schedule submitted under this section, the Minister shall have regard to the relevant approved development plan.

(2) The Minister may at any time approve the variation of a schedule or programme submitted pursuant to subsection (1) of this section.

(3) The licensee shall diligently carry out or cause to be carried out operations for the recovery of petroleum and operations for the development of any field within the area comprised in the licence in accordance with good petroleum field practice and with the schedule or programme approved by the Minister.

(4) Where, in the opinion of the Minister, petroleum of economic quantity and quality exists within the area comprised in a petroleum production licence, the Minister may, by notice in writing served personally or by post upon the licensee, require the licensee to continue operations for the recovery of petroleum until such time as he satisfies the Minister that further production of petroleum from the area is no longer practical or economic.

(5) The Minister may at any time authorise a temporary suspension of any operations that the licensee is required to undertake under this section.

Plans, etc., to be furnished

37. (1) A licensee who holds a petroleum production licence shall, not later than the thirtieth day of September in each year furnish the Director of Mines with—

- (a) a plan showing the location of all wells within the area comprised in the licence; and
- (b) a description of all development works executed by him in accordance with the programme approved by the Minister during the period of twelve months ended on the thirtieth day of June in that year; and
- (c) a statement of the quantity and quality of all petroleum produced during the period of twelve months ended on the thirtieth day of June in that year.

(2) A licensee who holds a petroleum production licence shall—

- (a) keep accurate geological plans maps and records relating to the land comprised in the licence and furnish the Minister with such copies of the plans, maps and records and such information in relation thereto as the Minister may from time to time by notice in writing served personally or by post upon the licensee, require; and
- (b) furnish the Minister with—
 - (i) such plans and information in relation to the progress of operations within the area comprised in the licence; and
 - (ii) such reports relating to estimated petroleum reserves and other matters relevant to the extent of prospective production from a field,

as the Minister may, by notice in writing served personally or by post upon the licensee, require.

General Provisions Relating to Licences

Surrender of licence

38. (1) A licensee may—

- (a) upon giving three months' notice in writing to the Minister; and
- (b) upon payment of all fees, royalties, debts and other obligations due and owing to the Minister under this Act; and
- (c) upon payment of all moneys and wages due and payable to the workmen and employees of the licensee,

apply to the Minister for permission to surrender his licence with respect to the whole or portion of the land comprised therein.

(2) The Minister shall not grant any such application unless he is satisfied that the licensee has made provision for protecting the land to which the surrender relates and making any well thereon safe.

(2a) The Minister shall grant an application under this section if the licensee has complied with the requirements of subsections (1) and (2) and has complied with the conditions of his licence.

(2b) The surrender of a licence shall take effect at the end of the year of the term of the licence in which the application for permission to surrender was granted or, if the application is made in one year of the term of the licence but is granted in the following year, the surrender shall be deemed to have taken effect, if the Minister so directs, at the end of the year in which the application was made.

(3) When the surrender of a licence takes effect under this section, all rights and obligations of the licensee under the licence in respect of the land to which the surrender relates shall be terminated but the surrender shall not release the licensee from any obligation or liability incurred prior to the surrender.

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(4) Where the licensee has constructed any waterway, road, pipeline, tramway, railway, or telephone line on the land to which the surrender relates, he shall be entitled, so long as is necessary for the conduct of operations in pursuance of the licence, to a right of way or easement entitling him to use and maintain that waterway, road, pipeline, tramway, railway or telephone line.

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Signing, etc., of application

41. An application for a licence shall—

- (a) if made by an individual—be signed by the applicant or by his agent; and
- (b) if made by a body corporate—be under the common seal of the applicant or be signed by some person authorised by the applicant to sign it; and
- (c) if made by an unincorporated association of persons or of bodies corporate, or of persons and bodies corporate—be signed by each person or by his agent and be under the seal of each body corporate.

Consent to dealing with licence

42. (1) Subject to subsection (2)—

- (a) a provision of a contract or other instrument under which a licensee transfers, assigns or otherwise deals with, or undertakes to transfer, assign or otherwise deal with a licence or an interest in a licence; or
- (b) a provision of a partnership agreement, a joint venture agreement or any other similar agreement under which a licensee confers on a person (whether or not that person is a joint licensee) a present, future or contingent right to—
 - (i) petroleum produced from land comprised in a licence, or a share in such petroleum; or
 - (ii) profits derived from the production of petroleum from land comprised in a licence, or a share in such profits,

cannot take effect unless approved by the Minister (but, once approved it may, if it so provides, take effect from a day antecedent to the date of approval).

(2) A licence or an interest in a licence may be mortgaged or charged without the Minister's approval but—

- (a) the licensee must, within 28 days after granting the mortgage or charge (or such longer time as the Director may allow), lodge a copy of the instrument creating the mortgage or charge with the Director and in the event of a failure to do so is guilty of an offence and liable to a division 5 fine;
- (b) the mortgagee or chargee cannot transfer or assign the licence or the interest, or obtain the transfer or assignment of the licence or the interest, in pursuance of the mortgage or charge, without the Minister's approval.

(3) The Minister may, at his or her discretion, grant or refuse approval under this section, or grant approval subject to conditions, but must not exercise that discretion capriciously or unreasonably.

(4) If a condition in the nature of a condition precedent is imposed by the Minister under subsection (3) and the condition is fulfilled, the licensee must, within 28 days after the condition is fulfilled, notify the Minister of that fact.

Penalty: Division 5 fine.

(5) Where an approval has been granted under this section, no further approval is required for an instrument to give effect to the approved provision, but the licensee must lodge a copy of any such instrument with the Director within 28 days after execution (or such longer time as the Director may allow).

Penalty: Division 5 fine.

(6) The prescribed fee is payable on any application for the Minister's approval under this section.

Joint operating agreements

43. (1) Where a licence is held jointly by two or more licensees, a copy of any joint operating agreement between the licensees or any two or more of them must be lodged with the Director within 28 days after the date of the agreement (or such longer time as the Director may allow).

(2) Where a joint operating agreement between two or more joint licensees had been entered into before the commencement of this section, and the agreement was still in operation at that date, a copy of the agreement must be lodged with the Director within 28 days after the commencement of this section (or such longer time as the Director may allow).

(3) If a copy of a joint operating agreement is not lodged as required by this section, each licensee who is a party to the agreement is guilty of an offence.

Penalty: Division 5 fine.

(4) This section does not apply to—

- (a) a joint operating agreement containing a provision for which the Minister's approval has been sought or obtained under section 42; or
- (b) a joint operating agreement of which a copy had been lodged with the Director before the commencement of this section.

Registers

44. The Director of Mines shall keep registers of licences and such other registers as may be prescribed or as he deems necessary.

Rights reserved to the Crown

45. (1) Notwithstanding the grant or issue of a licence under this Act or under any corresponding previous enactment—

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- (a) there is, and shall be deemed always to have been, reserved to the Crown; and
- (b) the licence, if it does not expressly contain the reservation, shall be deemed to contain a reservation of,

the right to grant, upon such terms and conditions as the Minister thinks fit, such rights of way or easements through, upon, over or in any land comprised in the licence as are reasonably required for the development or working of that land or other land containing petroleum deposits, or for the treatment or transportation of the products of such land by or under the authority of the Minister, or any licensee, or for or in connection with any public purpose.

(2) Any right reserved or deemed to have been reserved to the Crown by virtue of subsection (1) of this section may be exercised by the Minister and any grant made in exercise of any such right may, subject to this Act and to the terms and conditions, if any, upon which the grant was made, be varied or revoked by the Minister.

Saving of powers of Minister under Crown Lands Acts

46. Nothing in this Act or in any licence shall take away or limit any power conferred on the Governor or any Minister of the Crown by any other Act to reserve, dedicate, grant, sell or otherwise deal with or dispose of any land: Provided that any such reservation, dedication, grant, sale, or other dealing or disposition shall be subject to any rights which have been conferred by or under this Act or any licence, and are in existence at the time of the reservation, dedication, grant, sale or other dealing.

Entry on land not included in licence

47. (1) For the purpose only of making any geological or geophysical examination a licensee may enter upon land not comprised in his licence: Provided that such entry shall not be made except with the consent of every owner and occupier of the land or, in the case of an appeal, the consent of the Minister.

(2) Any owner or occupier of land may in his discretion refuse his consent under this section or may grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations as he thinks fit.

(3) If any owner or occupier of any land refuses or neglects to grant consent under this section or grants consent subject to any condition, the person applying for consent may appeal to the Minister. On such an appeal the Minister may refuse his consent, or grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations as he thinks fit.

(4) Subject to the regulations, where the owner or any occupier of any land is not known, or is absent from the State and has no known agent in the State, or is dead and has no personal representatives, any person requiring the consent of that owner or occupier under this section, may appeal to the Minister as if that owner or occupier had refused his consent, and on the appeal the Minister may refuse his consent, or grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations, as he thinks fit.

(5) Nothing in this section and nothing done pursuant to this section shall restrict the power of any owner or occupier of land to enter into an agreement with any person as to the giving of consent under this section or as to the conditions on which such consent is to be given.

(6) A licensee entering on land under this section shall be entitled to make a geological and geophysical examination of the land. In making such examination he shall do as little damage as possible, and he shall be liable to pay compensation to every person having any estate or interest in the land for any damage done to the land. Any such person may sue for such compensation in any court having jurisdiction to entertain actions up to the amount claimed.

No petroleum exploration or production on or under roads and streets

48. Nothing in this Act or in any licence shall authorise any person to engage in petroleum exploration or petroleum production operations on or under any road or street without the prior approval of the Minister.

Restrictions on rights of licensees over certain lands

49. (1) A licensee shall not be entitled to enter upon or conduct any operations upon any of the lands hereunder mentioned unless he has first obtained the consent in writing of every owner and occupier of that land, or, in the case of an appeal, the consent of the Minister.

The lands referred to above are the following:—

- (a) Land lawfully and *bona fide* used as a garden, orchard, vineyard, or dairy farm:
- (b) Fields cultivated for the production of crops:
- (c) Pasture land which has been topdressed or sown with any plants or grasses for pasture:
- (d) Land used for the playing of any sport:
- (e) Land forming the site of any building, artificial well, reservoir, or dam, where that building, well, reservoir, or dam is of the value of two hundred dollars or more, and any land within one hundred and fifty metres of any such building, well, reservoir, or dam:
- (f) Any land within one hundred metres of any spring, watering trough, or artificial watering place which is habitually used for stock.

(2) Any owner or occupier of any land mentioned in subsection (1) of this section, may in his discretion refuse his consent under this section or may grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations as he thinks fit.

(3) If any owner or occupier of any such land refuses or neglects to grant consent under this section or grants consent subject to any condition, the person applying for consent may appeal to the Minister. On such an appeal the Minister may refuse his consent, or grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations as he thinks fit.

(4) Subject to the regulations, where the owner or any occupier of any land is not known, or is absent from the State and has no known agent in the State, or is dead and has no personal representatives, any person requiring the consent of that owner or occupier under this section, may appeal to the Minister as if that owner or occupier had refused his consent, and on the appeal the Minister may refuse his consent, or grant his consent either unconditionally or on such conditions not inconsistent with this Act or the regulations, as he thinks fit.

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(5) Nothing in this section and nothing done pursuant to this section shall restrict the power of any owner or occupier of land to enter into an agreement with any person as to the giving of consent under this section or as to the conditions on which such consent is to be given.

(6) If any licensee contravenes this section he shall be guilty of an offence.

Restriction on rights of licensees over public lands

50. (1) A licensee shall not be entitled to enter upon or conduct any operations upon any of the lands hereinafter mentioned without the consent of the appropriate Minister.

The lands referred to above are the following:—

- (a) Land held by or on behalf of the Crown or any municipal or district council or any public statutory authority and used as park lands, or as a public park, garden, playground, recreation reserve, or other place of public resort:
- (b) Land held by or on behalf of the Crown or any municipal or district council or any public statutory authority as the site or intended site of any public building, public work, or cemetery:
- (c) Land dedicated or reserved by proclamation under the *Crown Lands Act 1929-1939*:
- (d) Land to which the Governor by proclamation declares that this section shall apply.

(2) The Governor may by proclamation—

- (a) declare that this section shall apply to any specified land or to any specified class of land:
- (b) declare that this section shall cease to apply to any specified land or to any specified class of land to which this section applies whether by reason of a proclamation under this section or otherwise:
- (c) revoke or vary any proclamation for the time being in force under this section.

(3) The appropriate Minister to grant his consent under this section shall be—

- (a) the Minister for the time being charged with the administration of the land; or
- (b) if the land is administered by an authority other than a Minister, the Minister for the time being charged with the administration of the Act under which the land is held; or
- (c) if there is no such Minister as mentioned in paragraph (a) or (b) the Minister of Mines.

If any question arises as to who is the appropriate Minister to grant consent under this section, it shall be determined by the Governor whose decision shall be final.

(4) The appropriate Minister in his discretion may refuse his consent under this section, or may grant his consent either unconditionally or on such conditions as he thinks fit.

(5) Where any such land as mentioned in subsection (1) of this section is held by or on behalf of, or is controlled in whole or part by, a municipal or district council or a public statutory authority, the Minister shall not give any consent under this section in respect of that land unless he has first consulted such council or authority.

(6) If any licensee contravenes this section he shall be guilty of an offence.

Notice of entry to be given to occupiers

51. (1) Before any licensee enters upon any land or causes it to be entered upon pursuant to this Act, he shall give to every occupier of the land notice in writing of his intention so to do. Where the entry upon the land is for the purpose of making any geological survey or for the purpose of making any geophysical survey that does not involve a risk of damage to the land or the improvements thereon, or to any stock or chattels for the time being thereon, fourteen clear days' notice of intention shall be given as aforesaid, and in every other case twenty-eight clear days' notice shall be given.

(2) A notice to any occupier under the last preceding subsection may be given by delivering it to the occupier personally, or by putting it up in a conspicuous place on the land and posting a copy of it by registered letter addressed to the occupier at his last known place of abode or business in the State or to the agent or representative of the occupier.

(3) Every notice under this section shall specify the land upon which it is proposed to enter, and shall also specify the purpose for which the entry is proposed to be made.

(3a) Every notice under this section shall set forth the provisions of sections 75 to 80 of this Act.

(4) The foregoing provisions of this section shall be in addition to and not in derogation of any other provisions of this Act restricting the right to enter upon any land or to commence or carry on any operations in connection with the exploration for or production of petroleum.

(5) If any licensee contravenes this section he shall be guilty of an offence.

Use and occupation of private land

52. (1) A licensee may enclose with a fence or define in any other manner approved by the Minister such land as he requires for the purpose of his operations and, if so requested by the owner or occupier of the land, shall fence such land.

(2) A licensee may bring an action for trespass or injury to any land fenced or so defined by him under this section.

Restriction on interference with other operations

53. If any land comprised in a licence is being lawfully used by any person other than the licensee for any purpose, the licensee shall—

- (a) conduct operations under the licence so as not to interfere to a greater extent than is necessary with such user of the land; and
- (b) take all such precautions and measures as are necessary or as are required by the Minister to prevent unnecessary injury to any land.

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Records to be kept by licensee

55. (1) A licensee shall keep such records as may be required by the regulations.

(2) The licensee shall deliver to the Minister copies of all records kept pursuant to this section at such times, or at such periodic intervals—

- (a) as may be required by the regulations; or
- (b) as the Minister may, by notice in writing served personally or by post upon the licensee, require.

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Further provisions as to logs, reports, etc.

58. All logs, records, plans, maps, accounts and information which a licensee is required to furnish under this Act shall be furnished at the expense of the licensee.

Restriction on drilling

59. A licensee shall not, except with the consent of the Minister, commence drilling within one hundred metres of any of the boundaries of the land comprised in his licence.

Apparatus, etc., to be maintained in good condition and operations carried out in proper manner

60. Every licensee shall maintain all apparatus, appliances and wells capable of producing petroleum, on the land comprised in his licence in good repair and condition, and shall execute all operations on that land in a proper and workmanlike manner in accordance with methods and practice customarily used in good petroleum field practice.

Health and safety of workers

61. (1) Every licensee shall comply with any directions from time to time given to him in writing by the Minister for securing the health and safety of persons employed by the licensee in connection with the operations conducted on the land comprised in his licence.

(2) If any licensee fails to comply with any such direction he shall be guilty of an offence.

Accidents

62. (1) Where, in connection with any operations carried on by a licensee pursuant to his licence, any accident occurs which—

- (a) causes loss of life, or a fracture of the skull or of any limb, or any dislocation of a limb, or any other serious bodily injury to any person, or
- (b) is caused by an explosion or ignition of gas or other explosive, or by electricity, or by fire, or by any other cause which is prescribed, and causes any bodily injury whatsoever to any person—

the licensee shall forthwith notify the Director of Mines by telegraph of the accident, and shall, in addition, forthwith send to the Director of Mines a written report containing detailed particulars of the nature and cause of the accident and of the bodily injuries sustained by any person or persons.

(2) If any licensee fails to comply with this section he shall be guilty of an offence.

Storage of petroleum

63. (1) Every licensee shall use methods and practice customarily used in good petroleum field practice for confining the petroleum obtained from the land comprised in his licence in tanks, gas holders, pipes, or other receptacles.

(2) A licensee shall not, except as a temporary method during emergency, place or keep any petroleum in an earthen reservoir.

If any licensee contravenes this subsection he shall be guilty of an offence.

Substances not to be deposited on land

64. (1) Except as allowed by the regulations or by the Minister, a licensee shall not cause or permit any waste oil, salt water or refuse to flow into or over, or to be deposited upon, any land whether included in his licence or not.

(2) If any licensee contravenes this section he shall be guilty of an offence.

Abandonment and plugging of wells

65. (1) Every licensee shall give to the Minister not less than twenty-four hours' notice in writing of his intention to abandon any well, and shall not, without the consent in writing of the Minister, withdraw any casing or reinforcing structure from any well which it is proposed to abandon.

(1a) The Minister may refuse his consent to the withdrawal of any casing or reinforcing structure from a well if it appears to him that the well might be advantageously used as a source of water or for any other purpose whatsoever and, in the event of such refusal—

- (a) the Minister shall give to the licensee written notice of his refusal; and
- (b) the Minister shall cause the value *in situ* of the casing or reinforcing structure to be ascertained; and
- (c) no person shall use the well for any purpose whatsoever unless—
 - (i) he has paid to the licensee a sum equal to the value of the casing or reinforcing structure as ascertained under paragraph (b) of this subsection in which event the property in the casing or reinforcing structure shall be vested in him; or
 - (ii) he obtains the written consent of the licensee which may be granted upon such terms as may be mutually agreed upon by the licensee and the person who desires the use of the well and approved by the Minister; or
 - (iii) he obtains the consent of the Minister which may be granted if the licensee, having been a body corporate has been dissolved or is defunct or if, in the opinion of the Minister, there is some other reason that justifies the granting of his consent notwithstanding that the licensee has refused his consent or it is impracticable to obtain his consent and the Minister may grant his consent upon terms that the person who desires the use of the well make such compensation to the licensee as the Minister deems just and reasonable.

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(2) A licensee shall securely plug every well which he intends to abandon so as to ensure that water shall not enter any petroleum bearing strata, or workable seams of coal, from or through the well and, if the Minister has refused his consent to the withdrawal of casing or reinforcing structure from the well, the licensee shall plug the well in a manner that will ensure that any future use of the well as a source of water or for any other purpose will not be impaired.

(3) Before commencing to plug any well which it is intended to abandon, the licensee shall submit to the Director of Mines for his approval particulars in writing of the method of plugging which it is proposed to adopt.

(4) The Minister may, by notice to a licensee require that a well on the land comprised in his licence shall not be plugged, or any works executed for that purpose, except in the presence of a person appointed by the Minister, and the licensee shall act in accordance with such requirement.

(5) If any licensee contravenes this section he shall be guilty of an offence.

Power of Minister to do works required by this Act

66. (1) If a licensee fails or refuses to comply with any provision of his licence or of this Act or of the regulations, or with any lawful instruction given by the Minister under which provision or instruction the licensee is required to carry out any operations or do any act, the Minister may, by his workmen and agents, enter on the land comprised in the licence and carry out any such operations or do any such act at the licensee's expense.

(2) Any expense incurred by the Minister may be recovered by him from the licensee as a debt.

(3) Nothing in this section shall affect the liability of a licensee under any other provision of this Act.

Authority to enter on land

67. For the purposes of this Act the Minister or any authorised officer may enter upon, and examine any land whether included in a licence or not, and any structures or works on any such land.

Delivery of land on termination of licence

68. (1) When a licence is cancelled or surrendered, or the term thereof expires and the licence is not renewed the licensee shall deliver up the land comprised therein and all wells on that land in good order and condition to the satisfaction of the Minister and shall be liable in damages to the Minister for any failure to comply with this subsection.

(2) A licensee may, within three months after the cancellation, surrender or expiration of his licence remove from the land comprised therein any plant buildings or structures erected by him on that land, or any property belonging to him on that land.

* * * * *

Devolution of rights under licences

70. Every right and obligation under any licence shall enure for the benefit of, or be binding upon, as the case may be, the heirs, executors, administrators, successors and permitted assigns of the licensee, as the case may be.

Effect of cancellation of licence

71. (1) Whenever a licence is cancelled the Minister shall publish in the *Gazette* a notice of the cancellation, and thereupon, without any re-entry being made, the right, title, estate and interest in the licence of the licensee, and of any person claiming under him, shall cease and determine.

(2) The *Gazette* containing a notice published pursuant to this section shall be *prima facie* evidence in every court that the right, title, estate and interest in the licence of the licensee, as the case may be, and of any person claiming under him, has been lawfully determined.

(3) The cancellation of a licence in pursuance of this Act shall not release the licensee from any liability under or in respect of the licence or the land comprised therein, incurred prior to the date of cancellation.

* * * * *

Agreements for joint drilling of wells

73. (1) Any licensee may, subject to the approval of the Minister, make an agreement with any other licensee of land for the drilling of a well by the parties to the agreement on any land included in the licence of either of them.

(2) An agreement for the purpose referred to in the last preceding subsection shall not have any force or effect unless and until it has been approved by the Minister.

Inspectors

74. For the purpose of this Act the Governor may, from time to time, appoint qualified persons to be inspectors.

Compensation

Compensation for mining operations

75. (1) A licensee shall be liable to compensate in accordance with this Act every person having any estate or interest in any land injuriously affected by reason of any operations conducted or other action taken by the licensee in pursuance of this Act or his licence.

(2) Compensation shall not be payable under this Act, for any damage to land, if that damage does not affect any portion of the surface of the land.

Determination of compensation

76. (1) A licensee may agree with any person entitled to compensation under this Act as to the amount of compensation.

(2) An agreement under the last preceding subsection shall not be valid unless it is in writing and signed by the parties thereto or their agents and filed in the office of the Department of Mines.

(3) If no agreement is made under subsection (1) of this section the claimant may bring an action for compensation, or the licensee or lessee may bring an action claiming a declaration as to the amount of compensation payable.

(4) An action under this section may be brought in the Supreme Court or in a case where the compensation claimed or alleged to be payable does not exceed thirty thousand dollars in the local court of full jurisdiction nearest to the land in respect of which the right to compensation arises.

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(5) A declaration of any such court or, in case of an appeal of the appellate court as to the amount of compensation, shall be conclusive as to that amount.

(6) In any action under this section, if the court considers it impracticable or inexpedient to assess the amount of compensation to be paid in full satisfaction for all damage and loss past and future, it may, on the application of a party or of its own motion, give judgment or make a declaration as to the compensation payable in respect of any specified period.

Measure of compensation

77. (1) Subject to this Act compensation payable under this Act shall be compensation for—

- (a) deprivation of the possession of the surface of the land or of any part thereof;
- (b) damage to the surface of the land or any part thereof, or to any improvements thereon, caused by the carrying on of operations in, under, or upon the land;
- (c) in a case where a person is deprived of the possession of the surface of any land, severance of such land from other land of such person;
- (d) surface rights of way and easements; and
- (e) any consequential damage.

Provided that, in determining the amount of compensation, allowance shall not be made for any petroleum known or supposed to be in or under the land.

(2) In determining the amount of compensation the court shall take into consideration the amount of any compensation which the owner and occupier or either of them or their predecessors in title have or has already received for the damage or loss for which compensation is being determined and shall deduct the amount so received from the amount which they or either of them would otherwise be entitled to.

Additional compensation

78. (1) If, after the court has determined any amount of compensation, any further loss or damage (not being loss or damage in respect of which compensation has already been determined) has been sustained, the person suffering the loss or damage may bring an action for further compensation therefor, or the licensee or lessee may bring an action claiming a declaration as to the amount of further compensation payable.

(2) The provisions of subsection (4), (5) and (6) of section 76 shall apply to actions under this section.

Security for compensation

79. Any court in which proceedings in relation to compensation have been commenced may, at any stage of those proceedings, make an order forbidding the licensee concerned in the proceedings from commencing or, as the case may be, continuing any operations until he has given such security as the court thinks fit for payment of any compensation for which he may be liable.

Cancellation of licence

80. If any compensation payable by a licensee pursuant to a judgment or any agreement is not paid within three months after it becomes due under such judgment or agreement the Minister may, if he thinks fit, cancel the licence of the licensee.

PART 2A
CONSERVATION AND PREVENTION OF WASTE

Regulations in relation to waste, etc.

80A. The Governor may make such regulations as he deems necessary to ensure the proper conduct of operations in connection with the exploration for or production of petroleum and, without limiting the generality of the foregoing, may make regulations in relation to—

- (a) the avoidance of waste and wasteful operations; and
- (b) the proper drilling and completion of wells; and
- (c) the number and position of wells that a licensee may drill or cause to be drilled upon any portion of the area comprised in the licence; and
- (d) the rate at which petroleum may be recovered or allowed to issue from any well; and
- (e) the implementation and conduct of operations designed to increase the capacity of a well or a pool to produce petroleum; and
- (f) the prevention of the contamination of any water-bearing formation; and
- (g) the prevention of the contamination of any petroleum-bearing formation; and
- (h) the suspension of drilling operations and the abandonment of wells; and
- (i) the disposal of water, brine, sediment or other petroleum field waste.

Orders of Minister

80B. The Minister may by order in writing served personally or by post upon a licensee, require him to do any act or thing, not inconsistent with the regulations, in relation to any matter that the Governor is empowered to regulate under section 80A of this Act and, in addition thereto, may—

- (a) require the licensee to undertake any operations that might, in the opinion of the Minister, increase the capacity of a well or a pool to produce petroleum; and
- (b) require the suspension of drilling operations in respect of any well or in any area specified in the order; and
- (c) require the abandonment, plugging and sealing of any well specified in the order.

Unit development

80C. (1) Where the Minister is satisfied that the area comprised in a petroleum production licence forms part of a field extending beyond that area and it is desirable for the purpose of securing economy and efficiency and the avoidance of waste that the field be worked as one unit, the Minister—

- (a) if the field does not extend into an area comprised in a petroleum exploration licence or petroleum production licence held by another licensee, may vary the terms of the licence by including therein additional land to which the field extends; or

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(b) if the field does extend into an area comprised in a petroleum exploration licence or petroleum production licence held by another licensee, may, by notice in writing, served personally or by post upon the licensees, require the licensees to prepare and furnish him with a scheme for working and developing the field as one unit.

(2) A notice under paragraph (b) of subsection (1) of this section shall specify the land in respect of which and the time within which the Minister requires the scheme to be furnished.

(3) If a scheme is not furnished within the time so specified, or if the Minister does not approve a scheme furnished to him, the Minister may prepare a scheme and supply particulars thereof to each of the licensees who shall be bound by the terms of the scheme in all respects as if such terms were conditions of their respective licences.

**PART 2B
PIPELINE LICENCES**

Interpretation

80CA. (1) In this Part—

"**to construct**" includes to cause to be constructed;

"**easement**" includes the statutory easement under the *Pipelines Authority Act 1967*;

"**to operate**" includes to cause to be operated;

"**pipeline**" means a pipeline for conveying petroleum from, or from the vicinity of, the place it is recovered from the earth to some other place (even though one or both of those places may be outside the State) and includes tanks, machinery and appurtenances integral to the pipeline but does not include—

- (a) a pipeline insofar as it is located outside the State; or
- (b) a pipeline located entirely within the area comprised in a petroleum production licence; or
- (c) a pipeline that forms part of a gas reticulation system within any city, town or other centre of population or industry; or
- (d) a pipeline exempted by regulation from the provisions of this Part;

"**pipeline land**" means an interest in land acquired for the construction or operation of a pipeline and includes an easement.

(2) For the purposes of this Part—

- (a) a reference to a pipeline includes, unless the contrary intention appears, a reference to part of a pipeline; and
- (b) a reference to an extension to a pipeline means an extension in order to convey petroleum to or from a place which has not previously been on the route of the pipeline.

Requirement to hold licence

80D. (1) A person must not construct or operate a pipeline except in pursuance of a pipeline licence under this Act.

Maximum penalty: Division 1 fine.

This subsection extends to a person who constructs or operates a pipeline through the agency or instrumentality of another.

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(2) A pipeline licence may be granted in respect of—

- (a) all of a pipeline; or
- (b) any part of a pipeline.

(3) Subject to subsection (5), a licensee may apply for the variation of an existing pipeline licence in order to construct or operate an extension to the pipeline (but this provision does not prevent application being made for a separate licence in respect of the extension).

(4) An application under subsection (3) will, subject to such modifications or variations as may be necessary or appropriate, or as may be prescribed, to the extent of the proposed variation, be treated in the same way as an application for a licence under this Act.

(5) The Minister may require that application be made for a separate licence in respect of an extension to an existing pipeline.

(6) A person must not carry out or cause to be carried out any survey in connection with a proposed pipeline except with the authority of the Minister or in pursuance of a pipeline licence granted under this Act.

(7) A pipeline licence—

- (a) can only be held by a body corporate (or two or more bodies corporate); and
- (b) can only be held in respect of a pipeline owned by a body corporate (or two or more bodies corporate).

Mode of application for licence

80E. (1) An application for a pipeline licence shall be addressed to the Director of Mines and shall be accompanied by such maps plans and other documents as are necessary to show—

- (a) the proposed route of the pipeline; and
- (b) the proposed size and capacity of the pipeline; and
- (c) the nature and location of all tanks, machinery and appurtenances that the applicant proposes to use for the operation of or in conjunction with the pipeline.

(2) An applicant shall furnish the Minister with such further or other documents and information as he may require.

Notification to be given by applicant if Minister so requires

80F. The Minister may require an applicant for a pipeline licence to give notice of the application to such persons and in such manner as he may, by notice in writing served personally or by post upon the applicant, specify.

Factors relevant to the grant of a licence

80G. (1) The Minister, in considering an application for a pipeline licence shall take into consideration all matters and circumstances that appear to him to be relevant and, in particular, but without limiting the generality of the foregoing—

- (a) the financial resources of the applicant; and
- (ab) in the case of an application in respect of part of a pipeline, the interests of any other licensee in respect of the pipeline; and
- (b) the interests of any person who does or might require the use of the pipeline; and
- (c) any public or private interest that might be affected by the grant of the licence.

(2) If two or more applicants apply for licences in respect of pipelines which are to traverse such substantially similar routes that it would, in the opinion of the Minister, be inexpedient to grant licences in respect of all the applications, the Minister may refer the applications to the Petroleum Advisory Committee and when applications have been so referred, the Committee shall consider the respective merits of the applications and advise the Minister as to which it would be most expedient to grant.

Conditions of licence

80H. (1) The Minister may grant a pipeline licence upon such conditions as he may think fit to impose.

(1a) The Minister may agree with a licensee, or prospective licensee, in respect of a pipeline designed principally to carry natural gas, that ownership of the pipeline, and of any related land identified or referred to in the agreement, will vest in the Crown at some future time and, where such an agreement exists, ownership will, subject to the conditions of the agreement vest in accordance with the agreement, without the need for any transfer or conveyance.

(2) A licensee who holds a pipeline licence may at any time apply to the Minister for variation of the conditions of the licence or approval of any variation in the nature or route of a proposed pipeline and the Minister may make or approve such variation accordingly.

(3) Sections 8, 10, 13, 14, 42, 62 and 66 of this Act shall apply to and in relation to pipeline licences.

Term and renewal of licence

80I. (1) The term for which a pipeline licence is granted or renewed will be 21 years or some lesser period agreed between the Minister and the licensee or prospective licensee.

(2) Subject to any agreement between the Minister and the licensee or prospective licensee to exclude or limit this right of renewal, a licensee may from time to time apply for renewal of a pipeline licence and the Minister must, if satisfied that the licensee has complied with this Act and the conditions of the licence during the preceding term of the licence, renew the licence for a further term.

(3) The Minister may, on renewing a pipeline licence, add to, vary or revoke any of the conditions of the licence but if the licence includes limitations on the exercise of the power conferred by this subsection, the power may only be exercised subject to those limitations.

(4) The above power to add to, vary or revoke conditions does not apply in relation to Pipeline Licence No. 2.

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Joint ventures

80IA. (1) If a pipeline licence is granted to the participants in a joint venture, the participants are jointly and severally liable to the obligations under this Act.

(2) The participants in the joint venture may from time to time give the Minister written notice of a representative (who may—but need not be—a participant in the joint venture) who is authorised to give and receive notices on their behalf.

(3) A notice given by or to the authorised representative is taken to have been given by or to all participants in the joint venture.

(4) If no representative is currently nominated under this section, a notice given to any one of the participants in the joint venture is taken to have been given to all.

(5) A **joint venture** includes a partnership.

(6) This section is subject to any contrary provision made by statute or included in a licence.

Acquisition of land

80J. (1) A licensee shall, as soon as practicable, make all proper endeavours to acquire by agreement with the owners or occupiers all land that he requires for the purposes of the construction or operation of the pipeline.

(2) Notwithstanding anything contained in any Act or in the memorandum and articles or constitution of any body corporate, it shall be lawful for the body corporate, on such terms as may be agreed upon by the body corporate and the licensee to transfer to the licensee any land which he requires for the construction or operation of the pipeline.

(3) If, after diligent endeavours, the licensee fails to acquire the land that he requires for the construction or operation of the pipeline by agreement, the licensee may apply to the Minister for his approval of the compulsory acquisition of the land and if he receives such approval, he may, subject to this Act, proceed compulsorily to acquire the land in accordance with the *Land Acquisition Act 1969*.

(4) A statutory power to resume land subject to a lease under the *Crown Lands Act 1929* or the *Pastoral Land Management and Conservation Act 1989* for a public work or public purpose may be exercised as if land required for the construction or operation of a pipeline were land required for a public work or public purpose.

(4a) An easement acquired for the construction or operation of a pipeline is an easement in gross that does not depend on the existence of a dominant tenement.

(5) In this section "**land**" includes any estate or interest in land and any easement, right, power or privilege in, under, over or affecting land.

Power of Governor over unalienated Crown lands

80K. The Governor may, upon such terms as may be recommended by the Minister of Lands, grant to the licensee any right to, over or affecting Crown lands which the licensee requires for the purpose of the construction or operation of the pipeline.

Minister may require operator to convey petroleum

80L. (1) The Minister may, by notice in writing served personally or by post upon a licensee, require a licensee who holds a pipeline licence to convey petroleum upon such terms as may be mutually agreed upon by the pipeline licensee and the person for whom the petroleum is to be conveyed, or, in default of agreement, as may be determined by the Minister.

(2) The Land and Valuation Court may, on the application of the pipeline licensee or the person for whom petroleum is to be conveyed, review a determination of the Minister under subsection (1) and vary its terms as may be just.

(3) This section does not apply in relation to the conveyance of petroleum by means of a Code pipeline within the meaning of the *Gas Pipelines Access (South Australia) Law* for which there is an approved access arrangement under that Law.

Alteration of pipeline

80M. A licensee shall not alter or modify a pipeline without the authority of the Minister except as may be necessary for—

- (a) the repair or maintenance of the pipeline; or
- (b) the preservation of life or property in an emergency.

Pipeline not to endanger health or safety

80N. A licensee shall operate, repair and maintain the pipeline in such manner as will ensure that the safety or health of any person is not endangered.

Fees

80O. A licensee shall pay to the Minister annually and in advance a licence fee calculated in accordance with the prescribed scale.

Licensee to furnish information and accounts, etc.

80P. (1) A licensee shall furnish the Minister with such information relating to the construction or operation of a pipeline as the Minister may, by notice in writing served personally or by post upon the licensee, require or as may be prescribed.

(2) A licensee shall furnish the Minister with such statement and accounts relating to the expenditure and receipt of moneys in connection with the operation of the pipeline as may be prescribed.

Inspection of pipeline

80Q. The Director of Mines or any person authorised by him may at any time enter upon any land and inspect or test any pipeline in order to ascertain whether its construction or operation complies with the provisions of this Act and the conditions of the licence.

Pipeline to be chattel

80QA. A pipeline is a chattel and capable of being acquired, owned, dealt with and disposed of as such.

Separate dealing with pipeline

80QB. Unless the Minister gives written consent, a pipeline cannot be transferred, mortgaged, or otherwise dealt with separately from the pipeline land related to the pipeline, nor can pipeline land be transferred, mortgaged or dealt with separately from the pipeline to which it relates.

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Resumption of pipeline

80QC. (1) If a pipeline for which a licence was granted is not used for the transportation of petroleum for a continuous period of more than 3 years, the Minister may give written notice of intention to resume the pipeline and the pipeline land.

(2) The notice—

- (a) may be given whether or not a pipeline licence remains in force for the pipeline (but if a licence is in force, the notice terminates the licence); and
- (b) must be given to the owner of, and other persons interested in, the pipeline and the related pipeline land.

(3) The owner of the pipeline may within 6 months after the notice is given take up and remove the pipeline and associated structures (wholly or in part) and restore the relevant land as far as practicable to its former condition.

(4) After the six month period has ended, the Minister may exercise either or both of the following powers—

- (a) the Minister may, by written notice given to the owner of the pipeline, require the owner, within a reasonable time stated in the notice, to remove buildings, structures and fixtures associated with the pipeline and to restore the land, as far as practicable, to its former condition;
- (b) the Minister may, by notice published in the *Gazette*, vest the pipeline land and any buildings, structures and fixtures (including the pipeline) remaining on the land in the Crown.

(5) If the owner of the pipeline fails to comply with a notice under subsection (4)(a), the Minister may have the necessary work carried out and recover the cost of doing so from the owner.

(6) No compensation is payable for the divestiture of property under subsection (4)(b).

(7) If an easement is vested in the Crown under subsection (4)(b), the Minister may, by notice in the *Gazette*, surrender (and thus extinguish) the easement.

Non-application to certain pipelines

80QD. Sections 80QA, 80QB and 80QC have no application to the pipelines subject to Pipeline Licences Nos. 2 and 5, or the pipeline land relating to those pipelines.

PART 2C
PETROLEUM ADVISORY COMMITTEE

Establishment of Petroleum Advisory Committee

80R. (1) The Governor shall establish a committee to be entitled the "Petroleum Advisory Committee".

(2) The Committee shall consist of three members who shall be appointed by the Governor and one of whom the Governor shall appoint to be chairman.

(3) A person who holds any office in the Department or who has any direct or indirect interest in any licence granted, applied for or in force under this Act shall not be a member of the Committee.

(4) The members of the Committee shall hold office for such term and upon such terms and conditions as the Governor may determine.

(5) The Governor shall make such appointments as are necessary to fill any vacancy occurring in the membership of the Committee and may appoint any person to be a deputy of a member if such member is unable to perform his duties as a member because of illness or any other cause or if it is otherwise expedient so to do and a person so appointed to be a deputy of the chairman shall be deemed to be the chairman whilst so appointed.

(6) The members of the Committee shall be entitled to such remuneration expenses and allowances as may be determined by the Governor and this subsection shall, without any further appropriation, be sufficient authority for the payment of any remuneration expenses or allowances so determined from the general revenue of the State.

(7) The *Public Service Act 1967* shall not apply to or in relation to the appointment of a member of the Committee and a member shall not, as such, be subject to that Act.

(8) The office of a member of the Committee may be held in conjunction with any other appointment or office in the Public Service of the State.

Quorum, etc.

80S. (1) Two members shall form a quorum of the Committee.

(2) A decision concurred in by any two members of the Committee shall be the decision of the Committee.

Right of objection

80T. (1) Any person who believes that he has been improperly or unfairly prejudiced by a decision, valuation, instruction or order of the Minister under this Act, may, by notice in writing served personally or by post upon the Minister within one month of the date on which the decision, valuation, instruction or order becomes effective, and not otherwise object thereto.

(2) The Minister shall, unless the objection is, in his opinion, frivolous or vexatious, refer the objection to the Committee for a recommendation as to whether he should vary or revoke the decision, valuation, instruction or order and the Committee shall consider the objection and make a recommendation accordingly.

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(3) The person by whom the objection has been made, the Director of Mines and any person who, in the opinion of the Minister, might be adversely affected by the decision, valuation, instruction or order or by the revocation or any variation thereof, shall be entitled to appear before the Committee personally or by counsel or representative and be heard upon the objection.

Minister not to be bound by recommendation of Committee

80U. The Minister shall consider any recommendation of the Committee but shall not be bound thereby.

Powers of Committee

80V. (1) For the purposes of this Act the Committee may—

- (a) by summons under the hand of the chairman or a member require any person to attend before the Committee; and
- (b) require any person to give oral or written answers to any questions relating to any matters before the Committee; and
- (c) by summons under the hand of the chairman or a member require any person to produce any books, maps, plans, papers and documents in his possession or power relating to any matter before the Committee; and
- (d) examine witnesses on oath or affirmation which may be administered by the chairman or a member; and
- (e) require any information given to the Committee to be verified by statutory declaration; and
- (f) enter upon any land and make any inspection pertinent to the determination of any matter in dispute.

(2) If any person—

- (a) who has been duly served with a summons to attend before the Committee, neglects or fails to attend in obedience to such summons; or
- (b) wilfully insults the Committee or any member thereof; or
- (c) misbehaves himself before the Committee; or
- (d) obstructs the Committee or interrupts the proceedings of the Committee; or
- (e) being called or examined as a witness before the Committee, refuses to be sworn or to affirm or to produce documents specified in a summons served upon him or any of them,

he shall be guilty of an offence and liable to a division 8 fine.

(3) The Committee shall not be bound to observe any rule or practice in taking evidence but may inform itself in any manner that it thinks fit.

**PART 3
MISCELLANEOUS**

Verification of statements

81. All applications, statements and reports made or furnished to the Minister under this Act shall, if the Minister so requires, be verified by statutory declaration in such form as the Minister requires or as is prescribed.

Secrecy

82. (1) An officer of the State who acts in the execution of any duty under this Act shall not, except in the performance of his duty under this Act, or when required by a court of law, make a record of or divulge any information supplied to the Minister under this Act.

(2) A person who has been an officer of the State shall not communicate any information acquired by him in the performance of any duty under the Act to any person other than a person to whom he is authorised by law or by the Minister to communicate it.

(3) If any officer or person contravenes this section he shall be guilty of an offence.

Fees payable in advance

83. (1) If any fee or other amount due to the Minister under this Act or the regulations is not paid by the due date, a fine of ten per centum shall be added thereto and shall be recoverable as part thereof, and in addition interest at the rate of six per centum per annum on the amount of such fee, or other amount unpaid, shall be charged and recovered by the Minister.

(2) If any fee or payment due in respect of a licence is in arrears for three months or more the Minister may cancel the licence.

Restriction on use of certain statements

84. (1) No person shall publish or distribute any notice, advertisement, prospectus or other document stating or suggesting, whether expressly or by implication, that the Minister, any Government Department, or any person or body acting on behalf of the Minister or a Government Department has formed or expressed any opinion that any land included in a licence is from its geological formation or otherwise land in which petroleum is likely to be obtainable.

(2) No person shall publish or distribute any prospectus, statement in lieu of prospectus, notice, circular, advertisement or other invitation offering to the public for subscription or purchase any shares or debentures of a company or intended company formed or to be formed for the purpose of petroleum exploration or production, unless such prospectus, statement, notice, circular, advertisement or invitation has printed thereon a copy of the last preceding subsection.

(3) Nothing in this section shall prevent the Minister from authorising the publication in full of an official report or such extracts from an official report as the Minister may, in writing, approve.

(4) If any person contravenes this section he shall be guilty of an offence and liable to a division 1 fine.

Safety net

84A. (1) The Minister may enter into an agreement with a licensee—

- (a) that, if the licence should at some future time be found to be wholly or partially invalid due to circumstances beyond the control of the licensee, the licensee will have a preferential right to the grant of a new licence; and
- (b) dealing with the terms and conditions on which the new licence will be granted.

(2) The Minister must consider any proposal by a licensee for an agreement under this section.

Assistance to mining companies

85. (1) Where the Minister is satisfied that at least three-quarters of the share capital of a company engaged or intending to engage in petroleum exploration or production is held by individual persons residing in Australia, he may, in his discretion and on the recommendation of the Director of Mines—

- (a) sell or let on hire to the company any plant or machinery;
- (b) construct or carry out any works or operations for the company;
- (c) make a loan of money to the company,

upon any terms and conditions which the Minister thinks proper.

(2) The money required for the purposes of this section shall be paid out of the money provided by Parliament for those purposes.

Regulations

86. The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, or for regulating petroleum exploration and production and the construction and use of pipelines.

Offences

87. (1) A person who—

- (a) contravenes or fails to comply with any provision of this Act that is applicable to him; or
- (b) being a licensee, contravenes or fails to comply with any provision of this Act that is applicable to him or a term of the licence or an order or lawful instruction of the Minister made or given under this Act,

shall be guilty of an offence and where no other penalty is prescribed, shall be liable to a fine not exceeding, where the offender is a licensee or body corporate, a division 1 fine or, in any other case, a division 5 fine.

(2) Where a person commits a continuing offence, that person is liable, in addition to the fine prescribed for that offence, to a further fine of not less than one-tenth and not more than one-half the maximum prescribed for that offence for each day on which the offence continues after the day on which the offence commenced.

(3) Proceedings in respect of offences under this Act shall be disposed of summarily.

Cancellation and suspension of licences

87A. (1) Where a licensee contravenes or fails to comply with a provision of this Act that is applicable to him or a term of the licence or an order or lawful instruction of the Minister made or given under this Act, in addition to any other penalty prescribed by this Act, the Minister may—

- (a) suspend the licence until the licensee has, in the opinion of the Minister, made good the contravention or default; or
- (b) cancel the licence.

(2) Where a licensee contravenes or fails to comply with a provision of this Act that is applicable to him or a term of the licence or an order or lawful instruction of the Minister made or given under this Act, the Minister may request the Petroleum Advisory Committee to enquire into the circumstances of the contravention or default and to make a recommendation to him as to whether the licence should be suspended or cancelled and the Committee, upon receiving such a request, shall make such enquiry and recommendation accordingly.

Proof of Ministerial act

87B. In any proceedings, a valuation, order, instruction or action of the Minister under this Act may be proved by the production of an apparently genuine document purporting to be signed by the Minister certifying that the valuation or order has been made, the instruction given or the action performed.

Extension of time

88. Where any time is by any provision of this Act fixed for doing any act the Minister may, at his discretion, extend that time.

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Petroleum Act 1940**APPENDIX 1****LEGISLATIVE HISTORY**

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 8 of The Public General Acts of South Australia 1837-1975 at page 128.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:
 - Section 3(1): definition of "the Department" substituted by 95, 1978, s. 3(a)
definition of "the Director-General" inserted by 95, 1978, s. 3(a)
definition of "Minister" repealed by 95, 1978, s. 3(b)
definition of "petroleum" amended by 8, 1981, s. 3
definition of "pipeline" substituted by 60, 1991, s. 3
 - Section 4A(3): amended by 95, 1978, s. 4
 - Section 4AB: inserted by 60, 1991, s. 4
 - Section 5(1): amended by 60, 1991, s. 13 (Sched.)
 - Section 6(1): amended by 40, 1984, s. 3(1)
 - Section 7(1): amended by 95, 1978, s. 5(a)
 - Section 7(2): amended by 95, 1978, s. 5(b), (c); substituted by 40, 1984, s. 4(a);
amended by 60, 1991, s. 13 (Sched.)
 - Section 7(3a): inserted by 40, 1984, s. 4(b)
 - Section 8A: substituted by 40, 1984, s. 5
 - Section 13(1): amended by 95, 1978, s. 6; 60, 1991, s. 13 (Sched.)
 - Section 15(1): amended by 95, 1978, s. 7
 - Section 16: amended by 95, 1978, s. 8; repealed by 40, 1984, s. 6
 - Section 17: substituted by 95, 1978, s. 9
 - Section 17(1): amended by 40, 1984, s. 7(a)
 - Section 17(1a): inserted by 40, 1984, s. 7(b)
 - Section 17(2): amended by 60, 1991, s. 13 (Sched.)
 - Section 17(3): substituted by 40, 1984, s. 7(c)
 - Section 17(4): repealed by 40, 1984, s. 7(c)
 - Section 18(1): substituted by 40, 1984, s. 8(a)
 - Section 18(1a) and (1b): inserted by 40, 1984, s. 8(a)
 - Section 18(3) and (4): substituted by 40, 1984, s. 8(b)
 - Section 18(5): amended by 95, 1978, s. 10; substituted by 40, 1984, s. 8(b)
 - Section 18(5a), (5b) - (8): inserted by 40, 1984, s. 8(b)
 - Section 18A: substituted by 95, 1978, s. 11
 - Section 18A(1): amended by 40, 1984, s. 9(a)-(d); 60, 1991, s. 13 (Sched.)
 - Section 18A(1a) and (1b): inserted by 40, 1984, s. 9(e)
 - Section 18A(3): substituted by 40, 1984, s. 9(f)
 - Section 18A(4): repealed by 40, 1984, s. 9(f)
 - Section 18AB: inserted by 40, 1984, s. 10
 - Section 18C: amended by 95, 1978, s. 12; 40, 1984, s. 11; substituted by
60, 1991, s. 13 (Sched.)
 - Section 18E: inserted by 95, 1978, s. 13
 - Section 27(1): amended by 40, 1984, s. 12(a)
 - Section 27(1a): inserted by 40, 1984, s. 12(b)
 - Section 27(5): inserted by 81, 1998, s. 2**
 - Section 28: amended by 95, 1978, s. 14; substituted by 40, 1984, s. 13
 - Section 28A: amended by 95, 1978, s. 15
 - Section 32(2): amended by 95, 1978, s. 16; 40, 1984, s. 14; 60, 1991, s. 13
(Sched.)
 - Section 34: amended by 95, 1978, s. 17; 40, 1984, s. 15; 60, 1991, s. 13
(Sched.)

Section 35A:	inserted by 8, 1981, s. 4
Section 36(1):	substituted by 8, 1981, s. 5(a)
Section 36(1a):	amended by 8, 1981, s. 5(b)
Section 36(1b) - (1d):	inserted by 8, 1981, s. 5(c)
Section 37(2):	amended by 8, 1981, s. 6
Section 38(2a):	substituted by 40, 1984, s. 16(a)
Section 38(2b):	inserted by 40, 1984, s. 16(a)
Section 38(3):	amended by 40, 1984, s. 16(b)
Section 42:	amended by 95, 1978, s. 18; 40, 1984, s. 17; substituted by 60, 1991, s. 5
Section 43:	substituted by 60, 1991, s. 5
Section 49(1):	amended by 95, 1978, s. 19
Section 55:	substituted by 8, 1981, s. 7
Section 59:	amended by 95, 1978, s. 20
Section 64(1)	amended by 60, 1991, s. 6
Section 76(4):	amended by 95, 1978, s. 21
Section 80CA:	inserted by 60, 1991, s. 7; redesignated as s. 80CA(1) by 82, 1993, s. 2(c) definition of "to construct" inserted by 82, 1993, s. 2(a) definition of "easement" inserted by 44, 1995, Sched. 1 cl. 1(a) definition of "to operate" inserted by 82, 1993, s. 2(a) definition of "pipeline" amended by 82, 1993, s. 2(b) definition of "pipeline land" inserted by 44, 1995, Sched. 1 cl. 1(b)
Section 80CA(2):	inserted by 82, 1993, s. 2(c)
Section 80D:	amended by 60, 1991, s. 13 (Sched.); substituted by 82, 1993, s. 3
Section 80D(1):	substituted by 44, 1995, Sched. 1 cl. 2(a)
Section 80D(7):	inserted by 44, 1995, Sched. 1 cl. 2(b)
Section 80E(1):	amended by 82, 1993, s. 4
Section 80G(1):	amended by 82, 1993, s. 5
Section 80H(1a):	inserted by 60, 1991, s. 8(a)
Section 80H(3):	amended by 60, 1991, s. 8(b)
Section 80I:	substituted by 60, 1991, s. 9
Section 80IA:	inserted by 44, 1995, Sched. 1 cl. 3
Section 80J(3):	amended by 60, 1991, s. 10(a)
Section 80J(4):	repealed by 60, 1991, s. 10(b); inserted by 44, 1995, Sched. 1 cl. 4
Section 80J(4a):	inserted by 44, 1995, Sched. 1 cl. 4
Section 80L:	amended and redesignated as s. 80L(1) by 60, 1991, s. 11
Section 80L(2):	inserted by 60, 1991, s. 11(c)
Section 80L(3):	inserted by 74, 1997, s. 55
Section 80M:	amended by 82, 1993, s. 6
Section 80O:	amended by 95, 1978, s. 22; 40, 1984, s. 18; 60, 1991, s. 13 (Sched.)
Sections 80QA - 80QD:	inserted by 44, 1995, Sched. 1 cl. 5
Section 80V(2):	amended by 95, 1978, s. 23; 60, 1991, s. 13 (Sched.)
Section 84(4):	amended by 60, 1991, s. 13 (Sched.)
Section 84A:	inserted by 60, 1995, s. 2
Section 87(1):	amended by 95, 1978, s. 24(a); 40, 1984, s. 19(a), (b); 60, 1991, s. 12(a)
Section 87(2):	amended by 95, 1978, s. 24(b), (c); 40, 1984, s. 19; substituted by 60, 1991, s. 12(b)

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APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25