

South Australia

Petroleum (Miscellaneous) Amendment Act 2009

An Act to amend the *Petroleum Act 2000* and to make related amendments to the *Development Act 1993* and the *Mining Act 1971*.

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The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

This Act may be cited as the *Petroleum (Miscellaneous) Amendment Act 2009*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Petroleum Act 2000***4—Amendment of section 1—Short title**

Section 1—delete "*Petroleum Act 2000*" and substitute:

Petroleum and Geothermal Energy Act 2000

5—Amendment of section 3—Objects of Act

Section 3(a)—after "other resources" insert:

(including geothermal resources and natural reservoirs suitable for storage or production purposes)

6—Amendment of section 4—Interpretation

(1) Section 4(1)—after the definition of *business day* insert:

competitive tender region means a part of the State designated as a competitive tender region under section 16;

(2) Section 4(1), definition of *highly prospective region*—delete the definition

(3) Section 4(1), definition of *licence*, (b), (c) and (d)—delete paragraphs (b), (c) and (d) and substitute:

(b) an exploration licence (in any of its 3 categories—see section 21); or

(c) a retention licence (in any of its 3 categories—see section 28); or

- (d) a production licence (in any of its 3 categories—see section 34); or
- (4) Section 4(1), definition of **licence**, (g)—delete paragraph (g) and substitute:
 - (g) an associated activities licence; or
 - (h) a special facilities licence;
- (5) Section 4(1), definitions of **occupier** and **owner**—delete the definitions and substitute:

owner of land means each of the following (insofar as may be relevant in the circumstances of the particular case):

 - (a) a person who holds an estate in fee simple in the land;
 - (b) a person who holds a lease or licence over the land issued by the Crown;
 - (c) a person who is in possession of the land under a lease registered in the Lands Titles Registration Office or deposited in the General Registry Office and noted against the land;
 - (d) a person who has, by statute, the care, control or management of the land;
 - (e) a person who holds a tenement over or in relation to the land (including in relation to a stratum of the land), other than a speculative survey licence or a preliminary survey licence;
 - (f) without limiting a preceding paragraph, a person in actual possession of the land under a right of exclusive possession;
 - (g) a person who—
 - (i) holds native title in the land; or
 - (ii) is the registered representative of claimants to native title within the meaning of the *Native Title (South Australia) Act 1994*,(with these subparagraphs being in the alternative);
 - (h) a person of a class brought within the ambit of this definition by the regulations;
- (6) Section 4(1), definition of **petroleum**—after "would be appropriate" insert:

or unless constituting a product of coal gasification (whether produced below or above the ground) for the purposes of the production of synthetic petroleum;
- (7) Section 4(1), definition of **regulated substance**—after paragraph (e) insert:
 - (ea) any other substance that naturally occurs in association with petroleum; or

- (8) Section 4(1)—after the definition of *repealed Act* insert:

tenement means a lease, licence or other right relating to exploration for, or the production, recovery, management, conveyance, processing or delivery of, minerals or regulated resources (as the case requires) under any of the following:

- (a) this Act;
 - (b) the *Mining Act 1971* or the *Opal Mining Act 1995*;
 - (c) the *Cooper Basin (Ratification) Act 1975*, the *Roxby Downs (Indenture Ratification) Act 1982* or the *Stony Point (Liquids Project) Ratification Act 1981*;
 - (d) any other Act brought within the ambit of this definition by the regulations;
- (9) Section 4(1), definition of *transmission pipeline*—after "to another place or other places" insert:
- , or for conveying petroleum or another regulated substance to or near a place where it is to be stored in a natural reservoir,
- (10) Section 4—after subsection (2) insert:
- (3) For the purposes of this Act, the *storage* of a regulated substance may include circumstances where it is intended that the regulated substance be held indefinitely in a natural reservoir.

7—Amendment of section 5—Rights of the Crown

Section 5—after subsection (2) insert:

- (3) The property in a regulated substance placed in a natural reservoir for storage purposes (after being produced or acquired in some other way) is not affected by that placing or storage.

8—Amendment of section 10—Regulated activities

Section 10(1)(d)—after "regulated substance" insert:

(including in a case where a trace element naturally occurs with the petroleum or other regulated substance)

9—Amendment of section 13—Licence classes

- (1) Section 13(c), (d) and (e)—delete paragraphs (c), (d) and (e) and substitute:
 - (c) exploration licence (with 3 categories of licence under this Act); and
 - (d) retention licence (with 3 categories of licence under this Act); and
 - (e) production licence (with 3 categories of licence under this Act); and
- (2) Section 13—delete paragraph (g) and substitute:
 - (g) associated activities licence; and
 - (h) special facilities licence.

10—Amendment of section 14—Preliminary survey licence

Section 14—after subsection (3) insert:

- (4) The Minister may, on application by a licensee holding a preliminary survey licence, approve the variation of the area to which the licence relates.

11—Amendment of section 15—Term of preliminary survey licence

Section 15(2)—delete "up to a maximum aggregate term of 5 years"

12—Substitution of heading to Part 4 Division 1

Heading to Part 4 Division 1—delete the heading to Division 1 and substitute:

Division 1—Competitive tender regions

13—Amendment of section 16—Competitive tender regions

- (1) Section 16(1)—delete "highly prospective region" and substitute:
competitive tender region
- (2) Section 16(2)—after "other regulated resources" insert:
(and the designation under subsection (1) will not apply in relation to the other regulated resources)

14—Substitution of heading to Part 4 Division 3

Heading to Part 4 Division 3—delete the heading to Division 3 and substitute:

Division 3—Exploration licences

15—Substitution of section 21

Section 21—delete the section and substitute:

21—Exploration licences

- (1) There will be 3 categories of exploration licence:
 - (a) a *petroleum exploration licence*;
 - (b) a *geothermal exploration licence*;
 - (c) a *gas storage exploration licence*.
- (2) An exploration licence authorises subject to its terms the licensee to carry out in the licence area—
 - (a) exploratory operations for regulated resources of the kind relevant to the category of licence; and
 - (b) with respect to regulated resources of the kind relevant to the category of licence—operations—
 - (i) to establish the nature and extent of a discovery of regulated resources;

- (ii) to establish the feasibility of production and appropriate production techniques.
- (3) A licensee who holds an exploration licence is entitled, subject to this Act, to the grant of a corresponding retention licence or a corresponding production licence for a regulated resource discovered in the licence area.

16—Amendment of section 22—Call for tenders

- (1) Section 22(1)—after "tenders for an exploration licence" insert:
of the relevant category
- (2) Section 22(1)(a)—delete "highly prospective region" and substitute:
competitive tender region (taking into account the regulated resources with respect to which the region has been declared)
- (3) Section 22(1)(b)—after "tenders for an exploration licence for the relevant area" insert:
(taking into account the category of licence)
- (4) Section 22(3)—after "exploration licence" insert:
of the relevant category

17—Amendment of section 24—Areas for which licence may be granted

Section 24(2)—delete subsection (2) and substitute:

- (2) However, the total licence area cannot exceed—
 - (a) in the case of a gas storage exploration licence—2 500 km²;
 - (b) in the case of a geothermal exploration licence—3 000 km²;
 - (c) in the case of a petroleum exploration licence—10 000km².

18—Amendment of section 25—Work program to be carried out by exploration licensee

- (1) Section 25(4)—delete "acceleration,"
- (2) Section 25—after subsection (4) insert:
 - (4a) However, Ministerial approval is not required for the acceleration of the work to be carried out under an approved work program.

19—Amendment of section 26—Term and renewal of exploration licence

- (1) Section 26(2)—delete subsection (2) and substitute:
 - (2) An exploration licence may be granted on terms under which the licence is to be renewable for a further term or 2 further terms (as specified by the Minister at the time of the grant of the licence).
- (2) Section 26(3)—delete "A" and substitute:
Subject to a succeeding subsection, a

(3) Section 26—after subsection (5) insert:

- (5a) Subsections (3), (4) and (5) do not apply in relation to a gas storage exploration licence.
- (5b) The area to be subject to an excision under subsection (3) will be reduced by an amount equal to the area of any production licence or retention licence granted during the immediately preceding term of the exploration licence.

20—Amendment of section 27—Production of regulated resource under exploration licence

(1) Section 27(1)—delete subsection (1) and substitute:

- (1) The holder of a petroleum exploration licence may produce a regulated substance from a well in the licence area for the purpose of establishing the nature and extent of a discovery.
- (1a) The holder of a geothermal exploration licence may produce geothermal energy from a well in the licence area for the purpose of establishing the nature and extent of a discovery.

(2) Section 27—after subsection (2) insert:

- (2a) The holder of a gas storage exploration licence may place petroleum or another regulated substance in a natural reservoir for the purpose of establishing the suitability of the natural reservoir for storage purposes.

21—Substitution of sections 28 and 29

Sections 28 and 29—delete the sections and substitute:

28—Retention licences

- (1) There will be 3 categories of retention licence:
 - (a) a *petroleum retention licence*;
 - (b) a *geothermal retention licence*;
 - (c) a *gas storage retention licence*.
- (2) A retention licence protects the interests of the licensee in a regulated resource of the kind relevant to the category of the licence for a reasonable period in connection with 1 or more of the following purposes:
 - (a) to facilitate—
 - (i) proper evaluation of the productive potential of a discovery that has been made by the licensee; or
 - (ii) carrying out the work necessary to bring the discovery to commercial production; or

- (iii) without limiting a preceding subparagraph, in the case of a gas storage retention licence—the testing of the natural reservoir for the storage of petroleum or another regulated substance;
 - (b) without limiting paragraph (a), to provide a means by which the licensee may maintain an interest in a regulated resource until production is commercially feasible (subject to limits and conditions under this Act);
 - (c) to facilitate other activities considered appropriate by the Minister.
- (3) Accordingly, a retention licence authorises the licensee to carry out in the licence area (according to the terms of the licence)—
 - (a) operations to establish the nature and extent of a discovery of regulated resources; and
 - (b) operations to establish the commercial feasibility of production and appropriate production techniques; and
 - (c) other regulated activities specified in the licence.

22—Amendment of section 30—Grant of retention licence

- (1) Section 30(1)—delete "grant of a retention licence" and substitute:

grant of a petroleum retention licence or a geothermal retention licence
- (2) Section 30—after subsection (1) insert:
 - (1a) Subject to this Act, a person is, on application, entitled to the grant of a gas storage retention licence in respect of a natural reservoir if the Minister is satisfied as to 1 or both of the following:
 - (a) that it is reasonable to facilitate the testing of the natural reservoir for the storage of petroleum or another regulated substance;
 - (b) that the use of the natural reservoir for the storage of petroleum or another regulated substance is not currently commercially feasible or reasonable (including by virtue of the fact that production of petroleum or another regulated substance from a related area is not currently commercially feasible).

23—Amendment of section 31—Area of retention licence

- (1) Section 31—delete "retention licence" and substitute:

petroleum retention licence
- (2) Section 31—after its present contents (and amended by this section and now to be designated as subsection (1)) insert:
 - (2) The area of a geothermal retention licence or gas storage retention licence must not exceed 1 000 km².

24—Amendment of section 32—Term of retention licence

Section 32—after subsection (2) insert:

- (3) However, in the case of a gas storage retention licence it is unnecessary to be satisfied as to the 15 year period referred to in subsection (2) unless the Minister assesses or determines that the natural reservoir is more likely than not to be used in connection with the production of petroleum.
- (4) Subsection (3) does not derogate for the operation of section 36 or 79.

25—Amendment of section 33—Work program to be carried out by retention licensee

- (1) Section 33(4)(a)—delete "acceleration or"
- (2) Section 33—after subsection (4) insert:
 - (5) To avoid doubt, Ministerial approval is not required for the acceleration of work to be carried out under an approved work program.

26—Substitution of section 34

Section 34—delete the section and substitute:

34—Production licences

- (1) There will be 3 categories of production licence:
 - (a) a *petroleum production licence*;
 - (b) a *geothermal production licence*;
 - (c) a *gas storage licence*.
- (2) A petroleum production licence authorises, subject to its terms—
 - (a) operations for the recovery of petroleum or some other regulated substance from the ground including—
 - (i) operations involving the injection of petroleum or another substance into a natural reservoir for the recovery (or enhanced recovery) of petroleum or another regulated substance; and
 - (ii) if the licence so provides—the extraction of petroleum or another regulated substance by an artificial means such as in situ gasification or the techniques used to recover coal seam methane;
 - (b) operations for the processing of regulated substances;
 - (c) operations for the storage or withdrawal of petroleum or some other regulated substance for the prudent supply or delivery of the petroleum or other regulated substance to the market.

- (3) A geothermal production licence authorises, subject to its terms, operations for the extraction or release of geothermal energy.
- (4) A gas storage licence authorises, subject to its terms, operations for the use of a natural reservoir for the storage of petroleum or some other regulated substance.
- (5) A production licence also authorises (subject to its terms) the licensee to carry out other regulated activities within the licence area.

27—Amendment of section 35—Grant of production licence

- (1) Section 35(1)(a)—delete "has been discovered" and substitute:
exists
- (2) Section 35(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:
 - (b) the person holds, or held at the time of the application for the production licence—
 - (i) an exploration licence or a retention licence over the area for which the production licence is to be granted; or
 - (ii) a mining tenement under the *Mining Act 1971* over the area for which the production licence is to be granted; and
 - (c) —
 - (i) in a case where paragraph (b)(i) applies—the exploration licence authorised exploration for a regulated resource of the relevant kind or the retention licence was granted for a regulated resource of the relevant kind;
 - (ii) in a case where paragraph (b)(ii) applies—the mining tenement authorised operations for exploration for or the recovery of coal and the production licence is to be granted for in situ gasification or coal seam methane production (and other related activities as the Minister considers appropriate); and
- (3) Section 35(3)(a)(i)—delete "has been discovered" and substitute:
exists
- (4) Section 35(3)—after "for the grant" insert:
of
- (5) Section 35—after subsection (3) insert:
 - (4) Subsections (1)(b) and (c) do not apply if the application is for a gas storage licence.

28—Amendment of section 36—Power to require holder of exploration licence or retention licence to apply for production licence

- Section 36(1)(b)—after "production licence" insert:
of the relevant category

29—Amendment of section 37—Area of production licence

- (1) Section 37—delete "production licence" and substitute:
petroleum production licence
- (2) Section 37—after its present contents (as amended by this section and now to be designated as subsection (1)) insert:
 - (2) The area of a geothermal production licence or gas storage licence must not exceed 1 000 km².

30—Amendment of section 38—Work program to be carried out by production licensee

Section 38—after subsection (4) insert:

- (5) However, Ministerial approval is not required for the acceleration of the work to be carried out under an approved work program.

31—Amendment of section 41—Cancellation or conversion of production licence where commercial operations in abeyance

Section 41(1)—delete "productive"

32—Amendment of section 42—Unitisation of production

Section 42(1)—after "working" insert:

or using

33—Amendment of section 43—Royalty on regulated resources

- (1) Section 43(3)(a)(i)—delete subparagraph (i) and substitute:
 - (i) has been placed in a natural reservoir in the area of a production licence for storage purposes; or
- (2) Section 43—after subsection (5) insert:
 - (5a) The Minister may—
 - (a) determine that a requirement of subsection (4) or (5) will not apply to a particular licensee or class of licensee; and
 - (b) impose, by notice to the particular licensee or by notice in the Gazette, such other requirements on the licensee or those licensees as may be appropriate in the circumstances.
 - (5b) The Minister may, by further notice, vary or revoke requirements imposed under subsection (5a), or impose new requirements.
- (3) Section 43—after subsection (11) insert:
 - (12) The regulations may provide that the whole or a prescribed proportion of a fee of a prescribed class payable by licensees under this Act may be taken to be a reasonable expense for the purposes of subsection (6).

34—Amendment of section 46—Rights conferred by pipeline licence

- (1) Section 46(1)—after "operate" insert:
and maintain
- (2) Section 46—after subsection (5) insert:
 - (6) If it is reasonably necessary for the holder of a pipeline licence to carry out a regulated activity on land that is adjacent to the site of the pipeline, the holder may, with the consent of the Minister, carry out that activity on that land as if it formed part of the pipeline land.

35—Insertion of section 55A

After section 55 insert:

55A—Liability to council rates

The land that constitutes pipeline land under this Act is exempt from the requirement to pay rates under the *Local Government Act 1999*.

36—Substitution of heading to Part 9

Heading to Part 9—delete the heading substitute:

Part 9—Associated activities

37—Amendment of section 56—Associated activities licence

- (1) Section 56(1)—delete "*associated facilities licence*" and substitute:
associated activities licence
- (2) Section 56(1)(a)—delete paragraph (a) and substitute:
 - (a) authorises the holder of the licence (the *primary licence*)—
 - (i) to establish and operate associated facilities on land outside the area of the primary licence;
 - (ii) without limiting subparagraph (i), to carry out any type of associated regulated activity on land outside the area of the primary licence;
- (3) Section 56(2)—after *associated facility* insert:
or an *associated regulated activity*
- (4) Section 56(3)—delete "associated facilities licence" wherever occurring and substitute in each case:
associated activities licence

38—Amendment of section 57—Area of associated activities licence

- (1) Section 57(1)—delete subsection (1) and substitute:
- (1) An associated activities licence cannot be granted for an area exceeding—
 - (a) in a case involving facilities or activities that, in the opinion of the Minister, are permanent (or effectively permanent)— 5 km^2 ;
 - (b) in any other case— $1\,500 \text{ km}^2$.
- (2) Section 57(2)—delete "this restriction on the area of an associated facilities licence does" and substitute:
- these restrictions on the area of a licence do

39—Amendment of section 58—Term of associated activities licence

- (1) Section 58—delete "An associated facilities licence" and substitute:
- Subject to subsection (2), an associated activities licence
- (2) Section 58—after its present contents (as amended by this section and now to be designated as subsection (1)) insert:
- (2) An associated activities licence for activities that, in the opinion of the Minister, are temporary in nature will be granted for a term determined by the Minister (which may be a term that takes into account any decommissioning, rehabilitation or other action that may be required at the conclusion of the activities and which may be renewed from time to time as the Minister thinks fit).

40—Amendment of section 59—Relationship with other licences

- (1) Section 59—delete "associated facilities licence" wherever occurring and substitute, in each case:
- associated activities licence
- (2) Section 59(3)(b)—after "licensee" insert:
- about the matters referred to in paragraph (a) and

41—Insertion of Part 9A

After section 59 insert:

Part 9A—Special facilities

59A—Application of Part

- (1) This Part applies to any area declared by the Minister by notice in the Gazette to be a *declared area* for the purposes of this Part.
- (2) The Minister may vary or revoke a declaration under subsection (1) from time to time by notice in the Gazette.

59B—Special facilities licence

- (1) A *special facilities licence*—
 - (a) authorises the licensee to establish and operate (within a declared area) facilities for the purposes involving or associated with—
 - (i) searching for any regulated substance; or
 - (ii) processing any regulated substance; or
 - (iii) producing or generating energy from a source of geothermal energy; or
 - (iv) other activities that may be relevant or incidental to searching for any regulated substance or processing, producing or storing any regulated substance or a product derived from a regulated substance; and
 - (b) for that purpose, confers rights of access to and use of land to which the licence relates on terms and conditions specified in the licence.
- (2) For example, a special facilities licence might be granted authorising the holder of the licence to establish and operate facilities within the licence area such as—
 - (a) a processing plant;
 - (b) an electricity generation facility that uses geothermal energy (but not an electricity transmission facility);
 - (c) other forms of infrastructure.
- (3) For the purposes of this Part—
 - (a) the holder of a special facilities licence does not need to be the holder of any other licence under this Act associated with the production or utilisation of a regulated resource; and
 - (b) the area of a special facilities licence does not need to be in the vicinity of the area of any other licence under this Act.

59C—Area of special facilities licence

A special facilities licence cannot be granted for an area that exceeds 5 km².

59D—Term of special facilities licence

- (1) A special facilities licence will be granted for a term determined by the Minister.
- (2) The Minister may—
 - (a) extend the term of a special facilities licence from time to time;

- (b) cancel a special facilities licence if the Minister considers that the licence is no longer being used for the purposes for which the licence was granted.

59E—Relationship with other licences

- (1) A special facilities licence may be granted in respect of an area comprised within the area of another licence.
- (2) The rights conferred by a special facilities licence prevail over rights conferred by another licence in respect of the same area to the extent (if any) determined by the Minister to be reasonable and appropriate and specified in the special facilities licence.
- (3) Before the Minister grants a special facilities licence for an area covered by another licence—
 - (a) the Minister must have regard to—
 - (i) the reasons put forward by the applicant for the grant of the licence and, in particular, whether they justify the grant of the licence in derogation from the rights of the existing licensee; and
 - (ii) the legitimate business interests of the holder of the existing licence; and
 - (iii) the effect of the operations to be carried out under the special facilities licence on the operations carried out under the existing licence; and
 - (iv) the operational and technical requirements for the safe, efficient and reliable conduct of operations under both licences; and
 - (v) any other matters the Minister considers relevant; and
 - (b) the Minister must consult with the existing licensee about the matters referred to in paragraph (a) and about the conditions to be included in the licence.
- (4) If a special facilities licence is granted over the area of another licence, the holder of the other licence is to be entitled to compensation for diminution of the rights conferred by that licence—
 - (a) to be agreed between the licensees; or
 - (b) in default of agreement, to be determined by the relevant court.
- (5) If a special facilities licence is granted over the area of another licence, the Land and Valuation Court may, on application by the holder of the other licence made within 2 months after the grant of the special facilities licence, review the terms and conditions of the special facilities licence and vary them as the Court considers just.

- (6) The Land and Valuation Court may, in exercising its powers under subsection (5), relocate the area of the special facilities licence or vary the area in some other way.

42—Amendment of section 61—Notice of entry on land

- (1) Section 61(1)—delete "the occupier" and substitute:
each owner
- (2) Section 61—after subsection (2) insert:
- (3) An owner of land who is entitled to receive a notice under this section may, by written notice furnished to the licensee, reduce the required period of notice.

43—Amendment of section 62—Disputed entry

- (1) Section 62(1)—delete "occupier of the land (other than the lessee under a pastoral lease)" and substitute:
owner of the land
- (2) Section 62(3)—delete "occupier" and substitute:
owner

44—Amendment of section 63—Right to compensation

- (1) Section 63(2)—delete "is to cover" and substitute:
payable to an owner of land must be directly related to the owner and will be to cover
- (2) Section 63(2)(d)—after "loss" insert:
suffered or incurred by the owner on account of the licensee entering the land and carrying out regulated activities under this Act
- (3) Section 63—after subsection (3) insert:
- (3a) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—
- (a) the licensee gaining access to the land; and
 - (b) the activities to be carried out on the land; and
 - (c) the compensation to be paid under subsection (2).
- (4) Section 63—delete subsection (5) and substitute:
- (5) In assessing compensation under subsection (3a), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.

- (6) In assessing compensation payable to an owner of land under this section, any other compensation paid or payable under this or any other Act or law to the owner or any other owner, insofar as is fair, reasonable and appropriate to do so and to the extent that the compensation relates to the same matter, damage or loss (as the case may require), must be taken into account.

45—Amendment of section 65—Application for licence

- (1) Section 65—after subsection (1) insert:
- (1a) If an application for an exploration licence is made in accordance with this Act (the "relevant application"), the relevant application will, for the purposes associated with its consideration and any grant of an exploration licence on the basis of the application, rank ahead of any other application for an exploration licence for an overlapping area received by the Minister after the time that the Minister received the relevant application.
- (1b) Subsection (1a) does not apply if the application is in response to a call for tenders under section 22.
- (1c) A ranking established under subsection (1a) will cease to apply if the Minister cancels the ranking on the ground—
- (a) that the applicant has failed to comply with a requirement under this Act (in accordance with any relevant time requirement); or
- (b) that the application is found to be invalid; or
- (c) that there is some other default, defect or circumstances that the Minister considers is sufficiently significant to warrant the cancellation of the ranking.
- (2) Section 65(6)—delete "an associated facilities licence or a pipeline licence" and substitute:
- a pipeline licence, associated activities licence or special facilities licence
- (3) Section 65(6)—delete "at least 30 days" and substitute:
- in accordance with a determination of the Minister

46—Amendment of section 68—Extent to which same area may be subject to different licences

- (1) Section 68(1) and (2)—delete subsections (1) and (2) and substitute:
- (1) A licence to which this Division applies is *compatible* with another licence to which this Division applies if—
- (a) 1 relates to a source of geothermal energy and the other does not; or
- (b) 1 relates to gas storage and the other does not.
- (2) Section 68—after subsection (4) insert:
- (5) This section does not derogate from the operation of Division 5.

47—Amendment of section 69—Grant of compatible licence to area already under licence

- (1) Section 69—after "existing licensee" insert:

(unless the existing licensee is the person seeking the compatible licence)
- (2) Section 69—after its present contents (as amended by this section and now to be designated as subsection (1)) insert:
 - (2) The Minister must, in acting under subsection (1), seek to consult on—
 - (a) the reasons put forward by the applicant for the grant of the relevant licence; and
 - (b) the legitimate business interests of the holder of the existing licence; and
 - (c) the effect of the operations to be carried out under the proposed licence on the operations carried out under the existing licence; and
 - (d) the operational and technical requirements for the safe, efficient and reliable conduct of operations under both licences,

(and the Minister may consult on such other matters as the Minister considers relevant).

48—Amendment of section 74—Classification of activities to be conducted under licence

Section 74—delete "supervision" wherever occurring and substitute in each case:
surveillance

49—Insertion of section 76A

After section 76 insert:

76A—Suspension of conditions of licence by agreement

- (1) The Minister may, by agreement with the licensee, suspend, either for a specified period or indefinitely, any of the conditions attached to a licence (including a mandatory condition).
- (2) The Minister may, as or when the Minister thinks fit, terminate a suspension under subsection (1).
- (3) If a suspension is put in place under subsection (1), the Minister may, if relevant, by the instrument of suspension or by a later instrument furnished to the licensee, extend the period of the licence by a period not exceeding the period of the suspension.

50—Amendment of section 79—Access to natural reservoir

- (1) Section 79(1)(b)—delete "resource" and substitute:

substance

(2) Section 79(5)—delete "an associated facilities" and substitute:

a

51—Amendment of section 82—Consolidation of licence areas

Section 82(3)—delete subsection (3) and substitute:

(3) In this section—

- (a) a reference to a "licence area" extends to an area for which an application for a licence has been made; and
- (b) a reference to "adjacent licence areas" extends to 2 or more areas which are within the vicinity of each other.

52—Amendment of section 83—Division of licence areas

(1) Section 83(2)(a)—after "balance of the area" insert:

(on terms and conditions the Minister considers appropriate and for a term equal to the balance of the term of the existing licence)

(2) Section 83—after subsection (3) insert:

- (4) Each of the following will be taken to be an original licence area for the purposes of section 26(3):
 - (a) the area remaining after an excision under subsection (2)(a);
 - (b) the area of any new licence under subsection (2)(a) or (b).

53—Amendment of section 85—Reporting of certain incidents

Section 85(1), definition of *serious incident*—after paragraph (d) insert:

or

- (e) some other event or circumstance occurs or arises that results in the incident falling within a classification of serious incidents under the regulations or a relevant statement of environmental objectives.

54—Amendment of section 86—Information to be provided by licensee

(1) Section 86(2)—delete "the other" and substitute:

any other

(2) Section 86—after subsection (5) insert:

- (6) A reference in this section to a licensee extends to a former licensee.
- (7) A requirement under any other provision of this Act to provide any information or report extends to a former licensee to the extent that the information or report is reasonably required in connection with the operation or administration of this Act.

55—Insertion of section 86A

Before section 87 insert:

86A—Fitness-for-purpose assessment

- (1) In this section—
prescribed licence means—
 - (a) a retention licence; or
 - (b) a production licence; or
 - (c) a pipeline licence; or
 - (d) an associated activities licence; or
 - (e) a special facilities licence.
- (2) A licensee under a prescribed licence must carry out fitness-for-purpose assessments of facilities operated on land within the area of the licence at intervals prescribed by the regulations in order to assess risks imposed by the facilities on—
 - (a) public health and safety; and
 - (b) the environment; and
 - (c) the security of production or supply of natural gas (so far as this may be relevant).
- (3) An assessment under this section must comply with any requirements prescribed by the regulations.
- (4) The licensee must prepare a report on the assessment in a manner and form determined by the Minister and furnish a copy of the report to the Minister in accordance with the regulations.
- (5) A report under this section must comply with any other requirements prescribed by the regulations.
- (6) A licensee must promptly carry out any remedial action that is necessary or appropriate in view of a report under this section (and, in particular, must ensure that any identified risks are eliminated or reduced so far as is reasonably practicable).
- (7) A licensee who fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: \$120 000.

56—Amendment of section 100—Content of statement of environmental objectives

Section 100(1)(c)—delete "must" and substitute:

may

57—Amendment of section 105—Enforcement of requirements etc of statement of environmental objectives

Section 105(4)—delete "subsection (2)" and substitute:

subsection (3)

58—Amendment of section 111—Liability for damage caused by authorised activities

Section 111(1)—after "damage" insert:

, or the threat or potential of serious environmental damage (insofar as this may be reasonably assessed),

59—Amendment of section 112—Registrable dealings

Section 112(b)(i)—after "discovered" insert:

, utilised

60—Amendment of section 123—Publication of results of investigation

Section 123(3)—delete subsection (3) and substitute:

- (3) Information on the authorised investigations carried out during the course of a year must be included in a report published by the department on an annual basis.

61—Amendment of section 130A—Avoidance of duplication of procedures etc

Section 130A(3)(b)—delete "supervision" and substitute:

surveillance

62—Amendment of Schedule—Transitional provisions

- (1) Schedule, section 2—after its present contents (now to be designated as subsection (1)) insert:
 - (2) An exploration licence or a production licence under subsection (1) will be taken to include (and to have always included and despite section 4(1)) an authorisation to use a natural reservoir for storage of a regulated substance.
- (2) Schedule, section 7(1)—delete "supervision" and substitute:

surveillance

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Development Act 1993*

1—Amendment of section 75—Mining tenements to be referred in certain cases to Minister

- (1) Section 75(1)—after definition of *the appropriate Authority* insert:
designated mining matter means—
 - (a) an application for a mining production tenement; or
 - (b) a proposed statement of environmental objectives under the *Petroleum and Geothermal Energy Act 2000*.
- (2) Section 75(2)—delete subsection (2) and substitute:
 - (2) The appropriate Authority may refer a designated mining matter to the Minister for advice and, if the designated mining matter is such that is required by the regulations to be so referred to the Minister, the appropriate Authority must refer the designated mining matter to the Minister for advice.
- (3) Section 75(3)—delete "the application" and substitute:
the designated mining matter
- (4) Section 75(5)—delete subsection (5) and substitute:
 - (5) The Minister, after obtaining and considering a report of a prescribed kind on a designated mining matter referred for advice under this section and after considering the terms of any relevant environmental impact statement or public environmental report, must advise the appropriate Authority on the steps that should be taken (including, in relation to an application for a mining production tenement, whether the application should or should not be granted or, as relevant, what conditions or requirements should be included in a mining production tenement or a statement of environmental objectives) in order to recognise and address actual or potential adverse effects on the environment.
- (5) Section 75(6)—delete "(either as to the granting of the tenement or the conditions that should be included in the tenement)"

Part 2—Amendment of *Mining Act 1971*

2—Amendment of section 6—Interpretation

Section 6(1), definition of *minerals*, (e)—delete "the recovery of which is governed by the *Petroleum Act 1940*" and substitute:

the recovery or production of which is governed by the *Petroleum and Geothermal Energy Act 2000*

Part 3—Transitional provisions

3—Interpretation

(1) In this Part—

gas storage tenement means—

- (a) a gas storage exploration licence; or
- (b) a gas storage retention licence; or
- (c) a gas storage licence;

principal Act means the *Petroleum Act 2000*;

relevant day means a day appointed by proclamation as the relevant day for the purposes of the provision in which the term is used;

transitional tenement means—

- (a) an exploration licence; or
- (b) a retention licence; or
- (c) a production licence,

held under the principal Act on the commencement of this clause.

(2) In this Part, terms used have meanings consistent with the meanings they have in the principal Act.

4—Existing licences

(1) On or after the relevant day, the Minister—

- (a) may, on the Minister's own initiative; and
- (b) must, on application by the holder of a transitional tenement,

issue a gas storage tenement that corresponds to the transitional tenement.

(2) Until a gas storage tenement is issued under subclause (1) in relation to a transitional tenement—

- (a) the person who was the holder of the transitional tenement immediately before the relevant day may undertake any operations relating to gas storage authorised under the transitional tenement; and
- (b) the only application that may be made for a gas storage tenement in relation to any part of an area held under the transitional tenement is the holder of the transitional tenement.

(3) Subclauses (1) and (2) do not apply to a licence that has been granted in relation to a source of geothermal energy before the relevant day.

(4) A gas storage tenement issued under subclause (1) will be subject to such conditions as the Minister thinks appropriate after taking into account the conditions attached to the relevant transitional tenement.

(5) For the purposes of this clause—

- (a) a gas storage exploration licence corresponds to an exploration licence; and

- (b) a gas storage retention licence corresponds to a retention licence; and
- (c) a gas storage licence corresponds to a production licence.

5—Existing applications

- (1) An application for an exploration licence, a retention licence or a production licence may, on the Minister's own initiative or on application, be varied and continue as if it were an application for a gas storage tenement as well and will be subject to the operation of the principal Act as amended by this Act.
- (2) Without limiting the operation of subclause (1), section 65(1a) of the principal Act, as enacted by this Act, will extend to an application for an exploration licence made before the relevant day (with any ranking determined from the day and the time that the application was received by the Minister under the principal Act before its amendment by this Act).

6—References to associated facilities licences

A reference in any agreement, instrument or other document to an associated facilities licence will be taken to be a reference to an associated activities licence.