

South Australia

PETROLEUM ACT 2000

An Act to regulate exploration for, and the recovery or commercial utilisation of, petroleum and certain other resources; and for other purposes.

*This Act is published under the Legislation Revision and Publication Act 2002 and incorporates all amendments in force as at **24 November 2003**.*

Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

PETROLEUM ACT 2000

being

Petroleum Act 2000 No. 60 of 2000
[Assented to 27 July 2000]¹

as amended by

Statutes Amendment (Avoidance of Duplication of Environmental Procedures) Act 2001 No. 16 of 2001 [Assented to 17 May 2001]²

Statutes Amendment (Courts and Judicial Administration) Act 2001 No. 69 of 2001 [Assented to 6 December 2001]³

River Murray Act 2003 No. 35 of 2003 [Assented to 31 July 2003]⁴

¹ Came into operation 25 September 2000: *Gaz.* 21 September 2000, p. 2042.

² Part 6 (s. 8) came into operation 14 June 2001: *Gaz.* 14 June 2001, p. 2221.

³ Part 11 (ss. 26 & 27) came into operation 3 February 2002: *Gaz.* 24 January 2002, p. 346.

⁴ **Schedule (cl. 19) came into operation 24 November 2003: *Gaz.* 20 November 2003, p. 4203.**

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.

SUMMARY OF PROVISIONS

Part 1—Preliminary

Division 1—Formal

1. Short title

Division 2—Objects of Act

3. Objects of Act

Division 3—Interpretation

4. Interpretation

Division 4—Rights of the Crown

5. Rights of the Crown

Part 2—Administration

Division 1—The Minister

6. Administration
7. Delegation

Division 2—Authorised officers

8. Appointment of authorised officers
9. Identity cards

Part 3—Licensing regulated activities

Division 1—Requirement for licence

10. Regulated activities
11. Requirement for licence

Division 2—Grant of licence

12. General authority to grant licence
13. Licence classes

Division 3—Preliminary survey licence

14. Preliminary survey licence
15. Term of preliminary survey licence

Part 4—Exploration

Division 1—Designation of highly prospective regions

16. Designation of highly prospective regions

Division 2—Speculative survey

17. Speculative survey licence
18. Area of speculative survey licence
19. Term of speculative survey licence
20. Consultation preceding grant or renewal of speculative survey licence

Division 3—Exploration licence

21. Exploration licence
22. Call for tenders
23. Criteria to be considered for granting exploration licence
24. Areas for which licence may be granted
25. Work program to be carried out by exploration licensee
26. Term and renewal of exploration licence
27. Production of regulated resource under exploration licence

Part 5—Retention

28. Nature and purpose of retention licence
29. Retention licence
30. Grant of retention licence
31. Area of retention licence
32. Term of retention licence
33. Work program to be carried out by retention licensee

Part 6—Production

34. Production licence
35. Grant of production licence
36. Power to require holder of exploration licence or retention licence to apply for production licence
37. Area of production licence
38. Work program to be carried out by production licensee
39. Requirement to proceed with production
40. Term of production licence
41. Cancellation or conversion of production licence where commercially productive operations are in abeyance
42. Unitisation of production

Part 7—Royalty

43. Royalty on regulated resources
44. Penalty for late payment
45. Recovery of royalty

Part 8—Transmission pipelines

Division 1—Pipeline licence

46. Rights conferred by pipeline licence
47. Term and renewal of pipeline licence
48. Alteration of pipeline

Division 2—Access to pipeline

49. Ministerial power to require access to pipeline

Division 3—Special provisions about pipelines

- 50. Acquisition of land by holder of pipeline licence
- 51. Pipeline easements
- 52. Compulsory acquisition of land for pipeline
- 53. Pipeline to be chattel
- 54. Inseparability of dealings with pipeline and pipeline land
- 55. Resumption of pipeline

Part 9—Associated facilities

- 56. Associated facilities licence
- 57. Area of associated facilities licence
- 58. Term of associated facilities licence
- 59. Relationship with other licences

Part 10—Entry to and use of land

- 60. Right of entry to land
- 61. Notice of entry on land
- 62. Disputed entry
- 63. Landowner's right to compensation
- 64. Right to require acquisition of land

Part 11—General provisions about licences

Division 1—General provision about applications

- 65. Application for licence
- 66. Preconditions of grant or renewal of licence

Division 2—Extent of licence exclusivity

- 67. Application of Division
- 68. Extent to which same area may be subject to different licences
- 69. Grant of compatible licence to area already under licence
- 70. Interrelationship between rights of licensees under compatible licences
- 71. Excision of licence areas

Division 3—Licence conditions

- 72. Mandatory conditions
- 73. Mandatory condition as to use of information etc
- 74. Classification of activities to be conducted under licence
- 75. Mandatory condition about resources required for compliance with environmental obligations
- 76. Discretionary conditions
- 77. Non-compliance with licence conditions

Division 4—Annual fees

- 78. Annual fees

Division 5—Reservoir access

- 79. Access to natural reservoir

Division 6—Grant, resumption etc of land

- 80. Grant, resumption etc of Crown and pastoral land

Division 7—Multiple licensees

81. Multiple licensees

Division 8—Consolidation and division of licence areas etc

82. Consolidation of licence areas
83. Division of licence areas

Division 9—Record keeping and reporting requirements

84. Records to be kept by licensee
85. Reporting of certain incidents
86. Information to be provided by licensee

Division 10—General requirements for operations

87. Activities to be carried out with due care and in accordance with good industry practice

Division 11—Minister's power to carry out work

88. Ministerial direction

Division 12—Surrender, suspension or cancellation of licence

89. Surrender
90. Suspension of licence by agreement
91. Disciplinary power to suspend or cancel licence

Division 13—Notice of grant etc licence

92. Notice to be published in *Gazette*

Division 14—Interference with regulated activities

93. Obligation not to interfere with regulated activities

Division 15—Safety net

94. Safety net

Part 12—Environment protection

Division 1—Objects

95. Object of this Part

Division 2—Environmental prerequisites

96. Pre-conditions of regulated activities

Division 3—Environmental impact report and classification of regulated activities

97. Environmental impact report
98. Classification of regulated activities

Division 4—Statements of environmental objectives

- 99. Preparation of statement of environmental objectives
- 100. Content of a statement of environmental objectives
- 101. Approval of statement of environmental objectives for low impact activities
- 102. Statement of environmental objectives for medium impact activities
- 103. Statement of environmental objectives for high impact activities
- 103A. Murray-Darling Basin
- 104. Commencement of statement of environmental objectives
- 105. Enforcement of requirements etc of statement of environmental objectives

Division 5—The environmental register

- 106. Environmental register
- 107. Environmental register to be available for inspection

Division 6—General provisions for environmental protection

- 108. Power to direct licensee to take action to prevent or minimise environmental damage
- 109. Power to direct rehabilitation of land
- 110. Application for review of environmental direction
- 111. Liability for damage caused by authorised activities

Part 13—Registrable dealings

Division 1—Registrable dealings

- 112. Registrable dealings
- 113. Requirement for approval and registration of registrable dealings
- 114. Application for approval

Division 2—The public register

- 115. Public register
- 116. Public register to be available for inspection

Division 3—The commercial register

- 117. Commercial register
- 118. Authority to search register

Part 14—Investigation and enforcement

- 119. Authorised investigations
- 120. Powers of entry and inspection
- 121. Power to gather information
- 122. Production of records
- 123. Publication of result of investigation

Part 15—Reconsideration and appeal

Division 1—Application of this Part

- 124. Decisions etc subject to review and appeal

Division 2—Reconsideration

- 125. Application for reconsideration

- 126. Constitution of advisory committee
- 127. Minister's decision on application for reconsideration

Division 3—Appeal

- 128. Right of appeal

Part 16—Miscellaneous

- 129. Giving of notices
- 130. Verification of information
- 130A. Avoidance of duplication of procedures etc
- 131. Saving of powers with respect to Crown land etc
- 132. Immunity from liability
- 133. Proof of administrative acts
- 134. Extension of time limits
- 135. Secrecy
- 136. Administrative penalties
- 137. Preservation of rights under Cooper Basin (Ratification) Act 1975
- 138. Regulations

Schedule—Transitional provisions

**APPENDIX
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

Division 1—Formal

Short title

1. This Act may be cited as the *Petroleum Act 2000*.

* * * * *

Division 2—Objects of Act

Objects of Act

3. The objects of this Act are—

- (a) to create an effective, efficient and flexible regulatory system for the industries involving exploration for, and the recovery or commercial utilisation of, petroleum and other resources to which this Act applies; and
- (b) to encourage and maintain an appropriate level of competition in exploration for and production of petroleum and other resources to which this Act applies; and
- (c) to create an effective, efficient and flexible regulatory system for the construction and operation of transmission pipelines for transporting petroleum and other substances to which this Act applies; and
- (d) to minimise environmental damage from the activities involved in—
 - (i) exploration for, or the recovery or commercial utilisation of, petroleum and other resources to which this Act applies; and
 - (ii) the construction or operation of transmission pipelines for transporting petroleum and other substances to which this Act applies; and
- (e) to establish appropriate consultative processes involving people directly affected by regulated activities and the public generally; and
- (f) to ensure as far as reasonably practicable security of supply for users of natural gas; and
- (g) to protect the public from risks inherent in regulated activities.

Division 3—Interpretation

Interpretation

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

"**administrative penalty**"—*See* section 136;

"**approved form**" means a form approved by the Minister;

"**associated facilities**"—*See* section 56(2);

"**authorised activity**" means a regulated activity authorised by a licence;

"**authorised officer**" means a person authorised in writing by the Minister to exercise the powers of an authorised officer under this Act;

"**business day**" means any day except a Saturday, Sunday or public holiday;

"**contravention**" includes non-compliance;

"**department**" means the department of the Public Service assigned to assist the Minister in the administration of this Act;

"**discretionary condition**" of a licence means a condition that is imposed at the discretion of the Minister under this Act;

"**easement**" includes the statutory easement under the *Natural Gas Authority Act 1967*;

"**environment**" includes—

- (a) land, air, water (including both surface and underground water), organisms and ecosystems; and
- (b) buildings, structures and cultural artefacts; and
- (c) productive capacity or potential; and
- (d) the external manifestations of social and economic life; and
- (e) the amenity values of an area;

"**ERD Court**" means the Environment, Resources and Development Court;

"**former licensee**" includes a person who held a licence under the repealed Act;

"**geothermal energy**" means thermal energy contained in subsurface rock or other subterranean substances which is extracted or released by a means other than as part of the production of a naturally occurring underground accumulation of a substance;

"**GST**" means the tax payable under the GST law;

"**GST component**" means a component attributable to a liability to GST;

Petroleum Act 2000

"**GST law**" means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* (Cwth); and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods and services;

"**highly prospective region**" means a part of the State designated by the Minister, by notice in the *Gazette*, as a highly prospective region;

"**joint venture**" includes a partnership;

"**land**" includes an estate or interest in land or right in respect of land;

"**licence**" means—

- (a) a speculative survey licence; or
- (b) a exploration licence; or
- (c) a retention licence; or
- (d) a production licence; or
- (e) a preliminary survey licence; or
- (f) a pipeline licence; or
- (g) an associated facility licence;

"**mandatory condition**" of a licence means a condition that must be imposed under a provision of this Act;

"**Murray-Darling Basin**" has the same meaning as in the *Murray-Darling Basin Act 1993*;

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

"**natural reservoir**" means a part of a geological structure (including one that has been artificially modified)—

- (a) in which petroleum or some other regulated substance has accumulated; or
- (b) which is suitable for the storage of petroleum or some other regulated substance;

"**occupier**" of land means—

- (a) a person in actual possession of the land under a right of exclusive possession; or

- (b) a person who holds a licence (other than a speculative survey licence or a pipeline survey licence) over the land;

"owner" of land means—

- (a) a person who holds a registered estate or interest in the land; or
- (b) a person who holds native title in the land; or
- (c) a person who has, by statute, the care, control or management of land; or
- (d) a person who is lawfully in occupation of the land;

"petroleum" means a naturally occurring substance consisting of a hydrocarbon or mixture of hydrocarbons in gaseous, liquid or solid state but does not include coal or shale unless occurring in circumstances in which the use of techniques for coal seam methane production or in situ gasification would be appropriate;

"pipeline" means a pipe or system of pipes for conveying petroleum or another regulated substance from place to place and includes—

- (a) tanks, machinery and equipment necessary for, or associated with, its operation;
- (b) a part of a pipeline;

"pipeline land" means an interest in land (including an easement) acquired for the construction, maintenance or operation of a transmission pipeline;

"private land" means land alienated from the Crown by the grant of an estate in fee simple or a possessory interest conferring a right to exclusive possession of the land;

"produce"—

- (a) a person produces petroleum or another regulated substance if the petroleum or other substance is recovered or released from a natural reservoir in which it has been contained in the course, or as a result, of operations carried out by that person (and production is taken to occur when it reaches ground level);
- (b) a person produces a regulated resource (other than a regulated substance)—
- (i) in the case of geothermal energy—by releasing the energy for an industrial or commercial purpose;
- (ii) in the case of a natural reservoir—by using it for the storage of petroleum or another regulated substance;

"prospectivity" of an area means its potential for the discovery of petroleum or other regulated resources;

"public land" means any land that is not private land;

Petroleum Act 2000

"record" includes—

- (a) a record in the form of a book or document, or in the form of a map;
- (b) a record in the form of electronic data;
- (c) geological samples;
- (d) samples of—
 - (i) petroleum; or
 - (ii) another regulated substance; or
 - (iii) water;

"regulated activity"—*See* section 10;

"regulated resource" means—

- (a) a naturally occurring underground accumulation of a regulated substance; or
- (b) a source of geothermal energy; or
- (c) a natural reservoir;

"regulated substance" means—

- (a) petroleum; or
- (b) hydrogen sulphide; or
- (c) nitrogen; or
- (d) helium; or
- (e) carbon dioxide; or
- (f) any substance declared by regulation to be a substance to which this Act applies;

"relevant court" means—

- (a) where the amount or value of the claim to which the proceedings relate is \$150 000 or less—the Warden's Court; or
- (b) in any other case—the Land and Valuation Court;

"repealed Act" means the *Petroleum Act 1940*;

"**transmission pipeline**" means a pipeline for conveying petroleum or another regulated substance from a point at or near the place of its production to another place or other places (or a pipeline that forms part of a system of pipelines for that purpose) but does not include the following—

- (a) a pipeline located within the area of a production or retention licence or the combined area of two or more production or retention licences (not being part of a pipeline that extends beyond the area of such a licence); or
- (b) a pipeline located within the site of an industrial plant; or
- (c) a pipeline that forms part of a gas distribution system within a city, town or other centre of population or industry; or
- (d) if a pipeline extends beyond State boundaries—the parts of the pipeline located outside the State; or
- (e) a pipeline excluded by regulation from the ambit of this definition;

(2) A reference in this Act to petroleum or another regulated substance extends to a mixture of substances of which petroleum or the other relevant substance is a constituent part.

Division 4—Rights of the Crown

Rights of the Crown

5. (1) The property in petroleum and other regulated resources is vested (or continues to be vested) in the Crown.

(2) On the production of petroleum, or some other regulated substance, by a person lawfully entitled to produce the petroleum or other regulated substance, it becomes the property of the person who produced it.

Part 2—Administration

Division 1—The Minister

Administration

6. The Minister has the general administration of this Act.

Delegation

7. (1) The Minister may—

- (a) delegate any of the Minister's powers or functions under this Act to a specified person, or a person holding or acting in a specified office or position; or
- (b) vary or revoke a delegation under this section.

(2) If the terms of an instrument of delegation allow for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument.

(3) A delegation or subdelegation does not prevent the exercise of a delegated power or function by the delegator.

(4) Notice of a delegation or subdelegation, or the variation or revocation of a delegation or subdelegation, under this section is to be published in the *Gazette*.

Division 2—Authorised officers

Appointment of authorised officers

8. The Minister may, by instrument in writing, authorise a person to exercise the powers of an authorised officer under this Act either generally or subject to specified limitations and restrictions.

Identity cards

9. (1) The Minister must issue to each authorised officer an identity card—

- (a) stating the name of the authorised officer; and
- (b) containing a photograph of the authorised officer; and
- (c) stating that the person whose name and photograph appear on the card is an authorised officer for this Act.

(2) If an authorised officer proposes to exercise powers under this Act against a person, the authorised officer must, if practicable, produce the identity card for inspection.

Part 3—Licensing regulated activities

Division 1—Requirement for licence

Regulated activities

10. (1) The following are **regulated activities**:

- (a) exploration for petroleum or another regulated resource; or
- (b) operations to establish the nature and extent of a discovery of petroleum or another regulated resource, and to establish the commercial feasibility of production and the appropriate production techniques; or
- (c) production of petroleum or another regulated substance; or
- (d) utilisation of a natural reservoir to store petroleum or another regulated substance; or
- (e) production of geothermal energy; or
- (f) construction of a transmission pipeline for carrying petroleum or another regulated substance; or
- (g) operation of a transmission pipeline for carrying petroleum or another regulated substance.

(2) However, exploratory operations conducted at a height of 500m or more above the surface of the ground are not regulated activities.

(3) A reference to a regulated activity includes all operations and activities reasonably necessary for, or incidental to, that activity such as (for example)—

- (a) physical and geophysical surveys of land;
- (b) the drilling of wells;
- (c) the injection of water or some other substance into a natural reservoir in order to enhance production of petroleum or another regulated substance;
- (d) forcing water or some other substance through a source of geothermal energy in order to absorb thermal energy and enable its recovery or utilisation at the surface;
- (e) the processing of substances recovered from a well;
- (f) the construction of borrow pits;
- (g) the installation and operation of plant and equipment;
- (h) the use of a natural reservoir to store a regulated substance;
- (i) water disposal;
- (j) the construction of roads, camps, airports, buildings and other infrastructure.

Requirement for licence

11. A person must not engage in a regulated activity unless the activity is authorised under this Act.

Maximum penalty: \$120 000.

Division 2—Grant of licence

General authority to grant licence

12. The Minister may, subject to this Act, grant a licence.

Licence classes

13. Licences are of the following classes:

- (a) preliminary survey licence; and
- (b) speculative survey licence; and
- (c) exploration licence; and
- (d) retention licence; and
- (e) production licence; and
- (f) pipeline licence; and
- (g) associated facility licence.

Division 3—Preliminary survey licence

Preliminary survey licence

14. (1) A **preliminary survey licence** authorises the licensee to carry out a survey, environmental evaluation, or other form of assessment preparatory to the carrying out of regulated activities on land.

(2) A preliminary survey licence may authorise incidental matters such as (for example) marking out the proposed route of a pipeline on land.

(3) The rights conferred on the holder of a preliminary survey licence are not exclusive.

Term of preliminary survey licence

15. (1) The term of a preliminary survey licence is 1 year.

(2) A preliminary survey licence may be renewed from time to time for a further term up to a maximum aggregate term of 5 years.

Part 4—Exploration

Division 1—Designation of highly prospective regions

Designation of highly prospective regions

16. (1) If the Minister considers a particular part of the State to be highly prospective for petroleum exploration or for exploration for other regulated resources, the Minister may, by notice in the *Gazette*, designate that part of the State as a highly prospective region.

(2) The notice may specify regulated resources in relation to which the region is to be regarded as highly prospective and, in that case, the region will be regarded as highly prospective for those resources but not in relation to other regulated resources.

(3) The Minister may, by subsequent notice in the *Gazette*, vary or revoke a notice under this section.

Division 2—Speculative survey

Speculative survey licence

17. (1) A **speculative survey licence** authorises the licensee to carry out exploratory operations of the kind specified in the licence in the licence area.

(2) A speculative survey licence cannot authorise drilling beyond a depth of 300 metres.

(3) The right to carry out exploratory operations conferred by a speculative survey licence is not an exclusive right.

Area of speculative survey licence

18. (1) A speculative survey licence may be granted for 1 or more separate areas.

(2) However, the total area of a speculative survey licence cannot exceed 10 000 km².

Term of speculative survey licence

19. (1) The term of a speculative survey licence is 1 year.

(2) A speculative survey licence may be renewed, from time to time, for a further term.

Consultation preceding grant or renewal of speculative survey licence

20. Before a speculative survey licence is granted or renewed over the area, or part of the area, of an existing licence, the applicant for the speculative survey licence must—

(a) consult with the existing licensee and seek to reach agreement on the activities to be carried out under the speculative survey licence on the area that is to be subject to both licences; and

(b) inform the Minister of the result of the consultation.

Division 3—Exploration licence

Exploration licence

21. (1) An **exploration licence** authorises the licensee to carry out in the licence area—

Petroleum Act 2000

- (a) exploratory operations for regulated resources; and
- (b) operations—
 - (i) to establish the nature and extent of a discovery of regulated resources; and
 - (ii) to establish the feasibility of production and appropriate production techniques.

(2) A licensee who holds an exploration licence is entitled, subject to this Act, to the grant of a retention licence or a production licence for a regulated resource discovered in the licence area.

Call for tenders

22. (1) The Minister must call for tenders for an exploration licence in the following cases:

- (a) where the exploration licence is to be granted for an area within a highly prospective region; or
- (b) where a person has unsuccessfully applied for an exploration licence for the relevant area (but not in response to a call for tenders) and asks the Minister to call for tenders for an exploration licence for the relevant area.

(2) The Minister has a discretion to call for tenders for an exploration licence in other cases.

(3) A call for tenders is made by notice published in the *Gazette* inviting applications for the grant of an exploration licence for an area specified in the notice.

(4) The notice—

- (a) must specify a period within which applications are to be made; and
- (b) must state the criteria by reference to which applications are to be evaluated; and
- (c) may include information about any special terms and conditions subject to which the exploration licence is to be granted; and
- (d) may include other information the Minister considers appropriate.

(5) The selection of an applicant is not complete until the applicant executes the licence.

(6) On the selection of a successful applicant from among those who apply in response to an advertisement under this section, the Minister must—

- (a) publish in the *Gazette* a statement of the basis for the selection of the successful applicant, including the successful applicant's proposed work program; and
- (b) give any unsuccessful applicant written notice of the reasons for the rejection of the application.

Criteria to be considered for granting exploration licence

23. In considering an application for the grant of an exploration licence, the Minister must have regard to—

- (a) the suitability of applicant's proposed work program for evaluating the prospectivity of the licence area and discovering regulated resources; and
- (b) the adequacy of the applicant's technical and financial resources; and
- (c) if applications have been invited for the licence by public advertisement—the stated criteria for evaluation of the applications.

Areas for which licence may be granted

24. (1) An exploration licence may be granted for 1 or more separate areas.

(2) However, the total licence area cannot exceed—

- (a) in the case of a licence authorising exploration for a source of geothermal energy—500km²; or
- (b) in any other case—10 000 km².

Work program to be carried out by exploration licensee

25. (1) It is a mandatory condition of an exploration licence that the licensee must carry out work in the licence area in accordance with a work program approved by the Minister.

(2) A proposed work program is to be submitted for the Minister's approval with an application for the grant or renewal of an exploration licence.

(3) The Minister may approve the proposed work program with or without addition or variation.

(4) The Minister may approve acceleration, deferment, variation or reduction of the work to the carried out under an approved work program.

(5) If a licence was granted on the basis of competitive tender, the Minister—

- (a) must, before approving deferment, variation or reduction of the work to be carried out under an approved work program—have regard to work programs proposed by other applicants for the licence; and
- (b) must publish in the *Gazette* notice of the approval stating the effect of the approval.

(6) The Minister may, as a condition of approving the reduction or deferment of work under subsection (4), require the licensee to relinquish a specified portion of the licence area.

Term and renewal of exploration licence

26. (1) The term of an exploration licence is 5 years.

(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, but a licence granted for a highly prospective region cannot be renewed more than once.

(3) A licence that is renewable for one further term must provide for the excision, on renewal, of an area equal to at least 50% of the original licence area and a licence that is renewable for 2 further terms must provide for the excision, on each renewal, of an area equal to at least 33⅓% of the original licence area.

Petroleum Act 2000

(4) The area to be excised is to be determined by the Minister—

- (a) if the licensee puts a proposal to the Minister in the application for renewal of the licence and the Minister accepts the proposal—on the basis of that proposal; or
- (b) in any other case—after the Minister has put a proposal to the licensee and has considered any representations made by the licensee within 14 days after notice of the proposal is given to the licensee.

(5) The Minister must accept the licensee's proposal under subsection (4)(a) if it reasonably allows for the grant of new exploration licences over the area or areas to be excised.

(6) When a licence falls due for renewal, the licensee, if not in default under the licence, is entitled to the renewal of the licence in accordance with the terms of the licence.

Production of regulated resource under exploration licence

27. (1) The holder of an exploration licence may produce a regulated resource from a well in the licence area for the purpose of establishing the nature and extent of a discovery.

(2) However, the licensee must not produce a regulated resource from a well for more than 10 days in aggregate without the Minister's approval.

Maximum penalty: \$20 000.

(3) The Minister may grant an approval under this section on conditions the Minister considers appropriate.

Part 5—Retention

Nature and purpose of retention licence

28. A retention licence protects the interest of a licensee in a discovery of a regulated resource for a reasonable period to make possible either or both of the following:

- (a) proper evaluation of the productive potential of the discovery;
- (b) carrying out the work necessary to bring the discovery to commercial production.

Retention licence

29. A **retention licence** authorises the licensee to carry out in the licence area—

- (a) operations—
 - (i) to establish the nature and extent of a discovery of regulated resources; and
 - (ii) to establish the commercial feasibility of production and appropriate production techniques; and
- (b) other regulated activities specified in the licence.

Grant of retention licence

30. (1) Subject to this Act, a person is, on application, entitled to the grant of a retention licence in respect of a discovery of a relevant resource if—

- (a) a regulated resource has been discovered in the area for which the retention licence is to be granted and the existence of the regulated resource has been demonstrated by the drilling of at least one well; and
- (b) the person holds, or held at the time of the application for the retention licence, an exploration licence or a production licence over the area for which the retention licence is to be granted; and
- (c) the exploration licence or production licence authorised exploration for or production of a regulated resource of the relevant kind; and
- (d) the Minister is satisfied that production of the regulated resource is not currently commercially feasible, but is more likely than not to become commercially feasible within 15 years.

(2) If the holder of an exploration or production licence is in default under the terms of the licence, the Minister may decline to grant a retention licence until the default is remedied.

Area of retention licence

31. The area of a retention licence must not exceed either of the following limits:

- (a) twice the area under which (according to a reasonable estimate at the time when the licence was granted or last renewed) the discovery is likely to extend;
- (b) 100 km².

Petroleum Act 2000

Term of retention licence

32. (1) The term of a retention licence is 5 years.

(2) A retention licence may be renewed from time to time for a further term but only if the Minister is satisfied that production is not currently commercially feasible but is more likely than not to become commercially feasible within the next 15 years.

Work program to be carried out by retention licensee

33. (1) A retention licence may include a mandatory condition requiring the licensee to carry out work, in accordance with a work program approved by the Minister, for either or both of the following purposes:

- (a) to establish the nature and extent of a discovery of regulated resources;
- (b) to establish the commercial feasibility of production and appropriate production techniques.

(2) A work program to be carried out under the licence must, if the Minister so requires, be submitted with the application for the licence and from time to time as required under the conditions of the licence.

(3) The Minister may approve a proposed work program with or without addition or variation.

(4) The Minister may, on application by a licensee—

- (a) approve acceleration or deferment of the work to be carried out under an approved work program; and
- (b) approve variation of the work program by substitution for work previously programmed of work that is, in the Minister's opinion, of equal or greater value.

Part 6—Production

Production licence

34. (1) A **production licence** authorises subject to its terms operations of the following kinds:

- (a) operations for the recovery of petroleum or some other regulated substance from the ground (including, if the licence so provides, its extraction 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 recovered from the licence area;
- (c) operations for the use of a natural reservoir for storage of a regulated substance;
- (d) operations for the extraction or release of geothermal energy.

(2) A production licence also authorises (subject to its terms) the licensee to carry out other regulated activities within the licence area.

Grant of production licence

35. (1) Subject to this Act, a person is, on application, entitled to the grant of a production licence for the production of a regulated resource of a particular kind if—

- (a) a regulated resource has been discovered in the area for which the production licence is to be granted; and
- (b) the person holds, or held at the time of the application for the production licence, an exploration licence or a retention licence over the area for which the production licence is to be granted; and
- (c) 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; and
- (d) production is currently commercially feasible or is more likely than not to become commercially feasible within the next 24 months.

(2) If the holder of an exploration or retention licence is in default under the terms of the licence, the Minister may decline to grant a production licence until the default is remedied.

(3) If—

- (a) the Minister is satisfied that—
 - (i) a regulated resource has been discovered in a particular area; and
 - (ii) production is currently commercially feasible or is more likely than not to become commercially feasible within the next 24 months; but
- (b) there is no person who is currently entitled to the grant of a production licence under subsection (1),

Petroleum Act 2000

the Minister may call for tenders for the grant a production licence and grant a production licence to the applicant who submits the successful tender.

Power to require holder of exploration licence or retention licence to apply for production licence

36. (1) The Minister may, after consultation with the holder of an exploration licence or a retention licence, give a written notice to the holder stating that—

- (a) production of a regulated resource is, in the Minister's opinion, currently commercially feasible within the whole or a specified part of the licence area; and
- (b) the holder of the licence should apply for a production licence for the relevant area within a period (which must be at least 6 months) stated in the notice.

(2) If the holder of the licence does not apply for a production licence for the relevant area within the time stipulated in the notice, the Minister may—

- (a) excise the relevant area from the exploration or retention licence; and
- (b) call for tenders for the grant a production licence for the relevant area; and
- (c) grant a production licence to the applicant who submits the successful tender.

Area of production licence

37. The area of a production licence must not exceed either of the following limits:

- (a) twice the area under which (according to a reasonable estimate at the time of granting the licence) the discovery is more likely than not to extend;
- (b) 100 km².

Work program to be carried out by production licensee

38. (1) A production licence may include a condition requiring the licensee to carry out work—

- (a) for the development of the licence area; and
- (b) for the production of regulated resources,

in accordance with a work program approved by the Minister.

(2) If a production licence includes such a condition, a proposed work program must be submitted for the Minister's approval from time to time as required under the relevant licence condition.

- (3) The Minister may approve a proposed work program with or without addition or variation.
- (4) The Minister may, on application by the licensee, vary an approved work program.

Requirement to proceed with production

39. (1) The holder of a production licence must, subject to this Act, proceed with operations for production of the relevant regulated resources—

- (a) with due diligence; and
- (b) in accordance with the conditions of the licence.

Maximum penalty: \$60 000.

(2) If operations for production of the relevant regulated resource have not commenced within 24 months after the grant of the production licence, the Minister may, by written notice given to the holder of the licence, require the holder of the licence to commence the operations.

(3) If, in the Minister's opinion, production from the area of a production licence is practicable and commercially feasible, the Minister may, by written notice given to the licensee, require the licensee to undertake or continue operations in accordance with requirements specified in the notice until the licensee satisfies the Minister that the operations are no longer practicable or commercially feasible.

(4) A notice under subsection (3) may require production from the area comprised in a production licence at a rate that is no less than a rate specified in the notice.

(5) If the holder of a production licence fails to proceed with operations for production of a regulated resource as required under the terms of the licence or by notice under this section (and has not entered into arrangements, satisfactory to the Minister, for future production), the Minister may, by written notice to the licensee, cancel the licence.

Term of production licence

40. A production licence is to be granted for an unlimited term.

Cancellation or conversion of production licence where commercially productive operations are in abeyance

41. (1) If productive operations resulting in production from the licence area on a commercial basis have not been carried on within the area of a production licence for 24 months or more (and the licensee has not entered into arrangements, satisfactory to the Minister, for commencing or resuming such operations at a reasonable future time), the Minister may, by written notice to the licensee—

- (a) convert the licence into a retention licence; or
- (b) cancel the licence.

(2) Before cancelling a licence under this section, the Minister must give the licensee a reasonable opportunity to make representations about the proposed action.

Unitisation of production

42. (1) If the Minister is satisfied that—

- (a) a natural reservoir containing, or suitable for storage of, a regulated substance extends beyond the area of a production licence; and
- (b) the adjacent area is covered by an exploration, retention or production licence held by a different person,

Petroleum Act 2000

the Minister may, by written notice given to the holders of the respective licences, require them to enter into negotiations with a view to establishing a scheme for working the relevant areas as a single unit.

(2) If the holders of the licences fail to reach agreement on the terms of such a scheme within a reasonable time, the Minister may, by written notice given to the licensees, establish such a scheme.

(3) Before the Minister establishes a scheme under this section, the Minister must allow the holders of the licences affected by the scheme a reasonable opportunity to make submissions on the terms of the scheme.

(4) A scheme under this section is binding on the holders, for the time being, of the licences affected by the scheme.

Part 7—Royalty

Royalty on regulated resources

43. (1) The holder of a licence must pay to the Crown a royalty equivalent to the prescribed percentage of the value (at the well head) of a regulated resource produced from land comprised in the licence.

(2) The prescribed percentage is—

(a) for a regulated substance—10%;

(b) for geothermal energy—2.5%.

(3) Royalty is not payable on the following:

(a) a regulated substance that—

(i) has been returned to a natural reservoir in the area of a production licence and will be brought into account for the purposes of calculation and payment of royalty on later production from the natural reservoir; or

(ii) has been destroyed or dissipated in accordance with sound production practice; or

(iii) is to be used in the course of productive operations, or for purposes incidental to productive operations, that the producer carries out in the State and are associated with production of a regulated substance in the State; and

(b) geothermal energy that is dissipated before it reaches the point of delivery to the purchaser.

(4) A licensee must, within 30 days after the end of each month in which a regulated substance or geothermal energy is produced, provide the Minister with a return for the relevant month setting out—

(a) the quantity of the regulated substance or energy produced; and

(b) the quantity of any regulated substance or energy sold, and the amount realised on sale; and

(c) any other relevant information required by the Minister.

Administrative penalty.

(5) A return must be accompanied by the royalty payable by the licensee in respect of the month to which the return relates.

(6) The value at the well head of a regulated substance is a value calculated by subtracting from the price (exclusive of any GST component) that could reasonably be realised on sale of the substance to a genuine purchaser at arms length from the producer all reasonable expenses (exclusive of any GST component) reasonably incurred by the producer—

Petroleum Act 2000

- (a) in treating processing or refining the substance; and
- (b) in transporting the substance from the well head to the point of delivery.

(7) The value at the well head of geothermal energy is a value calculated by subtracting from the price (exclusive of any GST component) that could reasonably be realised on sale of the energy to a genuine purchaser at arms length from the producer all reasonable expenses (exclusive of any GST component) reasonably incurred by the producer in getting the energy to the point of delivery to the purchaser.

(8) The value at the well head of a regulated substance or geothermal energy is to be assessed by the Minister.

(9) The Minister may, on application by the producer, or on the Minister's own initiative, review and revise an earlier assessment of the value at the well head of a regulated substance or geothermal energy.

(10) The Land and Valuation Court may, on appeal by the producer, vary the Minister's assessment.

(11) In any other proceedings, the Minister's assessment is to be taken as conclusive evidence of the value of a regulated substance or geothermal energy at the well head.

Penalty for late payment

44. (1) If a licensee fails to pay royalty as and when required by or under this Part—

- (a) the amount in arrears will, unless the Minister determines otherwise, be increased by penalty interest at the prescribed rate; and
- (b) the Minister may impose on the licensee a fine of an amount fixed by the Minister up to a limit of \$1,000 or 10% of the outstanding royalty, whichever is the greater.

(2) The Minister may for any proper reason remit penalty interest or a fine imposed under subsection (1) wholly or in part.

Recovery of royalty

45. Royalty (and any penalty interest or fine imposed by the Minister under this Part) may be recovered as a debt due to the Crown.

Part 8—Transmission pipelines

Division 1—Pipeline licence

Rights conferred by pipeline licence

46. (1) A **pipeline licence** authorises the licensee to operate the transmission pipeline to which it relates.

(2) If the licence is granted for a proposed transmission pipeline, the licence also authorises the licensee to construct (or complete the construction of) the relevant transmission pipeline.

(3) A pipeline licence may be granted for the whole or part of a transmission pipeline.

(4) 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 transmission pipeline or proposed transmission pipeline owned by a body corporate (or two or more bodies corporate).

(5) The Minister may, on application by a licensee holding a pipeline licence, vary the licence to cover an extension to, or a variation to the route of, the pipeline.

Term and renewal of pipeline licence

47. (1) The term of a pipeline licence is 21 years or a lesser term agreed between the pipeline licensee and the Minister.

(2) Subject to any agreement between the Minister and the pipeline licensee excluding or limiting this right of renewal, a pipeline licence must, on application for renewal, be renewed for a further term.

Alteration of pipeline

48. A pipeline licensee must not alter or modify, or permit the alteration or modification of, the pipeline except as follows:

(a) as authorised in the pipeline licence; or

(b) as may be necessary for the repair or maintenance of the pipeline; or

(c) as may be necessary for the preservation of life or property in an emergency; or

(d) as may be authorised by the Minister.

Maximum penalty: \$120 000.

Division 2—Access to pipeline

Ministerial power to require access to pipeline

49. (1) The Minister may, by written notice given to the holder of a pipeline licence, require the holder to convey a regulated substance for another person on terms and conditions mutually agreed by the holder and the other person or, in default of agreement, on terms and conditions determined by the Minister.

Petroleum Act 2000

(2) In considering whether to require the holder of a pipeline licence to convey a regulated substance for another and if so the appropriate terms and conditions on which the holder should be required to do so, the Minister must have regard to—

- (a) the legitimate business interests of the licensee; and
- (b) the public interest including the public interest in facilitating competition in markets; and
- (c) the interests of other persons who have rights of access to the pipeline; and
- (d) the cost of providing access to the pipeline; and
- (e) the operational and technical requirements for the safe, efficient and reliable operation of the pipeline; and
- (f) any other matters the Minister considers relevant.

(3) A determination under this section, and the Minister's reasons for making it, are to be published in the *Gazette*.

(4) This section does not apply if access to the relevant transmission pipeline is governed under some other law.

Division 3—Special provisions about pipelines**Acquisition of land by holder of pipeline licence**

50. (1) The holder of a pipeline licence must, as soon as practicable after the grant of the licence, proceed to acquire the pipeline land reasonably required for constructing or operating, or constructing and operating, the relevant pipeline.

(2) Despite any limitation on the powers of a body corporate existing apart from this section, a body corporate is authorised to transfer to the holder of a pipeline licence any land required for the construction or operation of a pipeline under the relevant pipeline licence.

Pipeline easements

51. 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.

Compulsory acquisition of land for pipeline

52. If the Minister is satisfied that the holder of a pipeline licence—

- (a) reasonably requires land (apart from the interest conferred by the licence) for the purpose of constructing, modifying or operating a pipeline or for incidental purposes; and
- (b) has failed to acquire the land by agreement after making reasonable attempts to do so,

the holder may, with the Minister's approval, proceed to acquire the land compulsorily under the *Land Acquisition Act 1969*.

Pipeline to be chattel

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

Inseparability of dealings with pipeline and pipeline land

54. 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.

Resumption of pipeline

55. (1) If a pipeline for which a licence was granted is not used for the transportation of a regulated substance for a continuous period of more than 3 years, the Minister may give written notice to all interested persons of intention to resume the pipeline and the pipeline land.

(2) The **interested persons** are—

- (a) the holder (or former holder) of the pipeline licence; and
- (b) the owner of, and other persons interested in, the pipeline and the related pipeline land.

(3) Before the Minister gives notice under subsection (1), the Minister must—

- (a) invite all interested persons to make representations about the proposed resumption; and
- (b) consider any representations made in response to the invitation.

(4) The notice of the intended resumption—

- (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 all interested persons.

(5) 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.

(6) 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; and
- (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.

(7) If the owner of the pipeline fails to comply with a notice under subsection (6)(a), the Minister may have the necessary work carried out and recover the cost of doing so from the owner.

Petroleum Act 2000

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

(9) If an easement is vested in the Crown under subsection (6)(b), the Minister may, by notice in the *Gazette*, surrender (and thus extinguish) the easement.

Part 9—Associated facilities

Associated facilities licence

56. (1) An **associated facilities licence**—

- (a) authorises the holder of a licence (the **primary licence**) to establish and operate associated facilities on land outside the area of the primary licence; 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) An **associated facility** is anything that is reasonably necessary for, or incidental to, carrying on regulated activities in the area of the primary licence, or in the vicinity of the area of the primary licence.

(3) For example—

- (a) an associated facilities licence might be granted to the holder of an exploration licence, a retention licence or a production licence authorising the holder of the licence to drill a well from an area outside the area of the primary licence for obtaining access to geological structures within the area of the primary licence;
- (b) an associated facilities licence might be granted authorising the holder of the licence to establish and operate facilities within the licence area such as—
 - (i) a pipeline;
 - (ii) a processing plant;
 - (iii) a camp, airport, building or other infrastructure;
 - (iv) commercial or recreational facilities for people involved in regulated activities.

Area of associated facilities licence

57. (1) An associated facilities licence cannot be granted for an area exceeding 5km².

(2) However, this restriction on the area of an associated facilities licence does not apply if the licence area is in the form of a corridor with a width of 50m or less.

Term of associated facilities licence

58. An associated facilities licence is an adjunct to the primary licence and is, subject to its terms, granted for the same term, and renewable at the same time and in the same way as the primary licence.

Relationship with other licences

59. (1) An associated facilities licence may be granted in respect of an area comprised within the area of another licence.

(2) Subject to any relevant licence conditions, the rights conferred by an associated facilities licence prevail over rights conferred by another licence in respect of the same area.

Petroleum Act 2000

(3) Before the Minister grants an associated 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 existing licensee; and
 - (iii) the effect of the operations to be carried out under the associated facilities licence on the operations conducted 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 conditions to be included in the licence.

(4) If an associated 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 an associated 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 associated facilities licence, review the terms and conditions of the associated 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 associated facilities licence or vary the area in some other way.

Part 10—Entry to and use of land

Right of entry to land

60. A licensee may, subject to this Part—

- (a) enter land to carry out authorised activities on the land; or
- (b) enter land for the purpose of gaining access to adjacent land on which the licensee proposes to carry out authorised activities.

Notice of entry on land

61. (1) A licensee must, at least 21 days before entering land under this Part, give written notice to the occupier of the land, in the form required by the regulations—

- (a) of the licensee's intention to enter the land; and
- (b) if the licensee proposes to carry out regulated activities on the land—of the nature of the activities to be carried out on the land.

Maximum penalty: \$20 000.

(2) Once notice of entry has been given, a further notice for re-entry of the land is not necessary unless the activities to be carried out on the land differ significantly, in nature or extent, from the activities as described in the previous notice.

Disputed entry

62. (1) An occupier of the land (other than the lessee under a pastoral lease) may, by giving notice of objection to the licensee, object to the licensee's proposed entry.

(2) A notice of objection must be given within 14 days after the licensee's notice of the proposed entry.

(3) If an occupier gives notice of objection, the licensee must notify the Minister that entry is disputed.

(4) When notice of disputed entry is given, the Minister may attempt to mediate between the parties in order to arrive at mutually satisfactory terms under which the licensee may enter the land and (if relevant) carry out regulated activities on the land.

(5) If—

- (a) the Minister decides against attempting to reach a settlement of the dispute by mediation; or
- (b) an attempt is made but the dispute is not resolved within a period fixed in the regulations for the purposes of this paragraph,

either the licensee or the owner may apply to the Warden's Court for a resolution of the dispute.

(6) The Warden's Court may, on an application under this section, determine terms on which the licensee may enter the land and carry out regulated activities on the land.

Petroleum Act 2000

Landowner's right to compensation

63. (1) The owner of land is entitled to compensation from a licensee who enters the land and carries out regulated activities under this Act.

(2) The compensation is to cover—

- (a) deprivation or impairment of the use and enjoyment of the land; and
- (b) damage to the land (not including damage that has been made good by the licensee); and
- (c) damage to, or disturbance of, any business or other activity lawfully conducted on the land; and
- (d) consequential loss.

(3) The compensation is not to be related to the value or possible value of regulated resources contained in the land.

(4) The compensation is to be determined by agreement or in default of agreement by the relevant court.

(5) In assessing compensation, any other compensation to which the owner may have received, or to which the owner may be entitled, is to be taken into account.

Right to require acquisition of land

64. (1) If the activities of a licensee on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the relevant court for an order under this section.

(2) The court may, on an application under this section—

- (a) make an order transferring the owner's land to the licensee; and
- (b) order the licensee to pay to the owner, by way of compensation—
 - (i) an amount equivalent to the market value of the land; and
 - (ii) a further amount the court considers just by way of compensation for disturbance.

Part 11—General provisions about licences

Division 1—General provision about applications

Application for licence

- 65.** (1) An application for a licence—
- (a) must be made in an approved form; and
 - (b) if the licence is to contain a mandatory condition requiring the licensee to carry out work in accordance with an approved work program—must be accompanied by a proposed work program for the first term of the licence; and
 - (c) must be accompanied by a statement of the financial and technical resources available to the applicant; and
 - (d) must contain other information required in the approved form; and
 - (e) must be accompanied by the fee prescribed by the regulations.
- (2) An application for the renewal of a licence—
- (a) must be made to the Minister in an approved form at least 2 months before the end of the licence term preceding the proposed renewal; and
 - (b) must contain other information required by the Minister; and
 - (c) if the licence contains a mandatory condition requiring the licensee to carry out work in accordance with an approved work program—must be accompanied by a proposed work program for the term of the renewal; and
 - (d) must be accompanied by the fee prescribed by the regulations.
- (3) The Minister may require an applicant for the grant or renewal of a licence to provide any further information, documents or materials to assist in assessing and determining the application.
- (4) If an applicant fails to comply with a requirement under subsection (3) within a reasonable time allowed by the Minister (which must be at least 30 days), the application lapses.
- (5) If an application for the renewal of a licence is made before the end of the term of the licence, the licence term is extended until the application is determined.
- (6) Notice of an application for the grant of a production licence, and notice of an application for the grant or renewal of an associated facilities licence or a pipeline licence, must be published in the *Gazette* at least 30 days before the application is determined.

Preconditions of grant or renewal of licence

- 66.** (1) The Minister may offer a licence to a particular applicant on condition that—
- (a) the applicant is to return the executed licence to the Minister within a specified period; and

Petroleum Act 2000

- (b) if the applicant fails to do so—the offer lapses and the licence may be offered to someone else.

(2) As a condition of granting or renewing a licence, the Minister may require the applicant to give security, of a kind and amount acceptable to the Minister, for the satisfaction of obligations arising under this Act or the licence.

Division 2—Extent of licence exclusivity

Application of Division

67. This Division applies to licences of the following classes:

- (a) exploration licence;
- (b) retention licence;
- (c) production licence.

Extent to which same area may be subject to different licences

68. (1) A licence to which this Division applies is granted either—

- (a) in relation to a source of geothermal energy; or
- (b) in relation to all regulated resources except a source of geothermal energy.

(2) A licence to which this Division applies is **compatible** with another licence to which this Division applies if one relates to a source of geothermal energy and the other does not.

(3) The same area cannot be simultaneously subject to two or more licences to which this Division applies unless the licences are compatible.

(4) For the purposes of this section, if a person who is entitled to the grant of a licence to which this Division applies makes an application for such a licence, the area to which the application relates is to be taken to be subject to a licence to which this Division applies until the application is determined.

Grant of compatible licence to area already under licence

69. Before the Minister grants a compatible licence in respect of an area that is already wholly or partly subject to a licence to which this Division applies, the Minister must consult with the existing licensee.

Interrelationship between rights of licensees under compatible licences

70. If a licensee discovers a regulated resource in an area subject to two or more compatible licences, the rights under this Act in respect of the discovery attach to the licensee who holds a licence for a regulated resource of the relevant kind irrespective of whether that licensee actually made the discovery.

Excision of licence areas

71. If—

- (a) a retention licence is granted to the holder of an exploration licence or a production licence in respect of part only of the area comprised in the earlier licence; or

- (b) a production licence is granted to the holder of an exploration licence or a production licence in respect of part only of the area comprised in the earlier licence,

the area of the new licence is excised from the area of the earlier licence.

Division 3—Licence conditions

Mandatory conditions

72. A licence must include the conditions designated in this Act as mandatory conditions.

Mandatory condition as to use of information etc

73. It is a mandatory condition of every licence that the licensee authorises the Minister—

- (a) to make use of information and records provided by the licensee under this Act; and
- (b) to disclose information and records provided by the licensee under this Act as authorised by the regulations.

Classification of activities to be conducted under licence

74. (1) A licence is to include mandatory conditions dividing the regulated activities to be carried out under the licence into—

- (a) activities requiring high level official supervision; or
- (b) activities requiring low level official supervision.

(2) The activities are to be classified as requiring high level official supervision unless the licensee satisfies the Minister that, in view of the licensee's demonstrated competence to comply with the requirements of this Act and the conditions of the licence, the activities should be classified as requiring low level official supervision.

(3) The mandatory conditions are to provide as follows:

- (a) the Minister's prior written approval is required for activities requiring high level official supervision; and
- (b) notice of activities requiring low level official supervision is to be given as required in the conditions or by regulation.

(4) The Minister may, by written notice to a licensee, change the classification of activities under the relevant licence conditions.

(5) If regulated activities to be conducted under a licence are generally or substantially classified as requiring a low level of official supervision, the annual licence fee payable for the licence will be reduced by an amount not exceeding 50% of the fee according to a determination of the Minister as to the level of official supervision required under the licence.

Mandatory condition about resources required for compliance with environmental obligations

75. It is a mandatory condition of every licence that the licensee must have adequate technical and financial resources to ensure compliance with the licensee's environmental obligations (including the rehabilitation of land adversely affected by regulated activities carried out under the licence).

Petroleum Act 2000

Discretionary conditions

76. (1) A licence may be granted on other conditions (**discretionary conditions**) the Minister considers appropriate.

(2) The discretionary conditions of the licence may (for example) include a condition requiring the licensee to maintain insurance on terms and conditions approved by the Minister insuring the licensee and the State against obligations arising from regulated activities under the licence.

(3) The Minister may add a discretionary condition to a licence, or vary or revoke a discretionary condition of a licence—

- (a) on the renewal of the licence; or
- (b) at any other time with the agreement of the licensee.

Non-compliance with licence conditions

77. If a licence condition is not complied with, the licensee is guilty of an offence.

Maximum penalty: \$120 000.

Division 4—Annual fees**Annual fees**

78. (1) A licensee must pay to the Minister annually and in advance a fee appropriate to the relevant licence fixed by, or calculated in accordance with, the prescribed scale.

(2) If a licensee fails to pay a fee in accordance with subsection (1)—

- (a) the amount in arrears will, unless the Minister determines otherwise, be increased by penalty interest at the prescribed rate; and
- (b) the Minister may impose on the licensee a fine of an amount fixed by the Minister up to a limit of \$1,000 or 10% of the outstanding fee, whichever is the greater.

(3) The Minister may for any proper reason remit penalty interest or a fine imposed under subsection (2) wholly or in part.

(4) A fee (and any penalty interest or fine imposed by the Minister under this section) may be recovered as a debt due to the Crown.

Division 5—Reservoir access**Access to natural reservoir**

79. (1) If—

- (a) there is a natural reservoir in the area of a licence that is, in the Minister's opinion, suitable for use for the storage of a regulated substance; and
- (b) a person (the **applicant**) who is not the holder of the relevant licence seeks access to the natural reservoir for the storage of a regulated resource; and

- (c) the applicant, after making reasonable attempts to do so, fails to reach agreement with the licensee on terms and conditions of access to and use of the natural reservoir,

the Minister may, by notice in writing given to the applicant and the holder of the licence, determine terms and conditions (which the Minister considers to be fair and reasonable commercial terms) on which the applicant is to be entitled to access to and use of the reservoir.

(2) In considering whether to make a determination under this section and, if so, the terms and conditions of the determination, the Minister must have regard to—

- (a) the legitimate business interests of the licensee; and
- (b) the public interest including the public interest in facilitating competition in markets; and
- (c) the interests of persons other than the immediate parties to the determination that might be affected by the determination; and
- (d) the operational requirements for the safe, efficient and reliable use of the natural reservoir; and
- (e) any other matters the Minister considers relevant.

(3) Before making a determination under this section, the Minister must give the interested parties a reasonable opportunity to comment on the proposed determination.

(4) A determination under this section is binding on the holder of the licence and the applicant.

(5) Access may be granted on terms under which the person to whom the right of access is granted is required to take out an associated facilities licence for the purpose of exercising the right of access arising under the determination.

(6) A party to a determination under this section may appeal against the determination to the Land and Valuation Court.

(7) On an appeal under this section—

- (a) the Court may confirm the Minister's determination; or
- (b) the Court may cancel the Minister's determination if satisfied that it is not fair and reasonable that the applicant should have access to the natural reservoir; or
- (c) the Court may vary the terms and conditions of the determination as the Court considers fair and reasonable.

(8) The Court may make incidental and ancillary orders (including orders for costs).

Division 6—Grant, resumption etc of land

Grant, resumption etc of Crown and pastoral land

80. (1) The Governor may, on the recommendation of the Minister responsible for the administration of the *Crown Lands Act 1929*, grant unalienated Crown land to a licensee for the purpose of carrying on regulated activities or for purposes incidental to such activities.

(2) 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 the land required for carrying on regulated activities or for purposes incidental to such activities were land required for a public work or a public purpose.

Division 7—Multiple licensees

Multiple licensees

81. (1) If a licence is held by 2 or more persons, they are jointly and severally liable for the obligations of the licensee under this Act.

(2) If a licence is held by 2 or more persons, they must, by written notice given to the Minister, nominate a representative (who may—but need not—be one of the licensees) who is authorised to give and receive notices on their behalf.

Administrative penalty.

(3) A notice given by or to the authorised representative is taken to have been given by or to all the licensees.

Division 8—Consolidation and division of licence areas etc

Consolidation of licence areas

82. (1) The Minister may, by agreement with a licensee or prospective licensee, consolidate adjacent licence areas into a single licence area.

(2) If a licence has already been issued for any one or more of the licence areas to be consolidated, the Minister may revoke the licence and issue a new licence on terms and conditions the Minister considers appropriate in view of the consolidation.

(3) In this section, a reference to a **licence area** extends to an area for which an application for a licence has been made.

Division of licence areas

83. (1) The Minister may, by agreement with a licensee, divide a licence area into separate areas so that each becomes subject to a different licence.

(2) On dividing a licence area, the Minister—

(a) may vary the existing licence by excising part of the licence area and issue a new licence for the balance of the area; or

(b) issue new licences in place of the existing licence (each of which is then taken to be a continuation, in part, of the existing licence).

(3) If the area to which an exploration licence relates is divided, there must be no reduction of the aggregate work to be carried out.

Division 9—Record keeping and reporting requirements

Records to be kept by licensee

84. (1) A licensee must maintain—

- (a) a record of all regulated activities carried out under the licence including, where appropriate, maps and plans; and
- (b) a record of the results of regulated activities carried out under the licence, including the results of the analysis of geological samples; and
- (c) a record of compliance audits by internal or external auditors required under the regulations; and
- (d) other records as required by the regulations.

Administrative penalty.

(2) The licensee must provide the Minister with a copy of the records kept under this section at the times required by the regulations or by the Minister by written notice given to the licensee.

Administrative penalty.

Reporting of certain incidents

85. (1) In this section—

"serious incident" means an incident arising from activities conducted under a licence in which—

- (a) a person is seriously injured or killed; or
- (b) an imminent risk to public health or safety arises; or
- (c) serious environmental damage occurs or an imminent risk of serious environmental damage arises; or
- (d) security of natural gas supply is prejudiced or an imminent risk of prejudice to security of natural gas supply arises.

"reportable incident" means an incident (other than a serious incident) arising from activities conducted under a licence classified under the regulations as a reportable incident.

(2) A licensee must report a serious incident to the Minister as soon as practicable after its occurrence and must provide the Minister with a written report on the incident as required under the regulations.

Administrative penalty.

Petroleum Act 2000

(3) A licensee must report a reportable incident to the Minister as required under the regulations.

Administrative penalty.

Information to be provided by licensee

86. (1) A licensee must, as required under the regulations, provide the Minister with information required by the regulations.

Administrative penalty.

(2) A licensee must provide the Minister with the other information reasonably requested by the Minister within the time specified in the request.

Administrative penalty.

(3) If the Minister considers the provision of the information requested under subsection (2) essential in the public interest, and gives an intimation to that effect in the request, non-compliance with the request is a summary offence punishable on conviction by a fine not exceeding \$120,000.

(4) A licensee must, if requested to do so by the Minister, provide the Minister with an expert report, within the time specified in the request, verifying information provided to the Minister by the licensee.

Administrative penalty.

(5) A request under subsection (4) must either nominate the person by whom the expert report is to be prepared or state the nature of the qualifications and experience that the person who prepares the report must possess.

Division 10—General requirements for operations

Activities to be carried out with due care and in accordance with good industry practice

87. A licensee must carry out regulated activities—

(a) with due care for—

(i) the health and safety of persons who may be affected by those activities; and

(ii) the environment; and

(iii) where relevant—the need to ensure, in a case where interruption of natural gas supply could cause significant social disruption, that facilities for processing and transporting natural gas are designed, constructed, managed and operated on a prudential basis so as to provide a reliable and adequate supply of natural gas; and

(b) in accordance with good practice as recognised in the relevant industry.

Maximum penalty: \$120 000.

Division 11—Minister’s power to carry out work

Ministerial direction

88. (1) The Minister may, by notice in writing given to a licensee, direct the licensee—

- (a) to carry out specified obligations under this Act or the licence; or
- (b) to cease specified activities that are contrary to this Act or the licence.

(2) The licensee must comply with a direction under subsection (1) within the time allowed in the notice.

Maximum penalty: \$120 000.

(3) If the licensee fails to comply with a direction under subsection (1)(a) within the time allowed in the notice, the Minister may take the required action, or arrange for the required action to be taken, and recover the cost, as a debt, from the licensee.

Division 12—Surrender, suspension or cancellation of licence

Surrender

89. (1) A licensee may apply to the Minister to surrender the licence or to surrender part of the licence area.

(2) The Minister may accept the surrender as from a date specified by the Minister in a notice of acceptance of the surrender given to the applicant.

(3) If the licensee surrenders part of the licence area, the licence continues in relation to the remainder of the licence area subject to any modification of its conditions that the Minister considers appropriate in view of the surrender.

(4) The Minister may accept a surrender on any one or more of the following conditions:

- (a) that the applicant rehabilitate land affected by activities conducted under the licence;
- (b) that the applicant pay any monetary obligations incurred before the surrender;
- (c) that the applicant provide information that should have been, but has not been, provided before the surrender.

Suspension of licence by agreement

90. The Minister may, by agreement with the licensee, suspend a licence for a specified period.

Disciplinary power to suspend or cancel licence

91. (1) If a licensee fails to comply with this Act or a condition of the licence, the Minister may, by written notice given to the licensee—

- (a) suspend the licence for a specified period or until the Minister terminates the suspension; or
- (b) cancel the licence.

Petroleum Act 2000

(2) Before the Minister suspends or cancels the licence, the Minister must give the licensee a notice of default—

- (a) specifying the default; and
- (b) stating the action that the Minister proposes to take; and
- (c) if the default is capable of being remedied—allowing the licensee a reasonable opportunity to remedy the default; and
- (d) whether or not the default is capable of being remedied—giving the licensee a reasonable opportunity to show cause why the proposed action should not be taken.

(3) If the notice allows the licensee an opportunity to remedy a default, and the licensee remedies the default to the Minister's satisfaction, the Minister is not to suspend or cancel the licence on the basis of that default.

Division 13—Notice of grant etc of licence

Notice to be published in *Gazette*

92. (1) Notice of the grant, suspension or cancellation of a licence is to be published in the *Gazette*.

(2) Notice of the surrender of a licence or part of a licence area is to be published in the *Gazette*.

Division 14—Interference with regulated activities

Obligation not to interfere with regulated activities

93. A person must not (except as authorised under this Act) interfere with regulated activities lawfully conducted under a licence.

Maximum penalty \$60 000.

Division 15—Safety net

Safety net

94. (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.

Part 12—Environment protection

Division 1—Objects

Object of this Part

95. The object of this Part is to ensure that, in carrying out regulated activities, licensees—

- (a) ensure that regulated activities that have (actually or potentially) adverse effects on the environment are properly managed to reduce environmental damage as far as reasonably practicable; and
- (b) eliminate as far as reasonably practicable risk of significant long term environmental damage; and
- (c) ensure that land adversely affected by regulated activities is properly rehabilitated.

Division 2—Environmental prerequisites

Pre-conditions of regulated activities

96. A licensee must not carry out regulated activities unless a statement of environmental objectives is in force for the relevant activities under this Part.

Maximum penalty: \$120 000.

Division 3—Environmental impact report and classification of regulated activities

Environmental impact report

97. (1) An environmental impact report on regulated activities must be prepared in accordance with the regulations.

(2) An environmental impact report—

- (a) must take into account cultural, amenity and other values of Aboriginal and other Australians insofar as those values are relevant to the assessment; and
- (b) must take into account risks inherent in the regulated activities to the health and safety of the public; and
- (c) must contain sufficient information to make possible an informed assessment of the likely impact of the activities on the environment.

(3) An environmental impact report—

- (a) may relate to regulated activities generally or a particular class of regulated activities; and
- (b) may be applicable to the whole of the State or be limited to a particular part of the State.

Petroleum Act 2000

Classification of regulated activities

98. (1) After preparation of an environmental impact report, the Minister must classify the activities to which the report relates as—

- (a) low impact activities; or
 - (b) medium impact activities; or
 - (c) high impact activities.
- (2) The classification is to be made on the basis of—
- (a) the environmental impact report; and
 - (b) criteria for the assessment of the environmental impact of regulated activities established under this section.
- (3) The Minister—
- (a) must, by notice in the *Gazette*, establish criteria for the assessment of the environmental impact of regulated activities; or
 - (b) may, by similar notice, revise criteria previously established under this section.

(4) In classifying activities that are likely to be recurrent, the Minister must have regard to the cumulative effect of the activities.

Division 4—Statements of environmental objectives**Preparation of statement of environmental objectives**

99. (1) A statement of environmental objectives for regulated activities is to be prepared in accordance with the requirements of the regulations—

- (a) for low impact or medium impact activities—on the basis of an environmental impact report; or
- (b) for high impact activities—on the basis of an environmental impact assessment under Part 8 of the *Development Act 1993*.

(2) If the Minister decides that an approved statement of environmental objectives should be revised, a revised statement of environmental objectives is to be prepared in accordance with the requirements of the regulations—

- (a) if the approved statement relates to low impact or medium impact activities—on the basis of an environmental impact report; or
- (b) if the approved statement relates to high impact activities—on the basis of an environmental impact assessment under Part 8 of the *Development Act 1993*.

Content of a statement of environmental objectives

100. (1) A statement of environmental objectives for regulated activities—

- (a) must state environmental objectives that must be achieved in carrying out regulated activities to which the statement applies; and
- (b) must state criteria to be applied to determine whether the stated environmental objectives have been achieved in a particular case; and
- (c) must include conditions and requirements to be complied with in order to achieve the stated objectives; and
- (d) must impose reporting obligations on a person carrying out regulated activities to which it relates.

(2) One of the environmental objectives must be the rehabilitation of land adversely affected by regulated activities.

(3) A statement of environmental objectives—

- (a) may provide for and, for high impact activities, must provide for a report or periodic reports (to be obtained by the Minister at the expense of the licensee) from an independent expert on the environmental consequences of the activities; and
- (b) may include a system for evaluating the licensee's environmental performance.

(4) A statement of environmental objectives—

- (a) may be generally applicable throughout the State; or
- (b) may be limited to a specific part of the State.

Approval of statement of environmental objectives for low impact activities

101. (1) If, after consulting with government agencies as required under the regulations, the Minister is satisfied with a statement of environmental objectives for low impact activities, the Minister may approve the statement.

(2) If, after consulting with government agencies as required under the regulations, the Minister is not satisfied with a statement of environmental objectives for low impact activities, the Minister may—

- (a) amend the statement and approve it in the amended form; or
- (b) require the preparation of a fresh statement of environmental objectives.

Statement of environmental objectives for medium impact activities

102. (1) When a statement (or revised statement) of environmental objectives has been prepared for medium impact activities, the Minister must, if satisfied that the statement (or revised statement) is an acceptable basis for public consultation, publish a notice in a newspaper circulating generally throughout the State—

- (a) stating that the relevant environmental impact report and the proposed statement of environmental objectives may be inspected at a nominated address or a copy may be obtained from that address; and

Petroleum Act 2000

- (b) inviting submissions from interested members of the public on the environmental impact report and on the subject matter of the proposed statement (or revised statement) of environmental objectives within a period ending on a date (the **closing date for submissions**) at least 30 business days after publication of the notice.

(2) The Minister may also invite submissions from organisations and persons who have, in the Minister's opinion, a particular interest in the relevant subject matter.

(3) Copies of written submissions made in response to an invitation under this section are to be kept available for inspection at the Minister's public office.

(4) The Minister—

(a) must take into account all submissions made before the relevant closing date for submissions; and

(b) may—

(i) approve the statement (or revised statement) of environmental objectives without amendment; or

(ii) amend the statement (or revised statement) of environmental objectives as the Minister thinks fit; and

(c) if appropriate, may amend the environmental impact report.

(5) If the statement (or revised statement) of environmental objectives is amended, but not substantially, the Minister may approve it in its amended form but, if it is substantially amended, the Minister must repeat the process of public consultation until it is approved without substantial amendment.

Statement of environmental objectives for high impact activities

103. If the Minister is satisfied that a statement (or revised statement) of environmental objectives for high impact activities properly reflects the relevant environmental impact assessment under Part 8 of the *Development Act 1993*, the Minister may approve the statement (or revised statement).

Murray-Darling Basin

103A. (1) If a statement (or revised statement) of environmental objectives applies to any part of the Murray-Darling Basin, the Minister must not approve the statement (or revised statement) without the concurrence of the Minister to whom the administration of the *River Murray Act 2003* is committed.

(2) If the Minister to whom the administration of this Act is committed and the Minister to whom the administration of the *River Murray Act 2003* is committed cannot reach agreement in a case where subsection (1) applies, the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

Commencement of statement of environmental objectives

104. (1) When the Minister approves a statement (or a revised statement) of environmental objectives, the Minister must have notice of the approval published in the *Gazette*.

(2) The statement (or revised statement) of environmental objectives comes into force when notice of its approval is published in the *Gazette* or on a later date stated in the notice of approval.

(3) When a revised statement of environmental objectives comes into force it supersedes the previous statement of environmental objectives for the relevant regulated activities.

Enforcement of requirements etc of statement of environmental objectives

105. (1) It is mandatory condition of every licence that the licensee must comply with an approved statement of environmental objectives relevant to activities carried out under the licence.

(2) However, a breach of the condition cannot be a ground for suspending or cancelling the licence or imposing any penalty on the licensee if—

- (a) it is not a serious incident within the meaning of section 85; and
- (b) the licensee immediately after becoming aware of the breach takes all reasonable steps to remedy the situation.

(3) If a statement of environmental objectives includes a system for evaluating the licensee's environmental performance, and the evaluation indicates poor environmental performance in terms of the criteria of evaluation, the Minister may, by written notice to the licensee, impose prohibitions or restrictions on the licensee engaging in regulated activities.

(4) A licensee must not contravene a prohibition or restriction imposed under subsection (2).

Maximum penalty: \$120 000.

Division 5—The environmental register

Environmental register

106. (1) The Minister must maintain an environmental register.

(2) The register must contain—

- (a) a copy of every environmental impact report prepared for the purposes of this Act; and
- (b) a copy of the current criteria for the classification of regulated activities; and
- (c) a copy of every classification of regulated activities made by the Minister under this Part; and
- (d) a copy of every current statement (or revised statement) of environmental objectives approved under this Act and a copy of the environmental impact report on which the statement is based; and
- (e) a copy of every environmental impact assessment affecting regulated activities under the *Development Act 1993*; and
- (f) a copy of every report provided under reporting obligations imposed by a statement of environmental objectives.

Petroleum Act 2000

Environmental register to be available for inspection

107. (1) The environmental register is to be available for inspection, without fee, during ordinary office hours at a public office, or public offices, determined by the Minister.

(2) The Minister must ensure that copies of material on the environmental register can be purchased for a reasonable fee at the public office, or public offices, at which the register is kept available for inspection.

(3) The Minister must ensure that the environmental register can be inspected at the department's website.

Division 6—General provisions for environmental protection**Power to direct licensee to take action to prevent or minimise environmental damage**

108. (1) If, in the Minister's opinion, authorised activities are being conducted in a way that results in undue damage to the environment, the Minister may, by written notice given to the licensee (an **environmental direction**), direct the licensee to take specified action to prevent or minimise environmental damage.

(2) If, in the opinion of an authorised officer, authorised activities are being conducted in a way that results in undue damage to the environment and it is urgently necessary to take action to prevent or minimise environmental damage, the authorised officer may, by written notice given to the licensee (an **environmental direction**), direct the licensee to take specified action to prevent or minimise environmental damage.

(3) A direction under this section must allow a reasonable time for compliance with the direction.

(4) A licensee must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: \$120 000.

(5) If a direction is given under this section, the Minister must review the adequacy of the relevant statement of environmental objectives and, if it appears on the review that a revised statement of environmental objectives is necessary to prevent continuation or recurrence of undue damage to the environment, the Minister must take the necessary steps to have a revised statement of environmental objectives for the relevant activities prepared and brought into force.

Power to direct rehabilitation of land

109. (1) The Minister may, by written notice given to a licensee or former licensee (an **environmental direction**), direct the licensee or former licensee—

- (a) to take specified action to rehabilitate land adversely affected by regulated activities; or
- (b) to take action necessary to rehabilitate the land to a standard specified in the direction.

(2) A direction under this section—

- (a) must allow a reasonable time for compliance with the direction; and
- (b) may require the removal of abandoned equipment and facilities.

(3) A person must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: \$120 000.

Application for review of environmental direction

110. (1) The licensee or former licensee required to comply with an environmental direction may apply to the ERD Court for a review of the direction within 14 days after receiving the direction.

(2) Unless the Court decides to the contrary, an application for review of an environmental direction does not suspend operation of the direction.

(3) On review of an environmental direction, the ERD Court may—

(a) confirm the direction (with or without modification); or

(b) revoke the direction.

Liability for damage caused by authorised activities

111. (1) A licensee (or former licensee) is liable to compensate the State for the cost of environmental rehabilitation the State is reasonably required to carry out as a result of serious environmental damage arising from activities carried out under the licence.

(2) If a licensee provides the Minister with a report, made by an independent expert acceptable to the Minister, containing an assessment of the risk inherent in regulated activities, and of the precautions necessary to eliminate or minimise the risk, the Minister may enter into an agreement with the licensee under which—

(a) the licensee is obliged to take specified precautions to eliminate or minimise the risk; and

(b) the licensee's liability under this section is limited or excluded.

(3) The Minister may recover compensation on behalf of the State under this section in a court having jurisdiction in cases of tort up to the amount claimed.

Part 13—Registrable dealings

Division 1—Registrable dealings

Registrable dealings

112. The following are registrable dealings:

- (a) any transaction under which the interest conferred by a licence is mortgaged, charged, or made the security for a liability;
- (b) a joint venture agreement, farm in agreement, joint operating agreement or other transaction under which a person acquires, or may acquire, an interest in—
 - (i) resources discovered or recovered under an exploration, retention or production licence; or
 - (ii) the proceeds of any business conducted under a licence;
- (c) the transfer or assignment of a licence or an interest in a licence.

Requirement for approval and registration of registrable dealings

113. (1) A registrable dealing cannot take effect unless the Minister has approved and registered the dealing.

(2) However, the terms of a registrable dealing may provide that, on approval by the Minister, it takes effect retrospectively from a specified date.

Application for approval

114. (1) A party to a registrable dealing may apply to the Minister for approval and registration of the dealing.

(2) An application for approval and registration of a registrable dealing—

- (a) must be made in writing to the Minister; and
- (b) must be accompanied by a copy of the instrument effecting the dealing; and
- (c) must be accompanied by the information and materials required under the regulations; and
- (d) must be accompanied by the prescribed fee.

(3) On approving a registrable dealing, the Minister must register the dealing in the appropriate register.

Division 2—The public register

Public register

115. (1) The Minister must maintain a public register of licences.

(2) The register must contain—

- (a) the terms and conditions of each licence issued under this Act; and
 - (b) the name of the licensee; and
 - (c) an accurate description of the licence area or in the case of a pipeline licence the route of the pipeline; and
 - (d) a note of any registrable dealing affecting the licence; and
 - (e) any other information (other than commercially sensitive information) the Minister considers appropriate to the public register.
- (3) The public register may be kept in the form of a computer record.

Public register to be available for inspection

116. (1) The public register is to be available for inspection, without fee, during ordinary office hours at a public office, or public offices, determined by the Minister.

(2) The Minister must ensure that copies of material on the public register can be purchased for a reasonable fee at the public office, or public offices, at which the register is kept available for inspection.

(3) The Minister must ensure that the public register can be inspected at the department's website (but is not required to have available for inspection on the website material that was included in the register before the commencement of this Act unless the Minister has the material in the form of electronic data).

Division 3—The commercial register

Commercial register

117. (1) The Minister must maintain a commercial register.

(2) The commercial register must contain, in relation to each licence—

- (a) a copy of each document, related to the licence, effecting or recording the terms of a registrable dealing; and
- (b) other information the Minister considers appropriate to the commercial register.

(3) The commercial register may be kept in the form of a computer record.

Authority to search register

118. (1) A person is entitled to have access to the material included in the commercial register, on payment of the prescribed inspection fee, if the access is authorised by—

- (a) a person who has a legal or equitable interest in the relevant licence or registered dealing; or
- (b) the Minister.

Petroleum Act 2000

(2) The Minister must not authorise access under subsection (1)(b) unless the Minister has consulted with the licensee to whom the material relates and is satisfied that access should be authorised in the public interest.

Part 14—Investigation and enforcement

Authorised investigations

119. An investigation by an authorised officer is an **authorised investigation** if the purpose of the investigation is—

- (a) to monitor compliance with this Act; or
- (b) to gather information about a suspected offence against this Act; or
- (c) to gather information about personal injury or loss of property related to authorised activities; or
- (d) to gather information about the environmental impact of authorised activities; or
- (e) to gather other information relevant to the administration or enforcement of this Act.

Powers of entry and inspection

120. (1) For the purpose of carrying out an authorised investigation, an authorised officer may—

- (a) enter land, and inspect the land and any operations or activities conducted on the land; or
- (b) examine anything on the land; or
- (c) take photographs, films or videos; or
- (d) carry out tests on wells, facilities and equipment; or
- (e) take and remove samples; or
- (f) take and remove any thing that may be evidence of non-compliance with this Act.

(2) A person must not, without reasonable excuse, obstruct an authorised officer in the exercise of powers under this section.

Maximum penalty: \$4 000 or imprisonment for 6 months.

Power to gather information

121. (1) An authorised officer may require a person who may be in a position to provide information relevant to any matter subject to an authorised investigation—

- (a) to answer a question relevant to the investigation; or
- (b) to take reasonable steps to obtain information relevant to the investigation and to pass it on to the authorised officer.

(2) A person required to answer a question under this section must answer the question to the best of the person's knowledge, information and belief.

Maximum penalty: \$4 000 or imprisonment for 6 months.

Petroleum Act 2000

(3) A person of whom a requirement is made under subsection (1)(b) must comply with the requirement.

Maximum penalty: \$4 000 or imprisonment for 6 months.

(4) A person is not required to answer a question or to provide information under this section if the answer to the question or the information would tend to incriminate the person of an offence and the person objects to answering the question or providing the information on that ground.

Production of records

122. (1) This section applies to records relating to—

- (a) authorised activities; or
- (b) the production of a regulated substance; or
- (c) the sale of, or any other dealing with, a regulated substance produced under this Act; or
- (d) other matters relevant to the calculation of the royalty payable on any such substance.

(2) A person who has possession or control of a record to which this section applies must, at the request of an authorised officer—

- (a) produce the record for inspection by the authorised officer; and
- (b) answer any questions that the authorised officer reasonably asks about the record.

Maximum penalty: \$4 000 or imprisonment for 6 months.

(3) An authorised officer may retain records produced under this section for the purpose of making copies of them.

Publication of result of investigation

123. (1) The Minister may publish a report setting out the results of an authorised investigation.

(2) A report published under this section is protected by absolute privilege.

(3) As soon as practicable after the completion of an authorised investigation, the Minister must have a report on the results of the investigation prepared and laid before both Houses of Parliament.

Part 15—Reconsideration and appeal

Division 1—Application of this Part

Decisions etc subject to review and appeal

124. The following are **reviewable administrative acts**:

- (a) a decision to grant or refuse an application for a licence;
- (b) a decision to refuse an application for the renewal of a licence;
- (c) a decision to impose licence conditions or about the nature of licence conditions;
- (d) a decision to suspend or cancel a licence;
- (e) a determination requiring the holder of a pipeline licence to provide access to the pipeline or a decision not to make such a determination;
- (f) a direction to a licensee or former licensee under this Act;
- (g) a decision about the material to be included in or excluded from a register kept under this Act;
- (h) the imposition of an administrative penalty;
- (i) the imposition of penalty interest or a fine on account of a failure to pay royalty or an annual licence fee under this Act.

Division 2—Reconsideration

Application for reconsideration

125. (1) A person directly affected by a reviewable administrative act may, within 14 days after receiving notice of the act, apply to the Minister for reconsideration.

(2) A person is not to be regarded as directly affected by a decision to grant or refuse an application for a licence unless the person was an applicant for the licence.

(3) An application under this section—

- (a) must be made in writing; and
- (b) must set out in detail the grounds on which the applicant asks for reconsideration of the administrative act.

(4) An application under this section will not postpone the effect of the reviewable administrative act unless the Minister decides that it should do so and suspends its operation accordingly.

Constitution of advisory committee

126. (1) On receipt of an application for reconsideration of a reviewable administrative act, the Minister will constitute an advisory committee to advise on whether the administrative act should be altered or revoked.

Petroleum Act 2000

(2) The advisory committee will consist of people with experience relevant to the questions the committee is to consider.

(3) A person who is a member of the department, or who has a direct or indirect interest in a licence in force under this Act, is not eligible for appointment to an advisory committee.

(4) However, the Minister need not constitute an advisory committee to advise on an application if of the opinion that—

- (a) the application is frivolous or vexatious; or
- (b) the application does not raise issues on which the Minister requires external advice.

Minister's decision on application for reconsideration

127. (1) The Minister will, after considering the advice of the advisory committee (if any), decide the application for reconsideration and, in doing so, may confirm, vary or revoke the relevant administrative act.

(2) If an advisory committee was constituted, the Minister is bound to consider its advice but is not bound by the advice.

(3) The Minister must give the applicant written notice of the Minister's decision on the application.

Division 3—Appeal

Right of appeal

128. If the applicant remains dissatisfied after receiving notice of the Minister's decision on the application for reconsideration, the applicant may, within 30 days after receiving notice of the Minister's decision on the application, appeal to the Administrative and Disciplinary Division of the District Court.

Part 16—Miscellaneous

Giving of notices

129. (1) A notice under this Act may be given—

- (a) personally or by post; or
- (b) by transmitting a copy of the notice to the recipient's fax or E-Mail address.

(2) If a copy of a notice is transmitted by fax or E-Mail, the notice is taken to have been given on the next business day after transmission.

Verification of information

130. (1) Any information given to the Minister under this Act must, if the Minister so requires, be verified by a signed declaration.

(2) A person who makes a declaration verifying information given to the Minister under this Act knowing the information to be false or misleading in a material particular is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 12 months.

Avoidance of duplication of procedures etc

130A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Minister may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the Minister under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and
- (c) instead of the Minister, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a licence is required under this Act, the Minister, when considering—

- (a) an application for a licence for the activity; or

Petroleum Act 2000

(b) whether to give written approval for activities pursuant to a licence requiring high level official supervision; or

(c) whether to approve a statement (or revised statement) of environmental objectives,

may use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a licence is required under this Act, the Minister—

(a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether—

(i) the discretionary conditions (if any) to be attached to the licence; or

(ii) the conditions or requirements of the statement or revised statement of environmental objectives approved by the Minister in relation to the activity authorised by the licence,

should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

(b) may determine that—

(i) the licence will be subject to a condition; or

(ii) a statement or revised statement of environmental objectives approved by the Minister in relation to the activity authorised by the licence should include a condition or requirement,

requiring compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

(a) may be in a form that does not comply with the requirements of this Act; and

(b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

(a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or

- (b) a report under section 121 of the Commonwealth Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth Act; or
- (h) a finalised statement prepared under section 104 of the Commonwealth Act; or
- (i) an assessment report.

Saving of powers with respect to Crown land etc

131. (1) Neither this Act nor a licence takes away or limits the power of the Governor or a Minister of the Crown to reserve, dedicate, grant, sell or otherwise deal with or dispose of land.

(2) However, any such reservation, dedication, grant, sale or other dealing or disposition of land is subject to rights earlier conferred under this Act.

Immunity from liability

132. (1) No liability attaches to the Minister or an authorised officer for an act or omission done or made in good faith and in the exercise, or purported exercise, of powers or functions under this Act.

(2) A liability that would, but for subsection (1), attach to the Minister or an authorised officer attaches instead to the Crown.

Proof of administrative acts

133. In legal proceedings, a decision, determination, valuation, direction or other act under this Act by the Minister may be proved by production of a certificate apparently signed by the Minister.

Extension of time limits

134. (1) The Minister has a discretion to extend time limits fixed by or under this Act.

Petroleum Act 2000

(2) A time limit may be extended under this section even though it has, at the time of the extension, already expired.

(3) A note of each decision to extend a time limit under this section must be included in the public register.

Secrecy

135. (1) A person who is, or has been, employed in carrying out duties related to the administration of this Act must not disclose confidential information acquired in the course, or as a result, of carrying out those duties except—

- (a) in the course of carrying out official duties; or
- (b) as authorised by the person to whom the duty of confidentiality is owed; or
- (c) as authorised by regulation; or
- (d) as required by a court or other lawfully constituted authority; or
- (e) as authorised by the Minister after consultation (where practicable) with the person to whom the duty of confidentiality is owed.

Maximum penalty: \$20 000 or imprisonment for 12 months.

(2) No civil liability attaches to any person for a disclosure of confidential information made as authorised under subsection (1).

Administrative penalties

136. (1) This section applies to any provision of this Act (or the regulations) at the foot of which the words "Administrative penalty" appear.

(2) If a licensee contravenes a provision to which this section applies, the Minister may, by notice in writing to the licensee, impose an administrative penalty on the licensee.

(3) If the contravention is of a continuing nature, the Minister may impose a further administrative penalty by way of a daily penalty for every day the contravention continues from the date of the notice until the contravention is remedied.

- (4) The amount of an administrative penalty—
 - (a) in the case of an administrative penalty that is not a daily penalty—an amount (not exceeding \$10,000) fixed by regulation in relation to the relevant provision;
 - (b) in the case of a daily penalty—an amount (not exceeding \$1,000) fixed by regulation in relation to the relevant provision.

(5) An administrative penalty may be recovered as a debt due to the Crown.

(6) If an administrative penalty has been imposed in relation to a particular act or default, the same act or default cannot be made the subject of proceedings for an offence against this Act and if proceedings for an offence against this Act have been brought in relation to a particular act or default, an administrative penalty cannot be imposed for the same act or default.

Preservation of rights under Cooper Basin (Ratification) Act 1975

137. Nothing in this Act affects rights conferred by the *Cooper Basin (Ratification) Act 1975*.

Regulations

138. (1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may, for example—

- (a) regulate the conduct of operations involved in exploration for, or production of, petroleum or another regulated resource;
- (b) prohibit or restrict activities that may result in waste of a regulated resource;
- (c) prescribe consultative procedures for the preparation of statements of environmental objectives;
- (d) require licensees generally or a particular class of licensees to provide periodic returns of prescribed information certified if the regulations so require by declaration under this Act;
- (e) prescribe and provide for the recovery of fees in respect of the administration or operation of this Act.

(3) A regulation may provide that contravention of the regulation is an offence punishable by a penalty not exceeding \$10 000.

Petroleum Act 2000**Schedule—Transitional provisions**

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Continuation of licences

2. A petroleum exploration licence, a petroleum production licence, or a pipeline licence that was in force under the repealed Act immediately before the commencement of this Act continues in force under this Act, subject to its terms and conditions, as an exploration licence, a production licence or a pipeline licence (as the case requires) under this Act for the balance of the term for which it was granted or last renewed.

Preservation of operation of the repealed Act for certain purposes

3. (1) An application for a licence under the repealed Act that has not been finally dealt with under that Act before the commencement of this Act will continue as if it were an application for a corresponding licence under this Act.

(2) If the regulations so provide, the provisions of the repealed Act apply (or continue to apply), to the exclusion of the corresponding provisions of this Act and subject to any modifications that may be prescribed by the regulations—

(a) to an application within the ambit of subsection (1) (as if it were still an application for a licence under the repealed Act); or

(b) to the grant or renewal of a licence under this Act (as if it were a licence under the repealed Act).

Limitation on certain rights

4. (1) The rights of the holder of a transitional licence are not to be more extensive than if the repealed Act had continued in force.

(2) A transitional licence cannot be converted into a retention licence under section 41(1)(a).

(3) A **transitional licence** is—

(a) a licence under the repealed Act continued in force under this Act (*see* section 2); or

(b) a licence granted under this Act pursuant to an application made under the repealed Act (*see* section 3).

Environmental assessments

5. The Minister may accept and act on an environmental assessment made before the commencement of this Act if the Minister is of the opinion that the assessment was competently made and is appropriate for the purposes for which an environmental impact report is required under this Act.

Statements of environmental objectives

6. (1) If in the Minister's opinion a document has, before the commencement of this Act, fulfilled a purpose corresponding to the purpose of a statement of environmental objectives under this Act, the Minister may publish the document in the *Gazette*.

(2) On publication of a document under this section, it is taken to be a statement of environmental objectives made under this Act.

Presumptive classification of activities

7. (1) If arrangements for the protection of the environment had been established to the satisfaction of the Minister under regulation 16(2) of the *Petroleum Regulations 1989*, the activities to be carried out under the relevant licence are taken to have been classified, on the commencement of this Act, as activities requiring low level official supervision for the purposes of section 74.

(2) This does not prevent a change of classification under section 74(4).

Non-application of certain provisions to certain pipelines

8. Sections 52, 53 and 54 have no application to the Pipeline Licences Nos. 2 and 5, or the pipeline land relating to those pipelines.

APPENDIX

LEGISLATIVE HISTORY

Repeals

The *Petroleum Act 2000* repealed the following:

Petroleum Act 1940

Transitional Provisions

(*Transitional provision from Statutes Amendment (Courts and Judicial Administration) Act 2001, s. 27*)

27. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of the Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

Legislative History

(*entries in bold type indicate amendments incorporated since the last reprint*)

Long title:	amended under <i>Legislation Revision and Publication Act 2002</i> 24.11.03
Section 2:	omitted under <i>Legislation Revision and Publication Act 2002</i> 24.11.03
Section 4(1):	definition of "Murray-Darling Basin" inserted by 35, 2003, Sched. cl. 19(a)
Section 103A:	definition of "relevant court" amended by 69, 2001, s. 26
Section 130A:	inserted by 35, 2003, Sched. cl. 19(b)
Schedule	inserted by 16, 2001, s. 8
Clause 1:	omitted under <i>Legislation Revision and Publication Act 2002</i> 24.11.03